

CITY COUNCIL OF EDGEWATER
REGULAR MEETING
JANUARY 5, 2009
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	Excused
Councilwoman Gigi Bennington	Present
Councilwoman Harriet Rhodes	Present
Councilman Ted Cooper	Excused
Acting City Manager Tracey Barlow	Present
City Clerk Bonnie Wenzel	Present
City Attorney Carolyn Ansay	Present

INVOCATION, PLEDGE OF ALLEGIANCE

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

2. APPROVAL OF MINUTES

There were no minutes to be approved at this time.

3. PRESENTATIONS/PROCLAMATIONS/PLAQUES/CERTIFICATES/DONATIONS

There were no Presentations at this time.

4. CITIZEN COMMENTS

The following citizens spoke:

NoraJane Gillespie, 3588 Omni Circle, representing the League of Women Voters, stated she has read and reviewed the Florida East Coast Regional Planning Council report from December. She asked if the Council planned to adopt the 99 recommendations singly, multiply or by staff. She

needed an explanation for equivalency matrix. She has a copy of F.S. 380.06 if that is what the Attorney wishes to use as the definition. She found it in the report three times and wanted the City's official explanation.

Development Services Director Darren Lear believed Mrs. Gillespie was referring to the Development Order that went to the Regional Planning Council for Restoration. He further stated that would be coming later to the Planning & Zoning Board and to Council for two readings. It would have to be approved by Council.

Dominic Capria, 606 Topside Circle, commented on the Comprehensive Plan. He wanted the Council to really look at and consider Page 33, Objective I.4. He then read this Objective referring to discouraging urban sprawl and encouraging redevelopment. It doesn't necessarily mean they should go for more growth. In 2010 it will be on the ballot for the citizens to vote. Do they want that growth or not? He asked the Council to please wait and let the citizens of Florida have their say. If they vote against it, then it is up to the Council.

Mr. Capria referred to a draft for the public hearing pursuant to Florida Statutes of Wednesday, January 14th. The time and place was not on it. He was assuming it was here and that it was at 7:00 p.m.

Acting City Manager Barlow informed him that was correct. Mr. Lear informed him it was here at 6:30 p.m. before the Planning & Zoning Board.

Ben Fanselow, 321 Schooner Avenue, stated he looked at the City's Comprehensive Plan and there were a number of pages missing. It would take two hours to go over all the issues in that Plan. Line 93 talks about impact fees. It is obvious that the master developer in a number of places does not want to pay the impact fee or wants credits towards the impact fee. Who picks up the cost, the citizens of Edgewater, the County or the State? Every small builder must pay an impact fee so does the master developer. They should hold his feet to the fire. No permits issued without impact fees.

Mr. Fanselow commented on the coverage on square footage they ought to find out that a salesperson takes care of around 9,000 square feet in a department store. He didn't

know where they got 1 ½ person in their square footage area. Line 193 also talks about hurricanes and 100 year floods. Never addresses the fact that we have hurricanes here every year. They can't address what happens in the hurricanes because they know flooding always occurs in those hurricanes. The whole proposal does not address what is going to happen in a hurricane. There are places where the master developer has all the say and the City in building City Hall and other things has no say on who bids the contract. He asked who put that one in there. He feels when they had their private meetings with the developers, when private meetings are held and the public is not aware of it, something fishy is going on. He told them to go over line by line the comprehensive Plan which in fact in many cases if they approve the water system that they are talking about now without approving the Comprehensive Plan, they are doing it illegally and they are putting themselves in a position of a liability. They don't know what they are going to build. A truck wash, a car wash, or a bottling plant how much water they are going to use.

Bill Glaser, 1703 Needle Palm Drive, stated he was down here a couple of months ago and he was talking to the Council about the roof. He felt it looked like a leak waiting to happen. He walks his dogs every day. Last week or the week before he noticed one of the City's tractors coming south on Needle Palm Drive and he took a left and headed east and he was in the inside lane. He spoke of having a 20-mile an hour tractor on a 40 mile per hour street. He could see the brake lights come on and everybody start jockeying to go to the outside lane. Apparently the tractor wanted to go to the outside lane and he could see brake lights coming on and everyone maneuvering to get back in the inside lane. One of these mornings when their plugged in and tuned out folks in the world and somebody runs into the rear end of one of the City's tractors, fixing a roof is going to be small potatoes compared to what it is going to cost the city to bail ourselves out of that situation. He has asked for two or three years if they had any employee safety handbook, safety stand downs, yearly meetings to talk to the employees about new things coming into the world that are hazardous. He thought it would behoove the City if folks would sit down and look at how things are done. They have the same situation with the garbage trucks when they come north south of the boulevard, they pull into the suicide

lane and then they try to maneuver over to get in the right hand lane in order to go north. He spoke of seeing the headlights and people wondering which way the truck is going. It might be something they might consider.

Councilwoman Rhodes felt Mr. Glaser made a good point. She asked Personnel Director Donna Looney if they do that. Personnel Director Donna Looney informed her there are quarterly employee safety meetings and the individual departments hold meetings within their department. Acting City Manager Barlow commented on when new employees are hired and them doing a job safety analysis that they sign off on. We had a Safety Director many years ago and because of budget constraints that position was eliminated.

Mayor Thomas asked if they have to go to so many hours of refresher safety. Acting City Manager Barlow stated there is no requirement as far as outside of the job safety analysis. They encourage every department to do so much safety training within the department. We don't have a formalized program.

