

CITY COUNCIL OF EDGEWATER
REGULAR MEETING
JANUARY 26, 2009
7:00 P.M.
COMMUNITY CENTER

MINUTES

THE MINUTES FOR THE FIRST HOUR OF THE MEETING WERE DONE FROM NOTES TAKEN BY THE CITY CLERK AT THE MEETING DUE TO PROBLEMS THAT OCCURRED WITH THE CD.

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	Present
Councilman Ted Cooper	Present
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

A. Regular Meeting of October 20, 2008

Councilwoman Rhodes moved to approve the October 20, 2008 minutes, second by Councilman Cooper.

The MOTION CARRIED 5-0.

B. Regular Meeting of November 17, 2008

Councilman Cooper moved to approve the November 17, 2008 Regular Meeting minutes, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

C. Executive Session of November 17, 2008

Councilwoman Cooper moved to approve the November 17, 2008 Executive Session minutes, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

3. PRESENTATIONS/PROCLAMATIONS/PLAQUES/CERTIFICATES/DONATIONS

A. John McKinney, presenting a plaque to Kathy Miller for her years of service to the City of Edgewater

Finance Director John McKinney read and presented a plaque to Kathy Miller for her over 18 years of service with the City.

4. CITIZEN COMMENTS

The following citizens spoke:

Mike Visconti, 316 Pine Breeze Drive, commented that the new City logo was nice. He added that the renovations to the building looked beautiful. He stated that several years ago he helped raise funds for the fountain that was erected on SR 442 and US 1. When SR 442 was widened the fountain was removed and not put back. He suggested to Council that maybe it could be put in front of City Hall.

Dominic Capria, 606 Topside Circle, stated there was \$156,000 in telecom fees that City overpaid. He requested that money be put for the shuffleboard courts. He asked if we received that money.

Finance Director McKinney informed him no. He stated \$57,000 has been received and the rest would come over 3 years.

Mr. Capria asked how many applications were received for the for City Manager position. Acting City Manager Barlow stated he did not know. He added that it was on tonight's agenda to discuss the hiring of a City Manager.

5. CITY COUNCIL REPORTS

Councilman Cooper had nothing at this time.

Councilwoman Rogers had nothing at this time.

Councilwoman Bennington stated the League of Cities dinner was very nice, there was a good turnout.

Councilwoman Rhodes had nothing at this time.

Mayor Thomas stated he attended the WAV meeting and had some handouts for anyone interested. He stated that St. Johns was backing off, however they were still trying to pass a rule that reclaimed water be treated like potable water.

City Attorney Ansay stated the DEP Secretary indicated they would call the districts to tell them to stand down. The rule is premature, however at this time the district has not formally withdrawn.

Mayor Thomas spoke about the Police Department goals and accomplishments he received from Interim Police Chief Bennett. He told Interim Police Chief Bennett he did a good job.

6. CONSENT AGENDA

There were no items on the Consent Agenda at this time.

7. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS

- A. Resolution No. 2009-R-02, Opposing and protesting the efforts of Miami-Dade County to amend Section 180.191, Florida Statutes, to ban the utility surcharge on water and sewer customers outside municipal boundaries

City Attorney Ansay read Res. 2009-R-02 into the record.

Acting City Manager Barlow made a staff presentation.

Mayor Thomas opened the public hearing.

The following citizen spoke:

Dominic Capria, 606 Topside Circle, stated he did not disagree with the surcharge. If the law is passed, we're done. He did not understand what we're fighting. He asked if we charge Volusia County the surcharge? Acting City Manager Barlow stated there was a wholesale agreement with the County.

Mayor Thomas closed the public hearing and entertained a motion.

Councilman Cooper moved to approve Res. 2009-R-02, second by Councilwoman Bennington.

The MOTION CARRIED 5-0.

- B. 1st Reading, Ordinance No. 2008-O-15, Hammock Creek Green, LLC requesting approval of a Development Order pursuant to Section 380.06, Florida Statutes for the Restoration Development or Regional Impact for real property generally located northwest of the intersection of I-95 and SR 442

City Attorney Ansay read Ord. 2008-O-15 into the record.

Acting City Manager Barlow made a staff presentation.

Mayor Thomas stated he attended a meeting last week with the developers of Restoration and the State. He stated that Development Services Director Darren Lear has to follow the requirements of Florida Statutes for a DRI. He added that the proposed development received unanimous approval from the ECFRPC as well as from the Planning & Zoning Board. Acting City Manager Barlow stated tonight was a draft only. Pages from the document were provided to Council tonight with changes.

Ted Brown, complimented staff on their hard work. He spoke of the process for DRI approval. He stated they have reached an agreement with the RPC. He added that even though Volusia County and New Smyrna Beach have no vote they have tried to work with them on this project. He then went over the requirements of the development order. Mr. Brown then went over a power point presentation on the project. (Attached)

Mayor Thomas called a recess due to City Clerk Wenzel having problems with the CD. The meeting resumed at 8:00 p.m.

Pierce Jones, University of Florida, went over a Powerpoint presentation. (Attached) He explained their role in this is to look at specific practices that relate to energy and water efficiency, natural resources, conservation and issues of that type. They do not endorse projects they endorse practices. He reminded Council what most development projects look like.

Mr. Jones then commented on energy and ways to reduce the load and make a more efficient community. He further commented on water supply and water quality.

Mike Dennis, President and Senior Scientist, Breedlove Dennis & Associates, commented on the environmental issues. He highlighted where they are in the process and where they have come from. He spoke about the site, species, the plan, the process and the assurances.

Mr. Brown read from the record of the East Central Florida Regional Planning Council as to comments made by Charles Lee of the State Audubon. He presented City Clerk Wenzel with a complete transcript of the testimony and the presentation at the East Central Florida Regional Planning Council as well as a copy of the Powerpoint presentation.

Mayor Thomas commented on the way he would be handling further comments.

Councilman Cooper thanked the gentlemen for their expertise bringing this project and having the perseverance of everything that has gone. He gave thanks to Mr. Lear, his department, the Planning & Zoning Board and the citizens. He feels this is an excellent project being brought forward. He spoke of not having any questions because of this being reviewed in great length many times.

