

CITY COUNCIL OF EDGEWATER  
REGULAR MEETING  
SEPTEMBER 8, 2008  
7:00 P.M.  
COMMUNITY CENTER

MINUTES

1. CALL TO ORDER

Mayor Thomas called the Regular Meeting to order at 7:00 p.m. in the Community Center.

ROLL CALL

|  |         |
|--|---------|
| Mayor Michael Thomas                       | Present |
| Councilwoman Debra Rogers                  | Present |
| Councilwoman Gigi Bennington               | Present |
| Councilwoman Harriet Rhodes                | Excused |
| Councilman Ted Cooper                      | Present |
| Acting City Manager Tracey Barlow          | Present |
| City Clerk Bonnie Wenzel                   | Present |
| Assistant City Attorney Michael Ciocchetti | Present |

INVOCATION, PLEDGE OF ALLEGIANCE

There was a silent invocation and pledge of allegiance to the Flag.

2. APPROVAL OF MINUTES

A. Regular Meeting of June 2, 2008

Councilman Cooper moved to approve the June 2, 2008 minutes, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

B. Regular Meeting of June 16, 2008

Councilman Cooper moved to approve the June 16, 2008 minutes, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

C. Regular Meeting of July 28, 2008

Councilman Cooper moved to approve the July 28, 2008 minutes, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

3. PRESENTATIONS/PROCLAMATIONS/PLAQUES/CERTIFICATES/DONATIONS

- A. Boys & Girls Club - Mayor to present certificates of appreciation for their help with the Stormwater marking event

Tyna Hilton commented on these children helping with the marking of the storm drains. They have helped mark 100 drains. This is a great way to let the residents know our storm drains don't go to a wastewater plant. They go to our rivers and lakes.

Mayor Thomas feels very strongly because he feels they are using their rivers and oceans as a flushing ground. The more they can make the people aware of that is very good. Ms. Hilton stated they had plenty more to do and asked if anyone was interested in volunteering to give her a call.

Ms. Hilton stated the youth of our community is coming through for us. The Boys & Club have done a tremendous job for her personally. They are her number one volunteer source.

Mayor Thomas stated the first certificate goes to the Edgewater Boys & Girls Club. Ms. Hilton presented a certificate to Rex Hoffman and Dee James, who are the ones that make the kids available and promote it. She also recognized Team Leader Suzanne Oster, who also does fabulous in promoting it and presented her with a certificate.

Ms. Hilton then recognized the youth as being Cynthia Stevens, Haley Hoskins, Bobby Griffin, and Shelby Lynn Griffin, who were presented with a certificate from Mayor Thomas and Trace Seph, Pamela Hicks, Shelby Jarman, Ryan Carter and Justin Carter who were not present at the meeting.

Ms. Hilton also mentioned a lot of these kids helping her this past weekend with the green fair. She also thanked the Mayor and Council for recognizing them.

B. Presentation by Ferdinand N. Heeb (City Representative to the MPO Citizen Advisory Committee) regarding a proposed conceptual traffic plan for Southeast Volusia County

Ferd Heeb, 115 N. Riverside Drive, MPO Citizen Advisory Committee Representative for Edgewater, stated on October 15<sup>th</sup> the MPO would start the process to develop and adopt its 2035 Long Range Transportation Plan (LRTP). He asked Council to review this plan and adopt it so that it will allow himself, Ted Cooper and Darren to press the MPO for inclusion in the LRTP. He then went over the Conceptual Thoroughfare Plan for Southeast Volusia County. He spoke of Florida Shores benefiting the most from this. Florida Shores has a tendency to be landlocked. If they can build another corridor and make connecting roads between the two corridors people will have an alternative and it will ease the problems that Florida Shores has where you have constant complaints of people speeding on the north south roads. Hopefully those people will exit Florida Shores and use one of the corridors to go north and south. He then commented on the impact of development east of I-95 in Oak Hill and Edgewater. He then commented on Volco Road having X's through it and the enclaves having their exits on Cow Creek Road or the corridor and it will allow them to terminate or eliminate the Volco Road section that sits in the middle of the Turnbull Hammock.

Mr. Heeb then commented on the need for community support. He asked Council to support this plan either with a resolution or some method of a formal document. He informed Council he would also be making a similar presentation to Oak Hill, New Smyrna and Port Orange before the end of the month. If we don't get it this time in the 2035 plan, he didn't know when we would ever see an opportunity again to address a north-south corridor. The time is right.

Councilman Cooper, member of the MPO, stated they are trying to get this for all three cities involvement and minor involvement with Port Orange at the very end. He commented on having a second evacuation route with this north-south corridor. A lot of that land and property right now is readily available. It won't be in five to ten more years. If they get this on the MPO mapping, first they have to get it on the long-range plan. Once it gets

on that plan it doesn't mean it necessarily gets done. It means it becomes eligible for surveys to find out cost and sections and things of that nature. In the meantime it tells the developers and cities that this is coming. He further commented on keeping the basin open. They want to get this on this plan with a resolution from all three cities. It may never get done but they have to get it on the plan to ever get a shot. He commented on the people that are expected to be coming to Florida between now and 2035. If they don't plan now they are going to be in trouble and they are going to cost citizens their lives in any kind of evacuation situation.