Councilwoman Rhodes asked if it is verifiable that this is being done within the departments. She absolutely agreed with Mr. Glaser that they are looking at a huge liability down the road unless they can prove they took the proper steps to avoid it. Acting City Manager Barlow referred to Daytona Beach and years ago the State requiring them to have their own version of OSHA that covered the government employees. He commented on cities not being required or mandated to show those documents. Unfortunately with the accident in Daytona they will probably see changes with that on a State level and every city is trying to enhance their safety program and that is something they continue to work towards. As times change and they are using different chemicals and different hazards are coming up.

Councilwoman Rhodes felt they don't have an option as a city. Acting City Manager Barlow commented on trying to realign and try to develop a position or encourage someone that can absolutely develop a safety program that can be verifiable. He agreed to put it on the goal list and they can work that in this year.

Mayor Thomas feels it would be money well spent. He commented on going to refresher training courses all the time when he worked for the State and it really helping

him. He concurred with Councilwoman Rhodes. If another city has a Safety Director maybe he could come down and they could pay him to instruct our people. Acting City Manager Barlow agreed to do some research and work with Personnel Director Looney. Councilwoman Rhodes suggested Acting City Manager Barlow get a prototype of a safety program from another city and implement it.

John Cordeiro, Pine Tree Drive, stated one day he read in the newspaper where the Council voted and declared one month as Water Conservation Month. The next thing he is reading is they voted for 8,500 new houses in Edgewater. That's not conservation. He asked the Council if they ever thought about what would happen when those 8,500 houses are built. When they built Venetian Bay they were going through a little drought and they were using great big water cannons to water their golf course. There were houses in Samsula that were losing their water and their wells. He feels that is something to think of. The water situation is not going to get better. He felt the price of a gallon of water would probably pass the price of a gallon of gasoline. Every development the Council allows to suck this water out of the ground is going to hurt and come back and bite the people of Edgewater. Chicago had the most corrupt politicians in the country. He feels Edgewater has taken over that now, definitely. He wanted to know what the Council in Edgewater is getting for supporting the developers. They don't support the taxpayers, the voters. They sign petitions and vote and the Council overturns it and does away with what the taxpayers want. They know what the taxpayers of the City want. He asked why they don't support them. It's simple. The Mayor in Debary voted down a big project and they asked him why he did it down and he told them because the people didn't want it. They are supposed to be working for the people. This is a democracy. He suggested they turn it around and get it that way and to do what the people want, whether they think it is right or not. He doesn't know what is being given to the Council to vote and side with the big developers but they aren't doing it for nothing. They aren't that stupid. He asked what was going on? It sure doesn't look good to him and it doesn't make the Council look good.

Councilwoman Rhodes stated she would be the stupid one because she isn't getting anything for her vote.

Agnes Whitter, 223 Flagler Avenue, stated she has a copy of the Table I Capital Improvement Schedule for fiscal year 2009-2013 for all the improvements they have planned for the City. The total is \$44,054,610. That sounds like a lot of money in a five-year period. She asked for a breakdown that would show much how much is coming from grants, impact fees and low interest loans. They don't want to think they have to pull \$44 million out of their pocket in a five-year time span.

Ms. Whitter stated she noticed in the recommendations for Restoration that it was mentioned that accessory dwelling units would be allowed, which she believes is like a mother-in-law apartment or a rental unit, which was referred to in the recommendations. It says they will not be counted as part of the density calculation for the development. She was wondering how Edgewater comes to a possible amount of water that those additional units would need. There is going to be 4,828 single-family units built by the developers in Restoration and they don't know how many of those units may want a mother in law apartment or rental apartment. How does Edgewater figure the amount of water additional that will be needed for them? Also the additional traffic is not counted. How do they get an idea of what the extra impact might be as far as traffic is concerned?

Councilwoman Rhodes informed her she thought she would get an answer to most of her questions when it comes up. This is only the part of the Comprehensive Plan that has to do with this particular subject of water. That is why all they have is what they need to make a decision based on water.

Casey Cook, 1174 Elizabeth Street, asked if it was the appropriate time to bring up the mobile home park they are going to put on Mission Road.

Mayor Thomas informed him they were going to talk about that in depth and it would be the proper time at that time.

5. CITY COUNCIL REPORTS

Councilwoman Rhodes had nothing at this time.

Mayor Thomas asked how the employee Christmas picnic went? Councilwoman Bennington informed him it was nice. They had

quite a few show up and the weather was beautiful. The food was good and there was plenty of it.

Councilwoman Bennington had nothing at this time.

Acting City Manager Barlow stated the employees were extremely appreciative and it was a great event for the employees. Councilwoman Rhodes stated they deserve it.

Mayor Thomas is kicking around changing the time of the Council meeting to 6:00 p.m. instead of 7:00 p.m. He would like to discuss it at the next meeting.

Councilwoman Rhodes and Councilwoman Bennington didn't have a problem with it. Acting City Manager Barlow agreed to talk to staff and put it on the next agenda.

Acting City Manager Barlow didn't think there was a time identified in the Charter.

City Attorney Ansay thought it could be done at Council discretion. There is one resolution that was passed that deals with meeting procedures and she thought they should check that to make sure it doesn't specify a time. If it does they could do another resolution to essentially change that time. She didn't think it would be a major issue.

Acting City Manager Barlow commented on working on updating some of their meeting procedures as well. He was hoping to have those written by the next meeting. Councilwoman Rhodes felt the employees that had issues with it their stuff could be moved to later on the agenda. Acting City Manager Barlow agreed to bring it back at the next meeting.

6. CONSENT AGENDA

- A. Donation of decommissioned 1998 Police Department patrol vehicle to Embry Riddle Aeronautical University, Medical Emergency and Disaster Relief Team

Acting City Manager Barlow made a staff presentation.