Councilwoman Rogers stated her concern initially was dealing with the potable wells and the sewer lines but after the report came out, they are indicating they are going to be paying for all the costs, everything. The four well sites reserved, they are saying everything is going to be paid for by the developer. Mr. Brown informed her if it is in the development order they will pay. Councilwoman

Rogers stated listening to Mr. Jones referring to the runoff of the treatment for the landscape, she didn't hear anything proactive on their side that is indicating what they are going to do to counteract these things that will occur as far as the runoff. That is a concern and there doesn't seem like there is a remedy for that.

Mr. Brown asked Mayor Thomas if he wanted them to answer the questions as they come up or he could make an inventory of all of the questions and address them at one standing point. Councilwoman Rogers responded by saying probably as they are asking them because they are fresh in their minds.

John Florio, Senior Vice President, Donald W. McIntosh Associates, 2200 Park Avenue, Winter Park, believed working together with the University they have not only found ways to address it but when they couple their program with St. Johns criteria it is over and above most current criteria. He then commented on source control, which means prohibitions on the use of certain types of fertilizers and pesticides, which is included in the development order and will be included in their site mitigation and monitoring management plan and the covenants and restrictions on the property. Beyond that they have the stormwater management system, which is required by St. Johns to meet outstanding Florida water standards. Beyond that the systems that have been developed by the University regarding environmental treatment of stormwater as it discharges through various swales and vegetation types and the like, in concert with Dr. Dennis' mitigation plan and the Restoration effort, effectively will have several trains of treatment between rainfall to discharge. He spoke of this being mandated on the project.

Councilwoman Rogers wanted to make sure because a lot of times it's like pass the buck. She doesn't want to have it just referenced. She wants it spelled out and clear. Mr. Florio stated and enforceable. Councilwoman Rogers stated that is why they need it to be very clean and concise. When they are depending upon another agency that is when, if something were to occur later on, it is always up for a matter of interpretation. Mr. Florio then commented on there being three or four levels of intervention with this program. There are many eyes on the program and each of the components are critical to obtain the objective, which is to rehydrate a series of wetlands that have been significantly altered and in doing so create a water budget

that minimizes the waste of the water, which is the resource. That is all spelled out in that document as best as they can today.

Councilwoman Rogers commented on the concern with the traffic. What they are presenting tonight and what they have talked about before is the trolley system and how they are planning to create an environment whereby someone is walking going from their residence to work and they are saying if they go this route it will take five minutes and if they go this route it will take ten minutes. She asked if they had more statistics as to how many units they would have there rather than just talk about it. They need to have something more than just estimate.

Don Mears, G S Florida, 300 International Parkway, Lake Mary, stated they hadn't done a unit count on the five or ten minute walk area. The target they have always used is the multi-family product and product that is going to be attached and your higher density product that is generally within the first two or three blocks of a transit corridor which is where they have a greater amount of people coming into those areas that will use the trolleys for work, school or for getting to the edge of the property. They hope in the future when they have enough critical mass that Votran will be there with a bus and maybe take them to the west side of the town or the I-4 corridor and eventually be able to catch a train in Deland and stay out of the car all the way downtown if they decide to go downtown.

Councilwoman Rogers asked if they thought about doing any type of transit between the community on the west side to the community on the east side. Mr. Mears commented on three meetings they have had with Votran, which is where they see the gap. Councilwoman Rogers felt that would help resolve some of their traffic concerns. Mr. Mears explained Votran is saying to them that until they can create those rooftops and they see that there is ridership then they will put a route in there.

Councilwoman Rogers commented on having an abandoned railroad and that possibly being something that could be utilized for the trolley. Acting City Manager Barlow commented on this already being used for Rails for Trails. Mr. Mears commented on a rubber tire vehicle that is used in Orlando that could make that link for them also in the future if Votran doesn't have the ridership.

Councilwoman Rogers mentioned the comment made about City Hall being relocated to be within the Restoration development. It sounded to her like they would be willing to pay for everything as far as the building construction would go. If it were not to be located in the Restoration Development they would be willing to award approximately \$750,000. She asked if that was true and what he intended. Mr. Mears informed her that was correct. He thought there was an upset fee of \$750,000. Councilwoman Rogers asked what kind of square footage they were talking about if the Council approved it being built in Restoration. \$750,000 if you build it offsite verses building it here and they are going to build the complex. She asked if there had been any talk about that.

Acting City Manager Barlow informed her no. He commented on this being a lengthy discussion when they spoke about the development order. He commented on a couple of concerns he had with regard to people wanting City Hall in the area of Air Park Road and SR 442. If he got direction from the Council that they wanted the City Hall to be located in Restoration, that is when they would work with the developer and do a special needs analysis.

Councilwoman Rogers commented on it being presented as \$750,000 or all of it. When they quantify that and put a dollar amount on all of it if it was built within Restorations, it is obviously going to be more than \$750,000. Acting City Manager Barlow commented on that being one of the reasons they left it as an option in the development order. There is no commitment either way now.

Councilwoman Rogers felt it would sound better if they made it be part of the development order and made it be within Restoration because the City will get more of a value.

Mr. Mears stated the last couple of City Halls that he has built in similar size population communities at build out, assuming in 20 years Edgewater was close to 50,000 or 60,000 people, those City Halls they built were anywhere from 7,500 to 10,000 square feet. The City Hall that was 10,000 square feet was in a community where they had about 68,000 residents. He commented on this being something they need to sit down and discuss what the needs are of the City. They clearly wanted to make an incentive to anchor City Hall in their community from day one. They thought it

was a big part of what they wanted to show there. Building a municipal facility that is tied to a City Hall makes sense to anchor, a Town Center they want to build. If they build a City Hall for 5,000 square feet somewhere he thought they would get quite a bit built for \$750,000. If they need a City Hall that is 7,500 square feet they would be talking about \$1.5 million. Councilwoman Rogers stated if they are willing to build it and pay for all of it within Restoration, that is a no brainer. Mr. Mears stated clearly that is a decision the City will have to make at some point in time but that is the option they have right now.

Councilwoman Bennington commented on City staff putting in a tremendous amount of time with this. The development order is so comprehensive. She couldn't think of anything she would want to see in it that isn't in it. She is looking forward to seeing the project move on. She thinks it is going to enhance the City. She didn't know if she wanted City Hall out there. She would like to leave that open for the future because they don't know what will happen in the future. She thanked Mr. Mears for coming to the meeting and presenting it to Council and the time and effort and willingness he has given to the City to adjust this as many times as it has been adjusted to meet what they see they want in the City.