Mr. Heeb commented on the money from the MPO being spent in Deland, Deltona, Daytona, Ormond and Port Orange over the years. Southeast Volusia has been the hind end of everything that has occurred. He spoke about the number of dollars being spent in this area on transportation being very limited over the last 15 or 20 years. This is an opportunity to get on the bandwagon and get a piece of the funding and get this done. He feels this is imperative. He spoke of our quality of life suffering if we do not have another north-south corridor. He spoke of having to deal with water, schools, traffic in communities that are evolving. Traffic is something we all face every day.

Mayor Thomas questioned Mr. Heeb saying this would interrupt the Turnbull Hammock system. The way it is designed he didn't see where this would interrupt the Turnbull Hammock system. Mr. Heeb clarified he said it would eliminate Volco Road. He then spoke about people thinking Cow Creek Road was a better alternative but they would not be able to build a grid with Cow Creek Road. They cannot build the necessary connecting road.

Mr. Heeb commented on the way this corridor was developed. They looked at what was there and where it would be the least problems in driving it. He then commented on Oak Hill growing. Mayor Thomas stated if it gets in the 2035 plan, they are going to need it at that time. The subdivisions are already going to be there.

Councilman Cooper spoke of having them look to areas away from the corridor for building instead of building over top of it. Mr. Heeb commented on developers making the traffic plan 90% of the time in evolving communities.

Mayor Thomas asked about the bridge. He wasn't sure he liked the bridge. Councilwoman Bennington didn't like the bridge because it will go right over her house. Mr. Heeb guaranteed him he didn't have to worry about the bridge. Councilwoman Cooper mentioned the cost being astronomical to put in a bridge. He also spoke of getting put on notice from FEMA and the Army Corp of Engineers that our evacuation route as New Smyrna Beach grows further down, they aren't going to get those people across on the North or South Causeway as it is now. They are going to be forced to address it. The problem is there aren't a lot of places they have a choice. Their recommendation is where they put it in there. They want to present this to the MPO in sections so they have an opportunity of getting some of this done before 2035. If they don't have the bridge included at this time it will never get there. They will then be accused of not looking at it. They are trying to be good stewards and they have to look ahead. They are hoping the three cities that have the main involvement will go with them on the whole project. They don't want it thrown out because of the bridge. They are going to put it into the plan in four or five categories so each one can be adopted, as money is available to get it done. He feels this is smart planning.

Mr. Heeb asked how they are going to make this happen. Councilwoman Bennington asked Mr. Heeb if he needed a resolution from them. Mr. Heeb informed her that is what he would like. Acting City Manager Barlow suggested if Council directs him, he could prepare a resolution and have it before Council at the September 22<sup>nd</sup> meeting, which endorses conceptually the idea. That resolution will also essentially authorize Mr. Heeb to represent this community and the Council at these other affected communities in an effort to obtain their support as well.

Councilman Cooper stated if they were to get four resolutions like they are hoping for, they would get on the planning at least. They would be on the map and be in the long-term plan. That is the intent to get on there.

Mr. Heeb stated the critical thing is the date, October 15<sup>th</sup>, which is when this starts and he would like to have everything on board so when they start talking to all these people they can say they have this resolution. Councilwoman Bennington stated they want to be able to give Mr. Heeb the tools he will need for the effort he has put

in. She didn't see any reason why they couldn't do the resolution.

#### 4. CITIZEN COMMENTS

The following citizens spoke:

Mike Visconti, 316 Pine Breeze Drive, commented on Restoration west of I-95. This is a rare opportunity and the future of our City. A developer who owns 5,181 acres of land is willing to develop 25% for the housing and a shopping center and will keep 75% of it green space. Mr. Don Mears Jr. is willing to spend millions of dollars on this worthwhile project and will create jobs for all trades and for our citizens. Edgewater held a vision workshop for the citizens of Edgewater to express their views. He stated Acting City Manager Barlow said he understood the perception but was taking advantage of this opportunity that is best for the City. His desires coming out of this workshop is a way to look at the City of Edgewater as a whole whether anything develops west of I-95 or not. He wanted to inject some humor in this. He stated in the Wizard of Oz Judy Garland plays Dorothy and a tornado hits Kansas. He calls it his tornado here in Edgewater, the two high rises that were going up. While Dorothy slept she dreamed she was in the land of Oz and she wants to go home. A good witch tells her to follow the yellow brick road to the Emerald City, which he thinks is Restoration. On the way she meets a scarecrow and the scarecrow needed a brain. They must use their brains to realize that Edgewater needs jobs and needs to grow for the sake of our City. Dorothy and Toto walk and skip down the yellow brick road and meet the lion. The lion is seeking courage. The City of Edgewater needs to have the courage to move ahead. Restoration west of I-95 is our opportunity to have the courage and faith that this will be done with the utmost care by the developer who owns the land who is willing to develop. He then stated they couldn't forget the tin man. He needed a heart. They need to have heart for those who will come after them when they are long gone. Our children and grandchildren need to live in a City they can be proud of and the City would want to remain rather than move away to a better place. Let's make Edgewater a better place that we can all be proud and turn over to our next generation. He urged them to vote.