Councilwoman Rhodes stated Embry Riddle is a private university. With the cost of tuition now a days why can't they afford a car. Acting City Manager Barlow didn't know what their budgetary situations were there. Councilwoman

Rhodes stated it is a private university that people pay a large tuition to go to. While she is all in support of helping them out, she asked how much it is worth to the City. What amount does that take off of our taxpayers' backs?

Acting Fire Chief Steve Cousins estimated the car to be worth about \$500. Councilwoman Rhodes stated then they could have it.

Councilwoman Bennington moved to declare and decommission the 1998 Police Department patrol vehicle as surplus and donate it to Embry Riddle University, second by Councilwoman Rhodes.

The MOTION CARRIED 3-0.

7. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS

- A. 1st Reading, Ordinance No. 2009-0-01, City of Edgewater requesting an amendment to the Comprehensive Plan to include the Water Supply Plan

City Attorney Ansay read Ord. 2009-0-01 into the record. She reminded Council that per Charter any resolution or ordinances need to be passed by three members of Council.

Acting City Manager Barlow made a staff presentation.

Brad Blais, Quentin L. Hampton Associates, stated the Department of Community Affairs mandated that all cities and utility providers adopt a Water Supply Work Plan that aligns the Work Plan with the Comprehensive Plan. He went over the highlights of the draft of the Water Supply Facilities Work Plan. The City should begin planning for implementation of alternative water supplies by 2017 or 2018. In the five-year planning period, which carries them out to 2013, they need to begin the investigative process of what are the alternative water supplies and possibly adjusting the CUP to allow for the future development of brackish water sources. He also commented on having surface water sources to the east. By getting into the lower Floridan aquifer they feel there is a more reliable ground water quality without the seasonal variation they are faced with with surface waters. It is an abundant source that is not currently being utilized by the other

suppliers. He then commented on reclaimed water, which at this point in time is largely spoken for. He then commented on projects that are necessary within the five-year planning window.

Councilwoman Rhodes referred to the table on Page 28. If Restoration is not built, do they have a figure for annual average withdrawal? How much is Restoration adding to this? Mr. Blais informed her Page 32 identified exactly what she was looking for.

Councilwoman Rhodes stated when Mr. Blais said go to the lower water, the brackish water and he said by 2013 they are going to need to think about that or develop a plan for it to implement it by 2017, how much water is there? What if every city in the County decided they were going to do that? How long would that water last? Mr. Blais stated it is an abundant source because it is primarily brackish and is influenced by the coastal water sources.

Councilwoman Rhodes questioned getting the water from the ocean. Mr. Blais informed her ultimately. It is a more reliable source as far as the quality is more consistent.

Councilwoman Rhodes was trying to figure out how long they have a source of water. Mr. Blais explained the amount of water they would be looking at pulling, the ultimate demand for what they are looking at which is the corporate limits of Edgewater and the overall service area is probably in the neighborhood of 4.5 to 5 million gallons. They are looking at taking an additional 1.5 million gallons per day from an alternative water source.

Councilwoman Bennington stated if they are pulling that, what are other cities around them pulling in comparison. Mr. Blais informed her countywide the total demand is about 68 million gallons per day from all public suppliers throughout Volusia County.

Councilwoman Bennington stated if they are pulling the permitted capacity and Mr. Blais is saying in 2013 they need to look at repermitting our capacity. Mr. Blais informed her every five years the CUP comes up for a compliance update and every five years they have to address their sources, needs and reopen the consumptive use permit.

Councilwoman Bennington asked if they automatically get a consumptive use permit increased. When will it be a point that they are pulling more water then they are capable of replacing? Mr. Blais explained the amount that is able to be safely withdrawn without adversely impacting natural systems and/or existing legal users, the modeling that has been performed by St. Johns and the hydrogeologist has identified about 3.5 million gallons per day as being a safe sustainable yield for this area given their demands and those of their neighbors. They are going by the science that is in place at this time. They will be looking at potentially implementing alternative supplies by 2017 or 2018.

Mayor Thomas asked about the 47 monitoring wells in the County and if this was the upper Floridan aquifer. Mr. Blais commented on typically having clusters of wells. In the monitoring well clusters they have surficial aquifer wells and upper Floridan aquifer wells they are analyzing. Very little bit is known at this point in time about the lower Floridan aquifer and where the interface occurs and where the confining zones are. That is the geology that is currently being done. Daytona Beach is drilling deep wells and New Smyrna is getting ready to drill some deep wells. There are some ASR wells being drilled by the District that are going down to about 1000 feet to identify what the water quality is.

Mayor Thomas stated he has heard the upper Floridan aquifer described as an underwater river. He asked if that would be an accurate statement. Mr. Blais stated portions of it are. It would be a very broad river.

Mayor Thomas stated the lower is where they have the salt-water intrusion. Instead of taking it out of the ocean that is what he is talking about an alternative water supply would be to take it out of the ground and then treat it. Mr. Blais stated getting below the fresher water and getting to a lower quality aquifer. Councilwoman Bennington pointed out the cost of treatment being higher.

Councilwoman Rhodes wanted to know who was going to pay for it. Acting City Manager Barlow pointed out the funding sources are identified in the CIP. That is why they currently charge impact fees, which also pays for additional upgrades and development. The developers that

come in and create additional demands also have to pay for that as well.

Councilwoman Rhodes stated except that when they get to the point where because of Restoration they must go to the lower brackish water in order to protect our water supply. It is going to cost everybody more for a gallon of water. Acting City Manager Barlow stated for the treatment part of it. Councilwoman Rhodes stated if they don't come here, then she doesn't have to pay more for a gallon of water for 20 years instead of in 10 years. Councilwoman Bennington stated if they don't come here somebody else is.

Councilwoman Rhodes stated maybe they should pay a little more for water so when this comes down the pike it somewhat protects them.