Councilwoman Rhodes agreed with Councilwoman Bennington. She has never seen a development order this comprehensive ever. That is a testament to all of those that worked on it.

Councilwoman Rhodes stated Dr. Jones said he doesn't endorse projects, he endorses practices and he endorses the conservation practices of this project. She asked him if he saw anything he didn't like or wouldn't endorse. Dr. Jones informed her no. When they start looking at the site mitigation and management plan, that is the next step and beyond that they have the planned unit development order. There are several layers to this. He is being educated by this process too. He spoke of being at the meeting of the East Central Florida Regional Planning Council. He agreed with all of the eyes looking at the project. He agreed with it thoroughly. They have had word versions of the development order and there is language in the development order that is his. His hands are all over it. These projects are going to go a long time before they are fully

developed. The specific items he has pointed out, the reason he pointed them out is because those are things he has seen nowhere else.

Councilwoman Rhodes would recommend that every RPUD they write in this City should include those conservation practices. That should go without saying.

Councilwoman Rhodes asked what this development does to the rest of the property values in the City? Mr. Mears explained in his past experience the surrounding areas of those communities abutting their master plan communities have gone up in value and have attracted a lot of commercial business.

Councilwoman Rhodes was concerned with the roughly 5,000 homes in Florida Shores. She asked who would buy those homes when they can buy Mr. Mears' homes. Is that going to devalue those homes so they will be the most affordable homes? Mr. Mears felt Florida Shores was always going to have a certain product nitch in itself. He thinks that what is going to happen is the entire area is going to be lifted over a period of time. He feels the entry-level buyer is still going to want to live in certain areas. They have a choice whether they want to live closer to the water or live in Florida Shores. They are going to have a lot of people starting out that may want to go into Florida Shores. Councilwoman Rhodes stated that is what they would be able to afford. Mr. Mears informed her that is market driven. He couldn't tell them what would happen today on them being successful and what the appreciation level of Florida Shores will be. He has to believe if they are investing that much money in the area and they are starting to see more business and more jobs created, in his opinion it has to do nothing more than appreciate the level of the existing homes.

Councilwoman Rhodes asked Mr. Mears if he had any numbers. She then decided she would rather speak to someone that doesn't have a vested interest. Mr. Mears suggested she look at some of the master plan communities he has been involved with throughout his career and she could get online and start looking at valuations around there.

Mayor Thomas referred to and read Page 9, Line 17 of the Development Order. He asked how they were going to complete that task. When they say Restoration, he

envisions old Florida. He asked Dr. Dennis if that is what he envisions.

Dr. Dennis stated he envisions a prairie, a Savannah type look where they have a lot of native grasses and herbaceous species and scattered pine trees. In amongst that they would have the bayheads and the cypress swamps and the strands of wetlands.

Mayor Thomas stated if they just leave that alone they are going to have a growth of vegetation. He commented on having to have some type of fire buffer for the community. He asked who was responsible to keep the vegetation down. Dr. Dennis stated the SMMP sets that up and sets up the entity and the funding mechanism for doing that. That is in the development order that that will happen. In putting this together they envisioned that fire would be a part of this. This is not something where they can say they restored it and walk away. It's an on going every year, every day kind of process. They would envision fire being a part of it, which will in addition to the environmental aspects of that which will be so positive it will have the extra benefit of fireproofing the neighborhood if you will. Mayor Thomas asked if they were considering controlled burns on the property. That is a plus for the environment and the wildlife. Dr. Dennis stated they believe it can be done. He also confirmed the timberlands would have to be thinned and cut. Then there will have to be roller chopping and some bush hogging to get the fuel loads down. Once those are down, then they will be able to use controlled burns and they should be able to begin to restore assemblance of the native vegetation on it. Mayor Thomas asked if this would be done in phases. Dr. Dennis stated they would have a plan and a phase to do that and they will begin on it the first day and he would anticipate when they get the Water Management permit that will be phased with the Restoration activities as they impact the wetlands. They are going to have wetland impacts to carry out the plan. He is envisioning a process that starts and continues.

Mr. Brown pointed out within the context of the development order they must deliver the conservation easements within five years. It has always been a concern and an issue that they get far enough into and understand what the process is that they are in a position to do that.

Mayor Thomas commented on the pine trees on the property sucking the water out. He expressed concern with removing all of the pine trees and this changing the relativity of the flood plain. Dr. Dennis explained the pine trees are pumps out there now. When they cut the pine trees back, the trees taking the water out of the ground will slow down and they want it to because they want the groundwater table to rise back up. He commented on the flashy system that is out there now and the plan they envision. The pine trees have been taken into account and models have been ran to address that.

Mayor Thomas asked about having some site containment. He asked about having a Plan B and questioned where that water is going to. Mr. Florio referred to Map H. He commented on the water that enters and leaves the site. The goal is that the treatment from the residential and developed portions enter into the stormwater facilities that are set up for water quality treatment. He further commented on how the ponds are all interconnected.

Mayor Thomas confirmed that the water flow from the Spruce Creek Swamp would not be affected. Mr. Florio stated they are not increasing the discharge off this property in any direction from the predevelopment rates anywhere. Volusia County has a similar concern that they are well aware of on discharges to the north. They are managing the water to the best of their ability but they need the ability to recover that volume over a longer period of time. They will have the storage capacity to handle the major storms. After the peak of the storm, when the canals subside and the offsite water systems subside, they will be able to discharge at a much lower rate with no impact to the offsite properties. None of the State or Federal agencies will allow them to have offsite impacts from this project.