**Bill Glaser**, 1703 Needle Palm Drive, stated a few years ago some folks became concerned about the direction the City was taking, mostly with high rise type construction and they circulated petitions, got 1,554 signatures to get the 35-foot height limit on the ballot. The ballot was voted on and about 51% of the folks voted for the height limit, 49% voted against it. In the ensuing couple of years there has been a number of folks that have come to the podium and spoke against the 35-foot height limit. His counting them was probably about 20 folks, five of them were on the Charter Review Committee and recommended that the 35 foot height limit, revoking it, be put on the ballot. His take on it is that these folks came down here for three minutes a few times and complained and so essentially those 20 folks, maybe 25 if you include the red shirts, have the opportunity of having something put on the ballot that might overturn the desires of the 2,500 folks that voted for the height limit. What would have been fair in his estimation is if those folks felt that passionate about this that they got out there and pounded the sidewalk, or maybe he should have said pavement because there are no sidewalks in Florida Shores and circulated petitions and got enough signatures to come down here and have the City put it on the ballot. Essentially without doing any work other than coming down here and complaining for three minutes, they got three votes to put this on the ballot and maybe after the last election maybe they knew they had the three votes to get it on the ballot and didn't feel like they needed to use their shoe leather.

**Dominic Capria**, 606 Topside Circle, stated the ballot, 35-foot heights, City Charter. The reason it is going on the ballot as he understands it is because the City Charter states 1.01(1)(a) he believed it was. He would really like to know exactly what the wording would be on the ballot. It is confusing, not to them because they come to the meetings but it will be confusing to the City.

Acting City Manager Barlow stated he didn't know the exact language but they had the exact language located on the website but he didn't have it present tonight to read word for word. Mr. Capria stated in other words you don't know. Acting City Manager Barlow stated he didn't commit it to memory, no.

## **5. CITY COUNCIL REPORTS**

Councilwoman Rogers had nothing at this time.

Councilwoman Bennington stated the bids for the Animal Shelter were going to be opened Friday. We are moving right along on that. She wanted to say she was really surprised Saturday at the Visioning Program they had. She didn't know what to expect but she thought it was very educational and very informative. They had a lot more participation from the citizens than she expected. She was thankful Acting City Manager Barlow came up with this and they went ahead with this. She looked forward to the results of it.

Councilman Cooper read his report into the record.  
(Attached)

Mayor Thomas thanked Mike Visconti for going to the WAV meeting with his rain barrel. He spoke of the day he went we were in the middle of Tropical Storm Fay but he still went.

Mayor Thomas reported that WAV has agreed to partner and support the desal plant in Flagler County along with a lot of other cities in Volusia County. He feels this is a progressive thing in water conservation.

Mayor Thomas concurred with Councilwoman Bennington and he congratulated Acting City Manager Barlow for his foresight into the future of Edgewater. If you build anything, you have to have a set of plans. The set of plans was here and all of the residents of Edgewater were invited to attend this meeting. The maps were put on the wall. On all of the maps the bad dots and good dots were placed in the same place and they were all in different groups. He appreciated the City workers of Edgewater who worked long hours picking up the debris in our ditches in case another storm came so our City would not flood. He congratulated whomever on our stormwater plan that we had no houses in the City of Edgewater under water. It's working good. He noticed when he was riding around that people are not shoveling out the dirt and debris that gets in their culverts. This stormwater plan is designed at an elevation where it goes through your culvert and the next culvert and if yours is stopped up then that water is going to be trapped. They had a few streets that were a little bit under water. It only takes five minutes to go out there and clear your culverts. He would like to put that in the

newsletter to inform the citizens. He realizes it is not their job and it is the City's job but they can help. If they could help do that he would appreciate it.

**6. CONSENT AGENDA**

- A. Approval to use Carmeuse Natural Chemicals for the purchase of Quicklime and Airgas Gas Operations for purchase of Liquid Carbon Dioxide
- B. Workers Compensation Insurance renewal premium, for the period from October 1, 2008 through October 1, 2009
- C. Crime/Employee Dishonesty and Environmental Liability Insurance renewal premium, for the period from October 1, 2008 through October 1, 2009
- D. Employee Benefits: health, dental and life insurance renewal premium, for the period from October 1, 2008 through October 1, 2009

Acting City Manager Barlow made a staff presentation regarding each Consent Agenda item.

**Councilwoman Bennington moved to approve the Consent Agenda, second by Councilwoman Rogers.**

**The MOTION CARRIED 4-0.**

**7. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS**

- A. Ord. 2008-0-11 - Setting the Final Millage Rate of \$5.9000 mills for real and personal property and \$0.033047 mills for Voted Debt Service for the City for Fiscal Year 2008-2009

Assistant City Attorney Ciocchetti read Ord. 2008-0-11 into the record.

Finance Director John McKinney made a staff presentation.