Councilwoman Bennington stated when she served on the Council 20 years ago water was an issue. Councilwoman Rhodes stated water is always going to be an issue. Councilwoman Bennington stated water is their gold and they need to protect their water. Acting City Manager Barlow commented on the difference between water they are permitted to take verses how much water is available. They are pushing hard through the entire region for some alternative water supply research technology. Mr. Blais stated there may be regional solutions that may be taken on. He encouraged the City to stay involved and find partners that have similar needs and that have similar situations so they can partner and lower the cost of implementing alternative water supplies and regional solutions being more cost effective. As they work towards their timeframes they need to stay involved and find opportunities for more cost effective options.

Councilwoman Rhodes was trying to put them in a position 20 years down the road that they are not without water or they are without water and the reason they are without water is because they over built the City. That is her concern.

Councilwoman Bennington stated she thinks they need to stay involved to protect our interests in making sure we get our share of the water we need. Whether they develop or not, everybody around them in the future will be developing and they may drain our water if they don't stay current.

Councilwoman Rhodes feels they should be a leader in it and should be one of the first ones with alternate sources of water. She doesn't think they should wait until it's at their doorstep.

Mayor Thomas commented on ways WAV is trying to educate the public. He spoke of educating the children in the schools to not be water wasters.

Councilwoman Rhodes stated she is not against Restoration. What she is against is not having all their ducks in a row. She wants all their ducks in a row for Restoration.

Acting City Manager Barlow commented on it being a balance.

Councilwoman Rhodes stated when she says she is not against Restoration, she isn't necessarily for it either. She is keeping an open mind and still making up her mind on that subject. She feels they need to go forward and plan for the future and she feels that is important.

Acting City Manager Barlow stated if the Water Supply Plan Consumptive Use Permit doesn't permit them to take that much water obviously they couldn't build that development. It's a balance.

Mayor Thomas opened the public hearing.

The following citizens spoke:

Bill Glaser, 1703 Needle Palm Drive, stated in reading through the document he didn't see any reference to the 5,080 homes that are on the books on the website for residential development. There is two pages worth of developments listed on there, not counting Restoration. He asked if that was taken into these numbers. Acting City Manager Barlow informed him that was concurrency already accounted for in this. Each subdivision is not individually listed but those are already factored in as concurrency. Mr. Glaser stated even though they are not built. Acting City Manager Barlow informed him that was correct. Mr. Glaser stated the numbers for how much water they are withdrawing presently didn't jive when he did the numbers. He came out about a million gallons a day short.

Mr. Glaser stated in this document on Page 6, which is titled facility needs for provision of reuse or other non-

potable water supply and it is discussing reclaimed water services to Restoration DRI and says it will be on a wholesale basis. The next sentence he had a question about. It says the City and the developer will participate in construction of transmission facilities for a water treatment plant to the site. He asked what the City and the developer will participate mean. Acting City Manager Barlow informed him there are opportunities for proportionate fair share. If the need to upsize that line going to that development for other developments that is where they pass those costs and they manage those costs off of those other developments. Mr. Glaser stated so this is not for the original running reclaimed water to Restoration. This statement does not apply to originally running the line to Restoration. Acting City Manager Barlow wasn't sure he understood the question. Mr. Glaser asked if the taxpayers in old Edgewater going to be helping pay for the transmission line going out to Restoration. Acting City Manager Barlow informed him no.

Dominic Capria, 606 Topside Circle, stated he said the taxpayers wouldn't pay for it. Don't you believe that. He stated this ordinance definitely is for the Restoration project. Nothing but. Things he wanted to bring up were things done in the past. When they sold water to the County who in turn sold it south to subdivisions and further south to Oak Hill and they were paying less than they were paying for their water bills until he complained and then they raised theirs up. It was 450,000 to 500,000 million gallons a day. That was something that shouldn't have been done. He commented on wasting water. They had a Councilmember from District 4 on the Water Authority for years. He has brought this up time and time again. Sprinkler systems twice a week. This time of year once a week is enough. When people who didn't have the sprinkling systems, he wasn't talking about reclaimed, were allowed 4 in the morning and 4 in the evening. He brought that up and he was told they weren't using that much water. They could do it for eight hours and they only got four hours. If that isn't a waste, he doesn't know what is. He thinks this is nothing to do other than the Restoration project.

Mayor Thomas asked Mr. Capria if he was talking about the reclaimed water. Mr. Capria informed him he was not talking about the reclaimed water. He was talking about City water. Mayor Thomas stated he said unrestricted regulations. Mr. Capria informed him he was talking about

City water. Mayor Thomas asked who was doing that. Mr. Capria informed him the people sprinkling their lawns. Mayor Thomas questioned them being in violation of the law. Mr. Capria informed him it wasn't in violation of the law. Four hours in the morning and four hours in the evening. That is the law and they would not change that. They still do it today. Councilwoman Bennington asked if that was people with wells. Mr. Capria informed her no. It is not people with wells. It is people without wells. Councilwoman Bennington confirmed he was saying it was people with City water. Mr. Capria informed her it was people with City water.

Councilwoman Rhodes stated they could water from four in the morning until eight in the morning and from four in the evening until eight in the evening. Mayor Thomas stated two days a week. Councilwoman Bennington stated he was saying it was more than they are allowed to do with the recycled water.