Mayor Thomas asked what alternate water supply is planned. Mr. Florio explained the City staff has been working very hard on the utilities plan starting with the application and ultimate approval of the City's Consumptive Use Permit and the recent completion and transmittal of the Water Supply Facility Work Plan, which is the City's ten year vision of providing utilities for the City of Edgewater. This project has capacity for Phase I. They will have to work with the City of Edgewater to develop the capacities required to serve the later phases. They believe alternative water supply is more than just picking another

source. The sources are what are being stressed. He then spoke of working with the sources that use the most efficient water standards they can but it also means retrofitting some of our older systems and potentially some of the older residences through incentive programs and other things that are addressed in the City's Water Plan. He then listed some of these incentives, which are a very large part of a conservation effort that St. Johns recognizes as an alternative water supply. He spoke of pursuing with the City's help and approval to modify the City's Consumptive Use Permit to provide for the long-term capacities needed to serve Restoration. That is almost an immediate task. He spoke of needing to find the conservation plans that they can help implement. He commented on if need be, looking at the possibility of using brackish water supply, potentially salt water supply with additional treatment systems. He stated the City's plant capacity right now is at about 5.0 million gallons per day and adequate to supply the City's long-term need including Restoration, it's the methods that they get there that need to be addressed. The City of New Smyrna, the Water Authority and Volusia County are all willing to work together to find alternative water sources. He spoke of the City identifying a dozen alternatives in the Water Supply Plan that are implementable and cost feasible answers to the water supply problem.

Mayor Thomas asked if there was any consideration. He spoke of getting our water from the Floridan aquifer. The lower Floridan has salt intrusion. He would think they need to be planning right now for some type of desalinization plant or something. He is worried about that. Mr. Florio stated it is a good worry. Based upon the numbers they reviewed from the City's current and future projections the City's shortfall is a very small volume. Not to say over a long horizon of time desalinization will not be an answer, in the City's particular case based on their flow rates it is a very cost prohibitive answer to what is in effect a fairly small volume deficit. They believe through good implementation of water saving devices and water resource management they might bridge that gap without the need to spend the kind of capital they would for desalinization based on the City facility. Regional is a different issue.

Mayor Thomas stated he believed he would rather brush his teeth and use the toilet than have a new City Hall.

Mayor Thomas commented on them meeting with the School Board and having 85 acres set aside for a school site. He asked if that would be enough. Mr. Brown stated they don't have a dog in that fight other than responding to SaraLee Morrissey and her telling them what is enough. Volusia County is presently experiencing as are many counties in Florida a decreasing in school population. They believe they have set aside enough land in this development because they look at it regionally.

Mayor Thomas asked someone to explain the equivalency matrix to him. Chris Walsh, Kimly Horn & Associates, 851 Dunlawton Avenue, Port Orange, stated the equivalency matrix is a matrix that has been designed to allow them to change between different uses. It ensures that the traffic impacts are not going to be increased.

Mayor Thomas asked Mark Rawkowski to come forward and if he had some concerns.

Mark Rawkowski, Development Services Director, City of New Smyrna Beach, stated all they are going to ask for is continued cooperation with the City. They have met with City staff several times.

Acting City Manager Barlow stated he and Development Services Director Darren Lear did meet today with Mr. Rawkowski and the City Manager of New Smyrna Beach and they have assured them they will continue to work with them and they will be participants at meetings in all the areas that would impact New Smyrna.

John Thompson, Planner with Volusia County, presented Council with a letter they prepared regarding concerns they picked up on during their review of the development order. City staff and the development team have been working for the last several years with various State agencies and other local governments and the County to get this project where it is tonight. They are to be congratulated for that. The County will continue to be a partner in this project as they move forward. They picked up on some differences between the recommended conditions of the ECFRPC final report and what is in the development order. The changes they have recommended tonight take care of two of their four concerns. They need some time to work with City staff to understand why those remaining two changes

were made and bring the people in from the County that really need to speak to it with regard to stormwater and transportation.

He respectfully requested the Council direct City staff to work with County staff to work out any issues relative to the two remaining concerns they raised prior to adopting the development order on February 2nd.

Jack Hayman, 3003 Travelers Palm Drive, County Councilman, congratulated the Mayor for how far he has come. He is proud to be the City's representative. It is his belief that Restoration will set the stage for other developments throughout the State in dealing with the population explosions, environmental concerns and the economy we have to deal with today not to mention transportation and other things. He expressed his support of this project. His staff has informed him they have some concerns about some inconsistencies in verbiage between what was published in the final agreement order for the East Central Florida Regional Planning Council and what they have here today. He is convinced they have in the past and will continue to work collaboratively with the City of New Smyrna Beach and Edgewater. His colleagues and fellow County Councilmembers will be very satisfied with the final outcome.

Councilman Cooper stated they just got the draft a few minutes ago. In the last two items the gentleman spoke of, he asked if they have had a chance to review them yet and asked Mr. Hayman if he was suggesting that the DRI be suspended. Mr. Hayman stated he is suggesting they move forward and go onto the second meeting. He commented on the way the system and the process works. In the second and final reading is where they solidify everything. Now it's time for the experts to really earn their pay.

Mayor Thomas asked for citizen comments.

The following citizens spoke:

Elizabeth Donahue, 3326 Umbrella Tree Drive, commended Councilwoman Rhodes for bringing up something that she has been trying to get answered for a while. She has attended several meetings. She has asked if this was going to split Edgewater in half. It sounds almost as if everything is going to be Restoration. What is going to happen to the rest of Edgewater? If this goes belly up, we are co obligators. If that happens if there are any expenses the

city has to pay for it. Councilwoman Rhodes informed her she thought she was wrong. She has seen no language that says the City is obligated for any expenses. They are obligated for every expense. Ms. Donahue asked if wells were included if they had to be put in. She was informed yes.

Councilwoman Rhodes commented on it saying in the developer order if there is no water for Phase 2, Phase 2 does not go until they find the water. Ms. Donahue stated when she asked the question she didn't get an answer.

Barbara Herrin, Chairperson ECARD, read a written statement into the record expressing opposition to the first reading of this Ordinance/Development Order for the Restoration project. They asked the Council to table this ordinance until the Comprehensive Plan Amendment 2008-O-10 has received approval by the Department of Community Affairs. A copy of the written statement was given to City Clerk Wenzel.

Mike Visconti, 316 Pine Breeze Drive, asked if there was any possible way for the single-family homes and other homes to catch the rainwater for the people that live in those places. He sells the rain barrels. He spoke of people having a place to get water for their plants.