Councilman Cooper stated they were hoping to get to a 5.4. He knows at the last Council meeting they were saving money with insurance and they were all getting excited about it. He asked his thoughts about why they couldn't get that 5.4.

Acting City Manager Barlow explained they started at 6.4 and the goal presented was 5.9 in the budget workshop. Finance Director McKinney stated last year at 5.2 mills we collected \$6.2 million. Going down from 5.2, but we are less than roll back, going from 5.2 to 5.9 mills, we are bringing in \$500,000 less in revenue this year than we did last year. If they go to 5.4 mills, that would be over \$1 million less than last year or \$500,000 less than currently budgeted for 08/09.

Councilman Cooper stated so basically the explanation is the expenses have gone up drastically, even with all the savings, it still didn't quite offset the huge increases we had to incur throughout the year and we are incurring now.

Mayor Thomas asked how much the budget raised from last year. Finance Director McKinney stated our budget raised \$200,000 roughly total. That \$200,000 was debt proceeds. He had to build into the budget the debt proceeds for the new vehicle leases. In reality it was a status quo budget. Councilwoman Bennington stated and that is with keeping all of our present employees and the services at the same level. Finance Director McKinney confirmed that was correct. Councilman Cooper commented on upgrading some capital expenditure items. Finance Director McKinney also informed Council we also maintain our 15% Charter mandate reserve.

Councilwoman Rogers stated one of the things has to do with the revenue sharing with the State. We had a decrease in that. She asked approximately how much that was. Finance Director McKinney stated out of \$1 million they slated for us to receive in the one municipal sharing, we are only guaranteed to receive \$67,000. He was very conservative. Last year we collected \$670,000 and he budgeted less than \$350,000 in our budget for next year. Councilwoman Rogers asked the reasons why our revenue sharing would be lower. She asked Finance Director McKinney if he looked into what they could do so next year it could be higher or if it was something that was mandated by the State and it not being a function of something we do. Finance Director McKinney stated our sales tax collection is down. Across the board, the total collections for the State is even in a worse situation than the City of Edgewater. They are eating into their reserves.

Councilwoman Rogers confirmed what he was saying was last fiscal year we received \$667,000 and then this year we have \$350,000 that he has in the budget that we hope to get but previously he made mention of \$67,000. Finance Director McKinney didn't recall talking about that. Some of his counterparts only budgeted the guarantee portion. Councilwoman Rogers went back to the Transportation Impact Fee and stated he adjusted the figure down based upon Agenda Item 9C. She asked what it was previously. Finance Director informed her it was at \$1 million. There was an error on that calculation that he did correct right after the meeting before they discussed the change. They talked about that in the Enterprise Workshop and he made the change after the General Fund Workshop.

Councilwoman Rogers stated so Item 9C that they are looking at the \$662,000 from the Traffic Impact Fee they want to use toward the funding of paving for Rowan and Base Leg, he has already taken the \$662,000 out of there so it is gone and spent and allocated. Finance Director McKinney stated the only thing left in next year's budget is the amount set aside for sidewalks. Councilwoman Rogers asked if it was the \$45,000. Finance Director McKinney informed her that is the revenue coming in only. Councilwoman Rogers asked about the Stormwater. He has on the books \$1.4. She asked what it was previous to the change. Finance Director McKinney informed her that didn't change. That's next year's operations only. They don't have any working capital to go from this year to next year so that didn't change at all. Councilwoman Rogers stated so the \$1.38 we have sitting for agenda Item 9B that we are going to be forgiven, he was saying it has already been accounted for. Finance Director McKinney informed her it was on the balance sheet.

Councilwoman Rogers asked about having the 15% in the Charter reserve. Finance Director McKinney stated it would increase in this next year's budget by \$140,000 if everything goes good.

Mayor Thomas opened the public hearing.

The following citizen spoke:

**John Profitt**, 607 N. Riverside Drive, stated on the tax bill, the Edgewater Community Center on his tax bill is \$8,608. He asked what that was for. Finance Director

McKinney informed him the Edgewater Community Center is here they have the meeting but he explained Edgewater's portion of his tax bill for him.

Mayor Thomas closed the public hearing and entertained a motion.

**Councilwoman Bennington moved to approve Ord. 2008-0-11, Setting the Final Millage Rate of \$5.9000 mills for real and personal property and \$0.033047 mills for Voted Debt Service for the City for Fiscal Year 2008-2009, second by Councilman Cooper.**

**The MOTION CARRIED 4-0.**

- B. 1<sup>st</sup> Reading, Ord. 2008-0-12 - Adopting the final budget and providing for appropriations and effective date for the City for Fiscal Year 2008-2009

Assistant City Attorney Ciocchetti read Ord. 2008-0-12 into the record.

Acting City Manager Barlow made a staff presentation. There have been no additional changes.

Mayor Thomas opened the public hearing.

Councilman Cooper wanted clarification. Where they get into action requested where it says Acting City Manager to approve the acquisition of all budgeted capital outlays, request less than \$50,000 in accordance with the purchasing policy. He asked that this be explained.