Ben Fanselow, 321 Schooner Avenue, stated obviously what he has to say has nothing to do with it. They already passed the amendment and felt he should have been able to speak before it was passed. That would probably be the order of when they were asking about an amendment however he still continues to speak. A long time ago he was in Charlotte. He did a study with the Sierra Club, and the River Association and the Water Associations. He learned a lot of things. Delsalinization costs a lot of money. One of the big problems is on the ocean side it doesn't know how to take care of red tide. He commented on something he saw on the History channel where people were exploring the aquifer in Florida with scuba gear and finding the impurities in the aquifer that exist. He didn't know where this gentleman was getting his information. He felt he had a good solution. He suggested they turn off the sprinklers on all the golf courses in Edgewater. Save a lot of water. Several Councilmembers tried to inform him there are no golf courses in Edgewater. Mr. Fanselow continued to speak by stating who wants your baby to drink from a lower level type of water? The reason they will have a problem is simple. The reason they have new flus and new epidemics is because industrial waste finds its way in through the oceans and the rivers and into the aquifers. There is no way of combating those biological systems the way the treatments plants for water are designed today. They are based on very old designs and engineering. Water treatment

plants are still designed on a 1939 plan to treat your wastewater. Somebody really hasn't done the research onto the problems they will have with industrial discharge going into the aquifers. If he had babies and they were living in Florida he would take them some place else. He will not have them drink from a lower level water. If they want to build something that causes them to drink from lower level water they better do a real research project on this before they sit down and pass it for 5,000 homes. They haven't done the study. Up there they haven't even really understood the gallons per minute that are used by people, the actual figure. Somewhere along the line they have to do the research before they pass something. They only pass something because they have private meetings behind doors with private people. Answer that.

Councilwoman Rhodes informed him we have no golf courses in this City.

Jack Hayman, Volusia County Councilman, 3003 Travelers Palm Drive, stated he is pleased to hear that so many of the citizens are so well informed about Edgewater. He has been a member of every water authority and organization this county has ever had. It is encouraging to know they have so many experts in the audience tonight. He thought what he heard was a misunderstanding about the arrangement between Volusia County Council and the City of Edgewater. The County does purchase water from the City for their rural service areas they have responsibility for. In turn Volusia County takes and collects the wastewater from the Edgewater area on the south side of the city limits and they treat that. It's not a free ride per say. There is a cost differential that is looked at very carefully. It was suggested that the County is getting a good deal on water. The good deal on water may be a good deal because the County is also getting the wastewater. Wastewater you don't make money on. The enterprise is really the drinking water and to some degree the reuse water depending on its quality. By 2019 St. Johns says we are going to be in a crisis in Volusia County and Flagler County especially. They based this on a scientific modeling methodology, which there are numerous assumptions made and not necessarily a lot of facts about what goes in the equations to come up with the answer of what the needs are. Don't lose sight of the fact that we are blessed with some springs. Blue Springs is the thing that St. Johns really focuses on. Because of the spring they have been able to recognize the

impact consumptive use has and discharge has on the quality of water that enters into that spring. He then spoke of their concern also being manatee protection, which will influence minimum flows and levels and water use because they constantly monitor the temperature as well as the quality and depth of the water. The outcome is they must have so many inches of water at such a temperature to accommodate the manatees. We do have a real problem they have to deal with. He was pleased the City was looking at it and he thinks they are going to have to deal with it collectively.

John Cordeiro, Pine Tree Drive, stated he brought up water earlier because he has been reading in the paper about the water and the problems we are going to have and it is serious right now. It is time the Council starts doing something about it now, not five or ten years from now because then it is going to be too late. All of Florida and Georgia are going to have problems. They need to start something now.

Mayor Thomas closed the public hearing and entertained a motion.

Councilwoman Bennington moved to approve Ordinance 2009-0-01 and start doing something, second by Councilwoman Rhodes.

The MOTION CARRIED 3-0.

Mayor Thomas called a ten-minute recess at this time. The meeting recessed at 8:13 p.m. and reconvened at 8:25 p.m.

B. 2nd Reading, Ordinance No. 2008-0-13, ASD Properties Management, LLC requesting an amendment to the Official Zoning Map to include 110.66+ acres of land located east of Old Mission Road, north of Mission Oaks Condominiums and south of Josephine Street as RPUD (Residential Planned Unit Development)

City Attorney Ansay read Ord. 2008-0-13 into the record.

Acting City Manager Barlow made a staff presentation.

Mayor Thomas opened the public hearing.

The following citizen spoke:

Casey Coke, 1174 Elizabeth Street, stated when they were doing the development last time he was here for the meeting they brought up the issue of storm runoff and water flooding the occupants of Elizabeth Street. He wanted to know if that had been addressed into what they are trying to put in for the mobile home park. If this is passed for the damage because they already know it is going to flood. They went over this intensely at the last meeting back in November. This room was filled with residents but he thought they gave up because nobody was listening to them. The last Council told them they were in New Smyrna and their vote didn't count. If Edgewater inflicts and says this can go on they are inflicting damage onto their property. If so he would like the contact for the people to have when the development goes on of whom to contact when the damage does occur. He asked if they got out and redesigned for the storm runoff the holdings for the road construction for getting people in and out of this. He brought up before on the road issue how the people would get in and out. They already have a problem with the school traffic blocking up the road and to put in 50 or 60 more homes would be a problem.

Mayor Thomas asked Rodney Jones to make Mr. Coke feel comfortable about this.

Rodney Jones, 5809 Antigua Drive, Port Orange, stated they have addressed the issue of flooding that he was talking about. He had his engineer with him tonight and said he could explain this better than what he could as far as what they have done to keep any water additional from going onto Elizabeth Street than what already goes there now from the property.