Mr. Visconti thinks Edgewater is blessed to have a developer to look into Edgewater and to have faith in Edgewater for this big project that he is trying to develop called Restoration. Edgewater is looking for revenue. They have it in Restoration. Edgewater is looking for a north and south corridor. Restoration is beginning one north and south corridor. Edgewater is looking for recreation and green area. They have a big green area for recreation with lakes and retention ponds and trails. Edgewater is looking for shopping centers. This is a city within a city. He felt Edgewater would be glad to go there and do some shopping in the course of a day. Edgewater is looking for work, for jobs for all trades. There it is in Restoration. We need jobs. Let's look at the economy the way it is today. It is really hurting everyone. He is 84 years old and will not be here to enjoy Restoration but he hopes his children and grandchildren will.

Dominic Capria, 606 Topside Circle, read a list of questions he wanted to ask. Mr. Capria added a fourth and

fifth question. His fourth question was about available housing. They keep saying available housing but they never give any prices. He would like to know some of the prices. His fifth question was Section 101(a) of the City Charter and if they will conform to the City Charter on the 35-foot heights. He hopes so. He also hopes they can negotiate on the sewer lines for the developer to pay for the larger lines and he thought they would. As far as City Hall, \$750,000, he thinks they can negotiate that and they will pay that because they want this project really bad. He presented a copy of his questions to City Clerk Wenzel.

City Attorney Ansay informed Mr. Capria with regard to his first question that she could not speculate on what their feelings are. Since the DCA issued its' ORC report there have been numerous meetings in Tallahassee and as late as last week in Edgewater with folks from the lowest level of staff all the way through the secretary of the department. There have been changes to the original Comprehensive Plan Amendment that was presented and transmitted to DCA, many of which were designed to respond to some of those concerns. At this point, that dialog remains open. As of today there have been communications with DCA and ultimately the way the process works is if Council were to pass on second reading of the Comprehensive Plan amendment next week it would then go back to DCA and they will at that point find out whether they are "satisfied". Since the ORC report came out there has been a tremendous amount of dialog and DCA has worked with the City and the developer to try to resolve those issues.

Bill Glaser, 1703 Needle Palm Drive, referred to and read from Page 49 of the development order and asked about a community development district (CDD). He reads this that City staff has recommended this. Looking at Florida Statutes 190, it says that it is not the intent of the legislature to have CDD's formed that will be detrimental to the welfare of the City and the residents of the city. To form one of them they have to present a petition to the City requesting this be formed. Is the City staff recommending that if they form one of these CDD's that there doesn't have to be a petition or if there is a petition they will approve it without any public hearings.

City Attorney Ansay explained the procedures for establishing a CDD are very specifically set forth in the Statutes. They can't change that. She thinks in her view

of the language is that they think that a CDD is a possible mechanism for which the developer can ensure that the infrastructure and growth out there will be paid for by the properties that will benefit from it. There are over 500 CDD's in the State of Florida. They are used to ensure those improvements are paid for by the people who live there and not by the people that live down the street. In her view what the language says is that they will as one of the parties under the Statute that can object will not do so without having some basis to do so and they are basically saying at this point in time this a viable and legitimate source for the developer to ultimately turn to finance those improvements. She thinks they can't by contract change the Florida Statutes and the hearings that will be required will still go on under the Statute.

Councilwoman Rogers asked if this had something to do with what they are going to be dealing with next week, the creation of a sustainable community development. City Attorney Ansay informed her not at all, this is a completely different deal. This is something the developer decides to do and go through the process.

Councilwoman Rogers commented on this being the first time the City of Edgewater has had something like this. City Attorney Ansay commented on this also being new to Volusia County. She thought Indigo was the only one.

Carol Ann Stoughton, 2740 Evergreen Drive, stated Mercedes Homes has filed for bankruptcy. She told the Council to keep that in mind when they make their decision. She then read Policy 1.4.2: of the Comprehensive Plan. She feels they are not adhering to the Comprehensive Plan. This corporation that is trying to build this is a foreign limited liability company of the Miami Corporation. Their registered agent is CT Corporation. Then they have Hammock Creek Green Holding Company yet Mr. Mears has signed an application in 2007 as owner. She can't find his name anywhere in the Florida Department of State Division of Corporations nor does she see that this Corporation is located in Lake Mary. She feels the City should be checking as to the validity of this supposed developer. She spoke of this property being wetlands and feels they should remember that. She thinks Mr. Mears is the broker or the salesman or the organizer and all of this was first organized with funds given to the Fire Department. She feels there are a lot of opaque, non transparent goings on

with this developer. She spoke of a scheme that growth makes the new people get paid for by the old people that live in the town. We don't need this. We don't need it with our water or our infrastructure. We already have debt. Is this new city going to be a city without debt? When this was in the County, they should have observed what was going on out there and they never did.

Agnes Witter, 223 Flagler Avenue, stated the CDD, City Attorney Ansay said that it would follow the regular procedures the City has for public hearings if a decision is made to use a CDD. City Attorney Ansay stated if the CDD is elected by the developer they will follow the State Statute in order to get that formation. Ms. Witter asked if a CDD had been developed yet that the City was aware of for Restoration. City Attorney Ansay informed no. Ms. Witter stated the Development Order addresses alternative solutions such as mending the development order to provide some relief for the developer if they are unable to meet the jobs, the housing ratio goals and it states that at the point where they are going to have to issue a final plat and/or a commercial site plan approval as they reach the 6,000th residential unit. She asked if the final plat means after the 6,000th home is developed or prior to building. Mr. Brown commented on getting four looks at the project.

Ms. Witter stated she spoke to City Attorney Ansay at the P & Z meeting and she asked her to get a layman's definition of co-obligor. City Attorney Ansay went back and looked at the language related to CDD's. There has been some concern based on the sentence that starts the paragraph that somehow the City would be a co-obligor for the infrastructure where the paragraph is designed to make the CDD co-obligor if one is ever formed. Instead of worrying how to define co-obligor was to just delete it altogether and she thinks what they would propose to do is at the end of line 23 on Page 49 just delete as a co-obligor hereunder. Her view of the way the sentence reads now it is clear the City does not become an obligor for the infrastructure. It is the CDD that would step in the shoes of the developer under the terms of this agreement in the event that it was formed and those steps were taken for the infrastructure. To clean up the sentence they are going to delete that phrase. She has run that by Mr. Brown and he concurred that would be acceptable.

Richard Burgess, 2724 Juniper Drive, read a written statement into the record expressing his concerns about the Restoration development.