Finance Director McKinney explained he has detailed by department the exact capital outlay for vehicles and other items and when they come here on September 22, 2008 for the final reading, they can put out the necessary purchase orders to get on the list with Ford, Chevy or whoever it is and we are months ahead of the game so we get first call on getting these vehicles. He has been very specific in what they are ordering.

Councilman Cooper stated these are items that are outlined in the present budget that have been submitted to everybody. This does not change in the Charter where we

have the City Manager has access to \$15,000 and no more. Finance Director McKinney informed him that was correct.

Acting City Manager Barlow explained essentially what that does is since they saw a very detailed budget, they still do the same bidding process and look for the best deal out there. It provides some efficiencies and streamlines the process so they don't keep coming back to Council for the same thing over and over again.

Councilman Cooper commented on concerns he has heard from the citizens being in accordance with the Purchasing Policy. They wanted to know if he was changing the purchasing policy from the Charter. He informed them that wasn't what this was about.

Mayor Thomas closed the public hearing and entertained a motion.

**Councilwoman Rogers moved to approve Ord. 2008-0-12, Adopting the final budget and providing for appropriations and effective date for the City for Fiscal Year 2008-2009, second by Councilwoman Bennington.**

**The MOTION CARRIED 4-0.**

C. 2<sup>nd</sup> Reading - Ord. 2008-0-01 - Amending Article I (General), Chapter 11 (Occupational Licenses, Taxes and Regulations) of the Code of Ordinances to reflect the name change to Business Tax Receipts and the addition of the Certificate of Use Permit

Assistant City Attorney Ciocchetti read Ord. 2008-0-01 into the record.

Acting City Manager Barlow made a staff presentation. This is changing what used to be called Occupational License to be called now Business Tax Receipt consistent with State Statute changes and the addition of the Certificate of Use. The only change at the request of Council that was made from first to second reading was the fees stayed status quo. It was a majority of the Council's desire to maintain fees and not to increase those fees.

Councilwoman Bennington stated she got her renewal notice for her occupational license and she was overwhelmed at the

price. Acting City Manager Barlow asked her if she was talking about her first notice or her second notice. Councilwoman Bennington stated it was her first notice and it was \$40.00. She thought it was a good idea to hold them at bay. She was pleased with that.

Due to there being no further comments, Mayor Thomas opened and closed the public hearing and entertained a motion.

**Councilwoman Bennington moved to accept Ord. 2008-0-01, Amending Article I (General), Chapter 11 (Occupational Licenses, Taxes and Regulations) of the Code of Ordinances to reflect the name change to Business Tax Receipts and the addition of the Certificate of Use Permit, second by Councilwoman Rogers.**

**The MOTION CARRIED 4-0.**

Mayor Thomas called a ten-minute recess at this time. The meeting recessed at 8:00 p.m. and reconvened at 8:10 p.m.

D. 2<sup>nd</sup> Reading - Ord. 2008-0-02 - Amending Articles II, III, IV, V, VII, IX, XVII and XIX of the Land Development Code to reflect that Occupational Licenses are now Business Tax Receipts

Assistant City Attorney Ciocchetti read Ord. 2008-0-02 into the record.

Acting City Manager Barlow made a staff presentation.

Due to there being no comments, Mayor Thomas opened and closed the public hearing and entertained a motion.

**Councilman Cooper moved to approve Ord. 2008-0-02, Amending Articles II, III, IV, V, VII, IX, XVII and XIX of the Land Development Code to reflect that Occupational Licenses are now Business Tax Receipts, second by Councilwoman Rogers.**

**The MOTION CARRIED 4-0.**

E. 1<sup>st</sup> Reading - Ord. 2008-0-09 - James C. Carder requesting an amendment to the Official Zoning Map to include 7.18+ acres of land as B-3 (Highway Commercial) and 22.49+ acres of land as R-1 (Single Family Residential), property is

located east of US Highway 1 and north of Godfrey Road

Assistant City Attorney Ciocchetti read Ord. 2008-0-09 into the record.

Development Services Director Darren Lear made a staff presentation.

Mayor Thomas opened the public hearing.

**Don Beager**, 2000 E. Robinson Street, Orlando, stated he fully supports Darren and the staff report for the rezoning of the commercial and residential portion of the property.

Mayor Thomas asked how many gopher tortoises were on the property. Mr. Beager informed him that would be found out once the environmental report has been completed. Mayor Thomas asked if he knew if there were any there now. Mr. Beager informed him there were. Mayor Thomas stated that tells him if it is high and dry or not. Mr. Beager informed him it was high and dry.

Councilman Cooper asked Mr. Beager to give a brief synopsis of what they actually plan to do other than single family homes with the front commercial piece. Mr. Beager stated the only thing they are keying in on is the 42 residential units in the back and a single stormwater pond would be towards the back using the natural slope and heading back into the wetlands. They are currently looking at doing no wetland impacts. He has worked with Darren to come up with a preliminary plan that they had approved approximately eight months ago but maintaining that same design and dimension with some of those units also going out onto Godfrey Road. They will be going to the County and coordinating with the County for the ingress/egress at U.S. 1 and Godfrey. They are going to go through that procedure. Once both of these are done at the end of this month hopefully then they will come in and they will start construction plans and work with the County to widen that so they have a dedicated left hand turn out of Godfrey onto U.S. 1 and a right hand turn also.