Curtis Burkett, Project Manager, Zev Cohen & Associates, stated they addressed this in great detail at the first reading. The open areas are the compensating storage ponds that they are creating, which is creating depressions in what is now regular forest property and they are crating depressions that are at natural grade. The water as it fills into the wetland and then is allowed to run into these areas. They have about just shy of a half acre of storage after they construct these than is currently on the site they are impacting. He referred to the map. What is occurring is that development along Elizabeth Street is

built inside of what they legally cannot build inside of because it is a wetland area and is at a lower elevation. What they are doing in excess of the requirements is they are bound to make sure that they do not allow water to flow over their boundary lines on any area of their property. Their permit that they have received from the State agencies shows in the 100-year storm they are reducing the flow by almost 3 ½ cubic feet per second. In the twenty-five year they are doing the same thing. Will they visibly see a reduction after development? They may not visibly see it. They would if they measured it because they are reducing the impact to this area. They could match exactly right on the number what that is but it is how their stormwater design worked out with the ponds they have on site and the fact that they are able to store them, retain the water and release it at a slower rate. They are able to reduce the amount of water that flows past their boundaries instead of just meeting it. He thinks they will enhance this area after some of the normal storm events.

Mayor Thomas pointed out that he grilled Mr. Burkett at the last Council meeting to make sure there would be no water going off that property onto Elizabeth Street. He has friends that live in that neighborhood.

Mr. Coke stated he was glad to see that they are going to try to hold more of the water. If they go down there during an August rain storm, two or three days afterward on the north section of this piece of property it is still flooded in ankle deep water. He commented on raising the property. When you raise a property up to meet the Codes, they are adding more to what the front side already holds. He feels the pond should compensate but he wanted to know what happens after that.

Councilwoman Rhodes stated they couldn't get a permit if runoff from their land will impact the land around it any more than it already does. That is not allowed. They have that in place already and they have exceeded that. They didn't have to do as much as they are doing. If the land floods now, it will probably still flood. It's not because of them. It's because it floods. Mr. Coke stated he understood that it floods but the part of the property that floods is owned by these gentlemen. On the front half where they are going to develop it they are going to raise the ground up. Councilwoman Rhodes stated they couldn't get a permit to do that if they were going to impact the

land around it any more than it is already impacted. Councilwoman Bennington stated the amount they raise their property to raise these homes they are required to retain that runoff on their property. From what she is understanding, if they get flooding there now, their project will not impact it. In fact it may help them a little bit the way it is designed. Mr. Coke stated he hoped so.

Mayor Thomas closed the public hearing.

Councilwoman Bennington moved to approve Ord. 2008-0-13, second by Councilwoman Rhodes.

The MOTION CARRIED 3-0.

C. Resolution No. 2009-R-01, Review and approval of the Capacity Agreement between the City, Volusia County School District and Hammock Creek Green LLC

City Attorney Ansay read Res. 2009-R-01 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.

Councilwoman Rhodes moved to approve Resolution 2009-R-01, second by Councilwoman Bennington.

The MOTION CARRIED 3-0.

8. BOARD APPOINTMENTS

A. Citizen Code Enforcement Board - Councilman Cooper's appointment due to the expired term of Linda Johnson, who seeks reappointment

This item was continued to the January 26, 2009 Council meeting due to Councilman Cooper not being present at the meeting.

B. Citizen Code Enforcement Board - Mayor Thomas' appointment due to the expired term of Alice Haldeman, who seeks reappointment

Mayor Thomas nominated Alice Haldeman to be reappointed to the Citizen Code Enforcement Board.

Acting City Manager Barlow pointed out that Ms. Haldeman was in the audience and asked her to stand. Mayor Thomas thanked her for coming.

Councilwoman Rhodes moved to approve Mayor Thomas' nomination to reappoint Alice Haldeman, second by Councilwoman Bennington.

The MOTION CARRIED 3-0.

9. OTHER BUSINESS

- A. Amendment to the Agreement with the Florida Department of Environmental Protection (FDEP) for the Eastern Shores Grant

Acting City Manager Barlow made a staff presentation.

Acting Environmental Services Director Brenda Dewees also made a staff presentation.

There were no public comments at this time.

Councilwoman Rhodes moved to approve the amendment to the Agreement with the Florida Department of Environmental Protection (FDEP) for the Eastern Shores Grant, second by Councilwoman Bennington.

The MOTION CARRIED 3-0.

- B. Request to purchase Aqua Guard Barscreen at the Wastewater Treatment Plant

Acting City Manager Barlow made a staff presentation.

Councilwoman Bennington moved to approve the purchase of Aqua Guard Barscreen at the Wastewater Treatment Plant, second by Councilwoman Rhodes.

The MOTION CARRIED 3-0.

- C. Change Order #1 to Halifax Paving contract for Base Leg Drive in ParkTowne Industrial Center reducing the contract price by \$132,236.54

Acting City Manager Barlow made a staff presentation.

Due to there being no public comment, Mayor Thomas entertained a motion.

Councilwoman Rhodes moved to approve Change Order #1 to Halifax Paving contract for Base Leg Drive in ParkTowne Industrial Center reducing the contract price by \$132,236.54, second by Councilwoman Bennington.

The MOTION CARRIED 3-0.

10. OFFICER REPORTS

A. City Clerk

City Clerk Wenzel stated the Volusia League of Cities dinner they spoke about several months ago when they were supposed to host it. They were originally supposed to host it in March but are now hosting it on January 28th. They changed it on us. They just let them know about two weeks ago. They will be having the dinner on Wednesday, January 28th at JC's Riptide. The invitations would be going out tomorrow. They are looking at 80 to 100 people attending the dinner.

Mayor Thomas asked if Sea Treasure was in somebody's thoughts. Acting City Manager Barlow stated they weighed the pros and cons and because of the layout and the ability to accommodate that. He asked City Clerk Wenzel if they would be having entertainment. City Clerk Wenzel agreed to discuss that with the lady at JC's Riptide tomorrow.