Robert Lott, 2112 S. Riverside Drive, Chairman, Economic Development Board, commended Council and staff for the two years of work that has gone into this project. There were many questions they have heard over and over and they have researched them and molded this project into what it is today. He spoke of small towns not being able to continue to exist unless they have something to increase the tax base. He mentioned the \$84 million in taxes this project will bring once the build out is complete. He then commented on the .65 jobs per dwelling. He has never seen any developer make any kind of commitment like that. He spoke of Edgewater having no commercial/industrial inventory and now we will have it. He then spoke about the economy.

Councilwoman Rogers commented on the .65 job to housing ratio. She recalled when that was said to them there was a comment that it was consistent with Volusia County now. She asked what the unemployment rate was in Volusia County now. One statement knocks the other. She feels they need to revisit and look at that because maybe the .65 is not a good estimate. If we have unemployment in Volusia County now, then .65 is not good enough.

Pat Card, 3019 Willow Oak Drive, commented on 67% of the site going into a conservation easement. The conservation easement is going to have at least three organizations that will have to vote to make any changes on it, the City the Water Management District and the County. If we are real lucky maybe one of those attorneys from New Smyrna Beach will convince the Audubon Society that they might come on board too and then they would have four. Could you imagine getting all four of those to agree to change something on a conservation issue? 67% of that is going to stay. They didn't say there was another 8% going to be in those lakes. It is going to be birds with long legs in the lakes. There aren't a whole lot of those around anymore and they will get attracted back to that area. They haven't seen much of him lately because he is convinced that this Council is voting with their mind and logic, not their heart today. He thinks in their midst they all know that this is good for this City. He has lived in a bunch of different places. He has been on alot of different properties. He

spent between 25 and 30 hours at this property. He hasn't seen too many pieces of property that farmers have messed up as bad as they have messed that one up. Let's get it back the way it was when they wrote the book "The Tales of Old Florida."

Marcia Barnett, 124 Flamingo Road, business owner in Edgewater, Economic Development Board member, chairman for Citizens for a Better Edgewater. She commented on there being so many people that are so excited about this project. She is always positive and always sees the glass half full. She is so happy they have hope. Without the hope of something new and the plan for something new we really don't have anything. She read something she read today. She urged them not to be surprised. Let's plan and let's succeed.

Donald Schmidt, 1723 Lime Tree Drive, former Mayor, congratulated the Council. He has stayed away because he was tired of hearing what happened before and all of the debt they did. They were planning for the future. He met Mr. Mears in 2004. His and Councilwoman Rhodes' signatures are on some of the papers that kicked this whole thing off. He had an idea. He has always had thoughts. He referred to "442 - West We Must Go." He heard the words they are creating a dumb bell. Maybe they can call it a smart bell. They can't do anything between I-95 and Florida Shores. We are in an unfortunate situation but a fortunate situation at the same time. They have the opportunity to create another arm of Edgewater. He commented on how cool the trolley system would be. The future is scary. Nobody wants to take those steps sometimes. If after five years, everything this group has done and the meetings they have gone to, if they all can't have it right by now or at least have the platform for it, Edgewater will stay the little sleepy town where the taxes will keep going up where people are complaining they can't afford to live here but they don't want anything else. He feels Edgewater is better than that.

Mayor Thomas entertained a motion.

Councilwoman Rhodes moved to approve Ordinance 2008-0-15, second by Councilwoman Bennington.

The MOTION CARRIED 5-0.

Mayor Thomas called a ten-minute recess at this time. The meeting recessed at 9:58 p.m. and reconvened at 10:10 p.m.

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 from the January 5, 2009 meeting**

Councilman Cooper nominated Alice Haldeman.

There was some confusion as to who was being reappointed, Linda Johnson or Alice Haldeman.

Acting Fire Chief Steve Cousins confirmed it was Ms. Johnson who was up for reappointment. Ms. Haldeman was already reappointed at the January 5th meeting.

Councilman Cooper nominated Linda Johnson for reappointment.

Councilwoman Rhodes moved to approve Councilman Cooper's recommendation to reappoint Linda Johnson, second by Councilwoman Bennington.

The MOTION CARRIED 5-0.

- B. Library Board** - Councilwoman Rhodes' appointment due to the passing of Irene Mackie, whose term expires on April 17, 2009

Councilwoman Rhodes nominated Marilyn Fausti.

Councilman Cooper moved to approve Councilwoman Rhodes' recommendation to appoint Marilyn Fausti, second by Councilwoman Bennington.

The MOTION CARRIED 5-0.

- C. Library Board** - Councilman Cooper's appointment due to the resignation of Delores Shaw, whose term expires on December 6, 2010

Councilman Cooper nominated Mary Person.

Councilwoman Bennington moved to approve Councilman Cooper's recommendation to appoint Mary Person, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

9. OTHER BUSINESS

- A. ParkTowne Industrial Center, MGM/Edgewater Industrial Park, LLC requesting an extension on the Mortgage Note Payment from February 6, 2009 to June 30, 2009

Acting City Manager Barlow made a staff presentation.

Councilman Cooper wanted to hear from the principle party as to why the request was made.

Gerry Glass, Edgewater Industrial Park LLC, explained a year and a half ago when they got into this arrangement they had anticipated the market being such for real estate especially the industrial lots to be a little stronger than it is at this point in time. In addition some things have happened with regard to banking and financing that have also added some delays. They are going to submit a final site plan within the next 30 days for City approval. He spoke of hurdles they have worked through with City staff. He hopes to have the site plan approved by the time the note matures.

Councilman Cooper expressed concern because he knows it is in our 2009 budget and he knows they are spending money. On the date in June when it will be due, what is their reassurance that they will have the \$1.187 million at that time? Mr. Glass stated they have \$3.5 million in the project and they aren't going to walk away for the \$1.1 million. He assured him they would have the funds available on June 30th.

Councilman Cooper commented on the equity in the property and asked Mr. Glass if they were forced to come up with it and they were still slow in June, he asked if they would refinance or do something with the bank and the City would be paid. Mr. Glass informed him yes. Councilman Cooper asked him if he feels he can make that promise on his worth. Mr. Glass informed him absolutely.