Councilwoman Cooper asked about the cost of the homes and if they had gotten that far in the planning. Mr. Beager stated he hadn't done that yet but they went to the R-1 zoning for the larger lots to put a larger unit on there.

Due to there being no public comment, Mayor Thomas closed the public hearing and entertained a motion.

Councilwoman Bennington moved to adopt Ord. 2008-0-09, James C. Carder requesting an amendment to the Official Zoning Map to include 7.18+ acres of land as B-3 (Highway Commercial) and 22.49+ acres of land as R-1 (Single Family Residential), property is located east of US Highway 1 and north of Godfrey Road, second by Councilwoman Rogers.

The MOTION CARRIED 4-0.

#### 8. BOARD APPOINTMENTS

There were no Board Appointments at this time.

#### 9. OTHER BUSINESS

- A. Historic tree removal - 418-420 North Ridgewood Avenue, requesting the removal of one 48" Historic Live Oak Tree and one 36" Historic Live Oak Tree

Development Services Director Lear made a staff presentation.

Councilwoman Bennington asked how big the replacement trees would have to be. Mr. Lear informed her they had to be a minimum of 2 ½ inches at six inches above the soil line as a replacement tree and they would get 34 of those trees.

Acting City Manager Barlow commented on wanting to start a planting strip in front of Public Works and towards the Animal Shelter as well.

Councilwoman Bennington stated they mentioned they could replace the trees or pay \$14,000. What is it going to cost to replace these trees? Mr. Lear stated it wouldn't be as much as paying into the tree fund. To get 34 trees is a lot less.

Councilwoman Bennington suggested having them pay into the tree fund and buying as many trees as they can. Acting City Manager Barlow stated when they have to plant those trees, their labor plants those trees. When he says that the \$14,000 doesn't account for the labor it would take our

staff to plant those trees. Mayor Thomas commented on this being a medical facility and being needed in Edgewater. He feels they should work on it. He thinks the planting of the trees in the location they want to put them would beautify the City.

Councilwoman Bennington stated she was looking at it from an accounting standpoint. Mr. Lear stated another issue is that if they go looking for trees they are going to charge a lot more than they would an individual to buy trees wholesale.

Councilwoman Bennington stated once these trees are planted we are responsible for maintaining them and making sure they live. If any of them die, do they have to be replaced by the people? Acting City Manager Barlow stated the requirement is one year. They are going to install an irrigation system as well.

Councilman Cooper asked if the cost would balance itself off when they put the labor and stuff in. Mr. Lear informed him that was correct.

Councilwoman Bennington confirmed the recommendation of staff was to allow them to plant the trees on City property. Mayor Thomas asked if it was okay with the applicant.

Dr. Lo, 501 Live Oak Street, New Smyrna Beach, confirmed they would do whatever the Council wanted them to do. Mayor Thomas informed him they wanted to work with them. Dr. Lo stated they are trying to bring in a medical facility into Edgewater and bring in as many doctors as possible. It will be a very good-looking building. By doing it will bring a lot of good things to the community.

Councilman Cooper commended and thanked Dr. Lo for bringing a medical facility to our town.

Councilwoman Bennington stated she didn't mean to sound greedy but she was trying to get the biggest bang for our dollar. She is doing Debra's job.

**Councilwoman Bennington moved to accept staff's recommendation and allow the applicant to plant the required trees, second by Councilwoman Rogers.**

**The MOTION CARRIED 4-0.**

B. Forgive the 2007 Advance to Stormwater Utility Fund

Finance Director McKinney made a staff presentation. In the current fiscal year he is trying to set up an operating transfer from the General Fund from the proceeds from the sale of the ParkTowne property and move it over to the Stormwater Utility Fund. Currently the Stormwater Utility Fund is showing a loan advance to the General Fund of the \$1,387,000. By Council allowing the approval of the forgiveness of that advance it would have last year been an operating transfer that would have never had a repayment anyway. Councilwoman Rogers stated he made it sounds like it was an advance to the General Fund when in fact it was the other way around. Mr. McKinney confirmed it was an advance to the Stormwater Fund. Right now there is a liability sitting out there in the Stormwater Fund to pay off the General Fund.

Councilwoman Bennington stated simply put this is just a housekeeping issue. Mr. McKinney informed her that was correct. In the CAFR there is an audit comment that specifically addresses the 2007 expenditures exceeded the legal level of appropriations. He is just rectifying part of that audit comment. Councilwoman Rogers stated at the same time to jump ahead to Item 9C where they are taking transportation impact fee proceeds for the paving. When it is all said and done when B & C are complete they have not forgiven \$1.387 million, they have actually forgiven \$1.05 million when they net the two together. She commended Mr. McKinney for trying to clean up a previous mistake and in doing so he has caught it, cleaned it and at the same time by doing an additional item he has saved them \$334,000. That is going to come up on the next agenda.