Acting City Manager Barlow stated they hadn't finalized and if Council wanted they would look at that direction.

Mayor Thomas stated he knew they had plenty of room and the food is excellent at Sea Treasure. Councilwoman Rhodes stated the food was good at both places. She suggested they get a bid from each of them. Acting City Manager Barlow stated they could get a price and that it wouldn't be any cost to the City except for those that attend from the City.

Mayor Thomas asked if they had decided what they were going to have. City Clerk Wenzel informed him of the choices

they could choose from. Acting City Manager Barlow commented on the short time frame that they were caught off guard with. He asked if they wanted him to proceed with JC's Riptide. It was the consensus of Council to go with what they had at this point. Councilwoman Rhodes commented on when they had the dinner in the gym at the YMCA.

Acting City Manager Barlow commented on when they were originally planning on having it in March they were going to research those opportunities. One year they had it at Edgewater Landings and had it catered. Because of the short time frame they couldn't find caterers.

City Clerk Wenzel mentioned it being easier especially with the short time frame to have everything all inclusive. Hopefully next time they won't change it on them and they will be able to have more time for planning on it.

City Clerk Wenzel stated she received the draft of the Code of Ordinances from Municode today. She was going to get that out to the department heads and have them look through it for errors. They will get it finalized as soon as possible and get it on the Internet and get new books out to everybody.

Acting City Manager Barlow commented on it being accessible on the Internet.

B. City Attorney

- 1) Settlement Agreement: Tripp v. City of Edgewater - Case No. 2006-20463-CINS

City Attorney Ansay went over the Settlement Agreement in the Tripp litigation, which was the lawsuit filed by D. Scott Tripp and Lori A. Tripp against the City of Edgewater related to the purchase and sale agreement for a parcel of property in ParkTowne.

Mayor Thomas entertained a motion.

Councilwoman Bennington moved to accept the Settlement Agreement, second by Councilwoman Rhodes.

The MOTION CARRIED 3-0.

2) Settlement Agreement: Jane Doe v. City of Edgewater - Case No. 6:07-CV-327-Orl-28KRS

City Attorney Ansay went over the Settlement Agreement in the Jane & John Doe verses City of Edgewater case.

Councilwoman Bennington commented on the City paying the mediation fees. She questioned if it would be the City itself or the insurance company. City Attorney Ansay stated they would try to make a claim for it. They may have agreed to pay that but she wasn't sure.

Councilwoman Bennington asked what the fees were. City Attorney Ansay informed her it is typically \$300 an hour. She wasn't sure if they had received the final invoice from the mediator. She estimated the mediation went on for approximately seven hours plus prep time.

Acting City Manager Barlow stated it wasn't discussed whether the City would pay for that but the insurance agent was there and she didn't make any comment that they weren't covering that.

Mayor Thomas entertained a motion.

Councilwoman Rhodes moved to approve the Settlement Agreement, second by Councilwoman Bennington.

The MOTION CARRIED 3-0.

C. City Manager

Acting City Manager Barlow informed Council there was a Council meeting scheduled on February 16th, which is President's Day. He asked if they wanted to move it or cancel it.

Councilwoman Rhodes thought it was already moved to the 26th. Acting City Manager Barlow informed her that was in January.

Mayor Thomas asked how much business they had. Councilwoman Rhodes stated there wasn't that much on the Tentative Agenda Item list. Acting City Manager Barlow informed them if they were looking to cancel it they didn't have anything scheduled currently.

Councilwoman Rhodes suggested they cancel it and if they needed to have it they could always reschedule it.

Acting City Manager Barlow stated they would know at the February 2nd meeting if they needed to have a meeting but he agreed to tentatively cancel it.

Acting City Manager Barlow reminded Council that the January 19th meeting had been rescheduled to January 26th.

Acting City Manager Barlow commented on the final version City seal that was done based on prior Council comments. Councilwoman Rhodes thought it was very pretty. Councilwoman Bennington felt it looked good on the City truck. Acting City Manager Barlow pointed out they were looking at a one-year transition.

Acting City Manager Barlow stated one of the goals they have talked about is the City Manager's position. He needed direction. He wants to hold it in a public forum. If they wanted him to advertise and let him transition back into the Fire Chief's position he wouldn't be offended by any means on that. If they wanted him to consider staying, he was agreeable to do that.

Councilwoman Bennington wanted to open negotiations with Acting City Manager Barlow to be the permanent City Manager.

Councilwoman Rhodes stated before they hired Jon Williams she asked Acting City Manager Barlow if he would be interested in being the City Manager because she knew he had what it took. He told her no. When Jon Williams was asked to leave, she jumped on it. She didn't ask him his permission that time. She forced the issue. She thinks that it would be a waste of taxpayer dollars and time to search for something when they already have what they need. She feels Acting City Manager Barlow is exactly what they need. Councilwoman Bennington stated he has proven it. Councilwoman Rhodes agreed. She would be more comfortable with this if the decision was made by all the Councilpeople. She thinks they should wait until they hear from them as well. She feels the other Councilmembers should have an opportunity to express their views. If they are against this, then they will be ignored by her. Councilwoman Bennington felt they would be ignored by all three of them.

Mayor Thomas asked if they had any legal obligations to advertise. City Attorney Ansay informed him no. Mayor Thomas stated if they don't, it is fine with him.

Councilwoman Rhodes stated this is going forward because they have three right here. She feels they deserve an opportunity to express their views. If they are against this, then they will be ignored by her. Councilwoman Bennington felt they would be ignored by all three of them.