Councilman Cooper stated he wasn't against allowing them the four more months. This is a large note and they still owe money on it even after they make their final payment. They are paying interest every month right now. He believes there should be some form of penalty or interest or surcharge and asked Mr. Glass if he was prepared to make some form of restitution along those lines. Mr. Glass informed him he and Acting City Manager Barlow have discussed that and they don't have a problem with covering the City's carrying cost on that note during that time frame.

Councilman Cooper talked to Acting City manager Barlow about 10% but he was going to have Finance Director McKinney do some work on this regarding what normal government has done in the past.

Acting City Manager Barlow informed him he had Finance Director McKinney determine what it would cost the City to extend that note. He came up with \$3,046, which would be our interest cost for six months. Councilman Cooper confirmed this was only the City's cost.

Councilman Cooper asked if he felt 10% was high. As he did some investigation, 10% seemed to be very low especially for a sizeable note of this nature. Acting City Manager Barlow informed him it is permissible by the previous agreement. Councilman Cooper asked Mr. Glass if had had any problem with that. Mr. Glass felt 10% was a little excessive when they have prime rate at 3.5%. Councilman Cooper stated but it is a penalty. The note is not being paid on a timely basis. If he defaulted on a credit card right away they charge 20% of whatever he owes. Mr. Glass informed him this was not a default. Councilman Cooper informed him they aren't paying it late and they are extending longer services and he knows they can use the money. They made a deal and it was a heck of a deal and they are giving away a little more here again. He understands the money crunch and he wants to be compassionate about that. He needs to work on the 10% for his City and he also suggested to Council that if they decide on a figure that that is applied on the February date and not deduct it from any total net later on.

Councilwoman Rogers commented on an article in the newspaper where Councilman Cooper was quoted and she was happy that he did give some comments and that they did get

printed. What she is hearing from Mr. Glass when Councilman Cooper asked him for assurance, he didn't give assurance. What he did was say he could assure but really they don't have assurance. Mr. Glass asked her what they would look for for assurance. Councilwoman Rogers stated he made mention of refinancing. How do they know that Mr. Glass will be able to pay them on June 30th? He indicated it is due to market conditions and they are only talking four months. Market conditions according to the reports she is reading aren't going to be better in four months. She asked Mr. Glass if they had a Plan B and if he could share it with them. What if market conditions don't improve in four months? Mr. Glass stated their objective is to get the plans finalized, and probably do a development loan at that point in time with one of the local banks. Councilwoman Rogers asked Mr. Glass if he had been speaking to a banker or a company regarding this. Mr. Glass informed her they had. Councilwoman Rogers stated when she hears the interest figure that it is going to cost the City, which they indicated was \$3,046. She spoke to Acting City Manager Barlow and Finance Director McKinney this morning wanting to know how much the City still owes on this property. She had to be grossly reminded we owe approximately \$3.3 million because when we did receive the funds we didn't pay it. It was the Peter and Paul syndrome. Part of that money had to be dedicated for the road construction. We have this interest figure. She asked what happens if he can't pay them in four months. Acting City manager Barlow informed her the current note says anytime it is 15 days default from the date of that installment, then they can accrue interest and from there they can go into foreclosure procedures and foreclose on the property. Councilwoman Rogers asked how long it takes to foreclose on the property? City Attorney Ansay stated right now the foreclosure docket of our local judges is very full. In a straight foreclosure with no issues it takes a few months. Councilwoman Rogers stated they have a lot of residential homes in foreclosure in the City and these people aren't going to be given opportunities that they are giving Mr. Glass. This property was purchased at or below appraisal. A great deal was struck and now they are into this situation. She would think if they aren't paid exactly on that date if not prior, that they need to exclude the 15 days off and that they would start the procedure immediately. She asked if that was possible. City Attorney Ansay informed her they would have to do an amendment to the mortgage note anyway and right now it has

15 days so they could decrease that time period for sure. Councilwoman Rogers suggested they strike the 15 days language off of there and then take the \$3,046 and apply it to the interest so the principle outstanding is still the same. City Attorney Ansay stated if the Council were amenable to making a change the other thing she would recommend is they incorporate into any change in the mortgage note would be to make it clear that in the event there were a default in June that the interest would go back to the original due date of February 6th.

Councilman Cooper felt they were charging the interest back that the City was charged. He is taking Mr. Glass on his word. He doesn't believe with the equity position they had, he could get refinanced in a couple of hours himself. That isn't going to happen. He was upset that they were going to extend it again and he feels there should be a penalty or a surcharge to the City's benefit and not just cover their cost in a situation like this. This was a no interest loan and was a good deal. He doesn't think it is an exorbitant rate and if there was something more negotiable he would love to have this tabled and brought to Acting City Manager Barlow and come up with something they can agree on. He doesn't like to set figures for people because there can be extenuating circumstance he doesn't know about.

Councilwoman Rhodes stated 10% is a little more than \$100,000. City Attorney Ansay stated it would have to be on an annualized basis. They have to be careful because they get into user fees.

Councilwoman Rhodes stated Mr. Glass doesn't have the money to pay the note right now or he would do it. Who benefits if he doesn't pay this note? Nobody. Who benefits if he does? The City of Edgewater. She thinks trying to gouge him at this point is unwarranted. They made a deal with this man whether they like it or not. He is asking for four months and three weeks. In the climate that we live in today, foreclosing on this man's property doesn't benefit them. It benefits them to help him as much as they can without costing the taxpayers any money. Asking him to reimburse the city for our cost is legitimate and she has no problem with that. They should be helping him. Not putting obstacles in his way.

Councilwoman Bennington and Mayor Thomas agreed with Councilwoman Rhodes. Councilman Cooper didn't believe they were hindering him. They are setting a precedent for the city and breaking their own deal. The agreement was February 6th so they are breaking the deal and he isn't trying to hamper Mr. Glass. Councilwoman Rhodes informed him then if you don't break the deal then you come there with the money on February 9th and if you don't have it we are going to foreclose on your property and who wins? Councilman Cooper stated they do not want to foreclose and asked who brought up foreclosure. Councilwoman Rogers stated Councilwoman Rhodes did. Councilwoman Rhodes stated that is the deal. Councilman Cooper stated they aren't asking to foreclose on Mr. Glass. Councilwoman Rhodes stated that is the deal. Councilman Cooper stated no that isn't the deal. Councilwoman Rhodes informed him that he said she was breaking the deal. Councilwoman Cooper stated you are when you change the date.