Due to there being no further comments, Mayor Thomas entertained a motion.

**Councilwoman Rogers made a motion to forgive the 2007 advance to the Stormwater Utility Fund, second by Councilwoman Bennington.**

**The MOTION CARRIED 4-0.**

C. Use of Transportation Impact Fee proceeds for the construction of Rowan Way and Base Leg Drive, within ParkTowne Industrial Center

Finance Director McKinney made a staff presentation. Not only did they do stormwater but they built some brand new roads that qualifies for the use of the transportation impact fees. He is asking because they can't use it in prior years. That again was an unbudgeted item for the Base Leg and Rowan Way road construction. He is asking to assign a revenue source to the use of the funds that they use to pay for the road construction in the General Construction Fund.

Councilman Cooper asked Mr. McKinney if he was saying out of the \$800 some odd thousand dollars, he wanted to charge this \$662,000 to that account. Mr. McKinney stated by this action they would be transferring the \$662,000 from the Transportation Impact Fee Fund to the General Construction Fund, which is where the road construction costs occurred. Essentially they are reimbursing the General Fund for the cash that they have loaned to the General Construction Fund to construct these two roads. This was unbudgeted so he is cleaning up the budget and this dollar value is so great he can't just do that.

Councilwoman Rogers stated he has indicated where it says specified budget amendment is required and he indicated yes and when they asked a question regarding the actual millage and approval of the budget he said it was already within this budget so then therefore a budget amendment would not be required if it is already in the budget. Mr. McKinney stated this is the current year so he is only correcting the current year budget that was not appropriated. If they allow the transfer of these funds, then it won't be in next year's budget because it is zero. There is a specific timing and format that they have to do on the budget and millage and if he included this in the budget and millage that would impact their first second reading.

Councilwoman Bennington stated so this is planning for 2007-2008 not the 2008-2009 budget. Mr. McKinney stated once this is approved he will do the necessary budget amendment showing the do to and do from. Councilwoman Bennington stated so it is a budget amendment. Mr. McKinney stated this fiscal year and then what will happen is once this budget amendment takes place this will show in

the amended final budget that gets produced and given to everyone after the final reading. Acting City Manager Barlow stated this would clean up this year's audit as well. Mr. McKinney stated this is clearing away two total comments that our expenditures exceed our legal level of appropriations.

Councilman Cooper asked with this fund being removed is it going to affect the road improvements they already prioritized last month. Mr. McKinney informed him no because the transportation impact fee funds can only be used for new and expanded service, it couldn't be used for road repaving and road maintenance.

Councilman Cooper stated so the money they pigeonholed for redoing the roads and they already set priorities is a different area of money altogether. Mr. McKinney confirmed he was correct. Councilwoman Bennington stated and a different year.

Councilwoman Rogers stated the sale of ParkTowne was \$4.7 million. When we sold ParkTowne we had a debt and that was to FIND of \$2.5 million. The paving total is \$1.71 million and the stormwater incurred for that area is \$1.6 million, which is an additional \$3.3 million that wasn't accounted for when they sold ParkTowne. That is \$3.3 million the City has had to deal with between last fiscal year and this fiscal year. It was not accounted for correctly in the last year's budget so our new Finance Director has had to straighten that mess out plus coming forward. In doing so that is why they had to forgive the previous balance in stormwater to correct that and now this traffic impact fee, they are using those moneys as they should but it is also to our advantage in the manner that the Finance Director has presented it to them. That is why in the end they are saving \$334,000 on the forgiveness of that stormwater balance. \$4.7 million is what ParkTowne was sold for. When it was sold there was a problem with whether or not it was conveyed in the contract that Base Leg Drive and Rowan Way would be paved if it was included in the \$4.7 million or not included. They didn't go and have legal counsel check this out as thoroughly as she would have wanted. The majority of the Council voted that the City was obligated to build those roads. In doing that the City was also made obligated to deal with the stormwater so it cost the City \$3.3 million. She feels responsible that she needs to clarify and bring that out in the open. She didn't approve

for the advertisement of ParkTowne to be sold at \$4.7 million, which was below appraisal. She also did not approve for that financing agreement with the new owner, MGM, for ParkTowne because in allowing them to do an installment purchase, our funds we didn't receive readily. We still had the debt on the land as we are aware and we have in fact received the first installment. The second and final installment of \$1.2 million will not be received until February 2009. When we do receive it, it will not be enough to pay off the debt we still have in ParkTowne. When it is all said and done we will still owe \$800,000. She is totally dismayed that the Council was led to follow a previous Finance Director. She commended Mr. McKinney because he has done such a wonderful job in bringing this out and he is doing his very best to clean it up.

Mayor Thomas asked for public comment.

The following citizen spoke:

**Bill Glaser**, 1703 Needle Palm Drive, stated he vaguely remembers the City Council meeting where this was discussed back in 2006. A question was asked of the city Attorney whether they were obligated to pave those roads. The City Attorney said that he had looked at the documents, bill of sale or whatever the agreements were and that they were not obligated to do this paving. That is when they got the \$3.3 million, \$300,000 a year for 18 years or whatever it was. Now they are telling them this didn't happen? Instead of owing \$3.3 million, we now only owe \$800,000 or whatever it is?