Acting City Manager Barlow stated at this point there are two options. They can wait and rehash this idea when they are all here or they can give direction to the City Attorney to start drafting what they think a City Manager contract would look like and then just ink in the name and dollar figure and whether or not it is advertised. Somewhere down the road they are going to have to do a contract with someone.

Councilwoman Bennington asked City Attorney Ansay to start working on a contract for the City Manager.

Acting City Manager Barlow stated as it relates to contracts, back in January they had some discussion as it related to and it was on the heels of the exiting of the other City Manager and they had some conversations in reference to contracts for directors. At that time the Council expressed a concern and gave a consensus on direction that they weren't interested in contracts for directors. The challenge is that they have a couple of interim directors under contract now as Deputies or Assistants. Obviously they aren't going to want to step away from those contracts. He didn't know if that was still Council's position on contracts. If they had an issue with one particular area of a contract they could talk about that and maybe they could work through some resolutions on that.

Councilwoman Rhodes stated she never wanted to step away from a contract. She feels the Department Heads should have contracts. She thinks they need them for job security if nothing else to make them feel more comfortable. If it was her she wouldn't want to work without a contract especially with politics being involved. She thought the problem was with the severance. She would like to see that

revamped. Other than that, she has no problem with contracts.

Councilwoman Bennington asked Councilwoman Rhodes if she wanted to see the severance revamped on the two existing contracts. Councilwoman Rhodes stated they couldn't revamp theirs. Acting City Manager Barlow cautioned them revamping the current contracts. Going forward they could look at a different severance program than what they had in the past. Councilwoman Rhodes doesn't have a problem with severance but she felt their severance was too large. She knows they can't revamp the contracts they are currently under.

Councilwoman Bennington commented on Brenda being one of the people that have a contract but her contract wasn't as a department head. Acting City Manager Barlow stated to be fair he has two people in the interim positions now and they were both Deputy Directors. Obviously they aren't going to give up that contract to be a department director without a contract. He commented on doing a minor modification to the contract to address the title and obviously the salary. He didn't know if they would budge or that it would be fair to ask them to change the severance side of it.

Councilwoman Bennington stated if they are going from one job title to another title is their contract valid. She understood they wouldn't want to give that up but she wouldn't want to lose them for that either. That sort of ties their hands.

Councilwoman Bennington asked if Finance Director John McKinney had a contract. Acting City Manager Barlow stated absolutely not. He listened well in January when they told him no.

City Attorney Ansay asked if their contracts were for the Deputy positions or the Interim positions. Acting City Manager Barlow informed her for the Deputy positions. City Attorney Ansay stated so they are essentially serving in an acting capacity as opposed to an interim capacity.

Acting City Manager Barlow pointed out the Directors that have contracts and the Directors that don't have contracts.

Councilwoman Rhodes feels that is wrong. Either they all should have a contract or none of them should have a contract. Acting City Manager Barlow agreed.

Mayor Thomas remembered saying no more contracts and asked if that was a resolution or a vote. Acting City Manager Barlow informed him it was direction Council gave him in a workshop. Mayor Thomas questioned not violating anything they did. Councilwoman Bennington thought that was a knee jerk reaction from the severance and the lucrative contracts that were given. She feels if Tracey accepts and everybody says he is going to be the City Manager and he wants to bring these other department heads on, the ones that don't have contracts, they need to establish contracts with them. She believes they do need contracts. Councilwoman Rhodes stated they need severance but they don't need a year's severance. She feels that is excessive.

Acting City Manager Barlow stated about a year ago when he did the research one of the programs he favored was where it is more of a step, such as one month per year of service in that position with a cap on it. He felt that was an option. They can also define whether it is one-year service in the role of director verses an employee with the city. If they promote within they may come into a director's role with 15 years of service.

Councilwoman Bennington stated the three of them are going on the assumption that Acting City Manager Barlow will be the City Manager. Acting City Manager Barlow told her not to do that. It doesn't matter who is here. Think beyond him.

Councilwoman Rhodes stated it shouldn't be predicated on Acting City Manager Barlow, it should be predicated on the position.

Councilwoman Bennington felt some of the positions are going to be predicated on who is our City Manager. Acting City Manager Barlow stated and that is fair. There may be some there that may not step into or agree to take it full time until the City Manager position is secured. He doesn't know that he will promote those individuals up if it doesn't look like he is interested or Council is interested in him. He wasn't sure it was fair for the next individual as well.

Acting City Manager Barlow agreed to work with City Attorney Ansay and they will come up with a draft director contract for future directors. Councilwoman Rhodes felt every contract should be the same. Acting City Manager Barlow stated they were but they had some concern with the nine-month severance with a ten-year employee.

Councilwoman Bennington thanked Personnel Director Donna Looney and Finance Director John McKinney for taking the job with no contract.

Acting City Manager Barlow commented on the free video commercial they were doing to promote Edgewater. City Clerk Wenzel played for Council a rough draft of the video.

Councilwoman Bennington asked if DBCC could be included since it is in Edgewater.

Councilwoman Rhodes felt they should have different music.

11. CITIZEN COMMENTS

The following citizen spoke:

Wilma Grooms, New Smyrna Beach, suggested they should have something about the ball fields and the YMCA is in Edgewater. Mayor Thomas informed her the YMCA was included in the video. Acting City Manager Barlow informed her they only showed two of the five tabs in the video.

Ms. Grooms suggested putting clubs in there for the older people. Acting City Manager Barlow didn't know that they had anything on that. He commented on organizations in Edgewater that do bingo and senior softball.

Councilwoman Bennington suggested putting the Animal Shelter in the video.

12. ADJOURNMENT

There being no further business to discuss, Councilwoman Rhodes moved to adjourn. The meeting adjourned at 9:18 p.m.

Minutes submitted by:

Lisa Bloomer