Councilwoman Rogers stated \$4.7 million is what the sale price was. \$4.7 million and \$6.2 million is the total amount of the debt. The difference is \$1.5 million. We had equity built up in the land and that is why they are only looking at the \$800,000 net that they are going to have to deal with. When we get our final payment in February 2009 we will have a balance of \$800,000. If we didn't have equity in the land we would have had a higher balance. Any gain we could have had we have already lost because we incurred the additional liabilities of the stormwater and the paving of those two roads.

**Councilwoman Rogers made a motion to approve the use of Transportation Impact Fee proceeds for the construction of**

Rowan Way and Base Leg Drive within ParkTowne Industrial Center, second by Councilwoman Bennington.

The MOTION CARRIED 4-0.

10. OFFICER REPORTS

A. City Clerk

City Clerk Wenzel had nothing at this time.

B. City Attorney

Assistant City Attorney Ciocchetti had nothing at this time.

C. City Manager

Acting City Manager Barlow commented on his conversation with the Mayor of NSB and Mayor Tomas. His concerns were it has been quite some time since they have had an event where the Southeast Volusia Councils and Commissioners come together once a year in a workshop format and talk about issues going forward that affect Southeast Volusia. It is something that was done in the past and appeared to be very successful. He has contacted Steve Dennis of the Chamber who facilitated those in the past and he has agreed and picked up the ball and started running with it and they are looking at Friday, November 14<sup>th</sup> of putting together a consortium so all the Southeast Volusia Council's can get together in a workshop.

Councilwoman Bennington asked if it would be in the morning. Acting City Manager Barlow commented on it starting in the morning and Mr. Dennis gets some local businesses to donate some refreshments and they usually wrap up around 2 p.m. He feels this is extremely beneficial for Southeast Volusia. Before the 19<sup>th</sup> he would be asking the Council for three major topics they would like to talk about.

Councilwoman Bennington commented on Steve Dennis being very good at these types of things.

Mayor Thomas would like Acting City Manager Barlow to see if he could move it to November 7<sup>th</sup> instead. Acting City Manager Barlow agreed to shoot for November 7<sup>th</sup>.

Acting City Manager Barlow reminded Council that the September 15<sup>th</sup> Council meeting was moved to September 22<sup>nd</sup>.

Acting City Manager Barlow reminded the Council and the citizens that the second Visioning Workshop would be September 20<sup>th</sup>. They will give a recap of the great work everybody did on September 6<sup>th</sup> and they will finalize up with a draft and they will present the draft on October 20<sup>th</sup>.

Acting City Manager Barlow suggested moving the December 1<sup>st</sup> Council meeting to December 8<sup>th</sup>. He recommended they cancel the December 15<sup>th</sup> and only have one meeting in December and cancel the January 19<sup>th</sup> Council meeting due to the Martin Luther King Jr. holiday.

1) Tentative Agenda Items

There were no Tentative Agenda Items to be discussed at this time.

**11. CITIZEN COMMENTS**

The following citizens spoke:

Mike Visconti, 316 Pine Breeze Drive, asked Council about the 34 trees they just discussed. He asked if they could add to the beautification of the medians along U.S. #1 using Crepe Myrtles. Acting City Manager Barlow didn't think they qualified for what they are taking down. Mr. Lear also commented on having issues with DOT and trying to get it permitted. Acting City Manager Barlow stated DOT is pretty particular about what they put in their medians. Mr. Visconti stated he knew that but they already have some Crepe Myrtles on the medians already. Mr. Lear confirmed they didn't qualify for replacement of what is taken down.

Councilman Cooper asked about the young gentleman that came in for his house and the trees they have coming from that. He asked if they qualify. Mr. Lear informed him it was the same. Acting City Manager Barlow stated they would be planted in that same general vicinity.

Mr. Visconti urged the people of Edgewater to vote yes for the deletion of the 35-foot building height restriction

from the City Charter and to vote no for the dwelling unit per twenty acres permitted for lands west of I-95. Variance procedures are provided. He feels this would be in the best interest of the City.

Councilwoman Bennington stated years ago they had a gentleman who compared the Council to Alice in Wonderland. She likes the Wizard of Oz much better.

**Bill Glaser**, 1703 Needle Palm Drive, stated he was perusing the July 19, 1999 Council Minutes and back in 2007 when they were having this big contest about whether or not they could have a General Election in an odd year and they had these constitutional scholars that came up and belittled them all how stupid they were and everybody knows you can't have a General Election in an odd year. Back in July of 1999 Resolution #99-R-11 requesting approval to announce Primary Election date of October 5 1999 and General Election date of November 2, 1999. Apparently they were pretty stupid back in 1999 also. Maybe they didn't have the constitutional scholars back then to straighten them out.

## **12. ADJOURNMENT**

There being no further business to discuss, Councilwoman Bennington moved to adjourn. The meeting adjourned at 8:50 p.m.

Minutes submitted by:

Lisa Bloomer