Councilwoman Rhodes stated all right I'm breaking the deal whatever. It matters not to her if she breaks the deal or she doesn't. The point is in this environment and this City with all of the foreclosures and the jobless people we have in this City we should be doing everything we can to help this man and his business as long as it does not cost the citizens of this City any money to do it. If she broke a deal by saying that or doing it, then she broke a deal. Councilman Cooper stated that is why they have different opinions. Councilwoman Rhodes stated right and that is hers.

Mayor Thomas asked for public comment.

The following citizens spoke:

Carol Ann Stoughton, 2740 Evergreen Drive, stated this has been a fiasco from day one, this industrial park, however, this man was the only one to come up with money to buy it. He paid X and only has a little bit to go. This man should be waived and should be appreciated and he is struggling and he shouldn't be charged interest because that land wasn't bringing them any money in the first place yet they got the money because the man paid over \$3.8 million so far. Let him come up with the money. Give him a chance. He deserves it. If they don't she thinks they are pretty low.

Bill Glaser, 1703 Needle Palm Drive, wanted to know if he just could not pay his utility bills until June or July. Councilwoman Rhodes informed him to speak to Finance Director McKinney.

Mr. Glaser spoke of coming down to City Hall on occasion and he always sees folks lined up paying their water bill with penalties to get their water turned back on. It seems like the Council are always cutting the businesses slack but they don't cut the residents slack. It might have been a deal for this guy but he isn't living up to the deal so there ought to be some penalty or something for the Council extending him the privilege of not paying \$1.18 million.

Mr. Glaser stated the e-mail he received from the City with the tally on ParkTowne, they listed ParkTowne as the sale \$4.7 million as having been received. Since they haven't received this \$1.18 million does he add that on to the \$3.4 million that the taxpayers are on the hook for for ParkTowne and it is now \$4.6 million until this guy pays up. Acting City Manager Barlow informed him when this guy pays it is about \$3.3 million.

Mayor Thomas entertained a motion.

Councilwoman Bennington stated she agreed with Councilwoman Rhodes to a point. Here is a businessman. He isn't going to default at this point. She really doesn't see that. On the other hand he is asking for an extension and he should be penalized just like the utility users should be penalized. She doesn't think a 1% penalty is too much to ask for four months on the unpaid balance. Councilman Cooper informed her it was about \$11,000. Councilwoman Rogers pointed out that Finance Director McKinney said it was costing the City \$3,046. Councilwoman Bennington stated she didn't want to do any more than it is costing the City. She asked Mr. Glass if he would be willing to pay what it is costing the City to carry the note for those four months. Mr. Glass informed her he had already committed to that.

Councilwoman Bennington moved to approve the change with him agreeing to pay the cost for us to carry the note those four months. Councilwoman Rhodes asked Councilwoman Bennington if she wanted to add the language that Carolyn suggested about interest reverting back to February 6th if

it wasn't paid on June 30th. Councilwoman Bennington stated sure.

Acting City Manager Barlow commented on the request of Councilwoman Rogers', which was a reduction of the penalty period from 15 days, to lower that. He asked if they wanted to go 10 days. Councilwoman Rogers suggested three days because 15 days is 2 weeks. She informed Mr. Glass that contrary to what some people up there like to believe, in no way shape or form was she looking or intending and she didn't believe Councilwoman Cooper was either, to indicate foreclosure, nothing like that. They are representing the citizens and to require or request that the \$3,046 be paid that is only because the City is having to pay it. Mr. Glass had no problem with that. Councilwoman Rogers stated everything they are doing is just good business. If they worked for him he would want them to do nothing less than what they are doing up there. Mr. Glass informed her that was well said.

Councilwoman Rhodes seconded the motion.

City Attorney Ansay asked for clarification. She wanted to know if the motion changed the number of days to three. Councilwoman Bennington stated she guessed since it is the general feeling. City Attorney Ansay wanted to make sure she had direction for purposes of preparing the document. She had the change in the date, the fee of \$3,046, reduce the number of days to three and insert a provision that default would go back to the original date of February 6, 2009.

The MOTION CARRIED 5-0.

- B. Consideration of the Third Amendment to the Interlocal Agreement of the East Volusia Local Government Fire-Rescue and Emergency Medical Services Automatic Aid and Closest Unit Response System

Acting City Manager Barlow made a staff presentation.

Councilwoman Bennington moved to extend the amendment, second by Councilman Cooper.

The MOTION CARRIED 5-0.

10. OFFICER REPORTS

A. City Clerk

City Clerk Wenzel apologized for the mix up on the Code Enforcement Board appointment.

- 1) Discussion regarding changing the Council meeting time from 7:00 p.m. to 6:00 p.m.

City Clerk Wenzel wasn't sure if they wanted to further discuss changing the Council meeting time from 7:00 p.m. to 6:00 p.m. with the meetings still being held on Monday.

Councilwoman Rhodes and Councilwoman Bennington didn't have a problem with it. Mayor Thomas stated Acting City Manager Barlow talked to staff and staff said they could all be there. City Attorney Ansay also confirmed she could be there.

Councilwoman Rogers stated when she got elected it was 7:00 p.m. and she plans a dinner. She thinks it should stay at 7:00 p.m. There are days when she is in Orlando and if she is trying to leave Orlando on I-4, an hour may not be enough.

Councilman Cooper asked if it would mess up attendance with the citizens. Some audience members wanted to keep it at 7:00 p.m.

Mayor Thomas entertained a motion.

Councilwoman Bennington moved to change the meeting time to 6:00 p.m., second by Councilman Cooper.

The MOTION CARRIED 4-1. Councilwoman Rogers voted NO.

Councilwoman Rogers informed the Council she would see them at 7:00 p.m.

Acting City Manager Barlow stated if they are comfortable with it he suggested they begin that in March since they have done some advertisements for the February meetings.

Mayor Thomas mentioned the Volusia League Dinner and stated City Clerk Wenzel did a wonderful job organizing the dinner for 98 people. He further commented on the mix up with the

date of the dinner. He informed City Clerk Wenzel they appreciated all her hard work.

B. City Attorney

City Attorney Ansay had nothing at this time.

C. City Manager

1) Hiring of City Manager

Acting City Manager Barlow commented on the hiring of the City Manager being on the Council's goal list for this year. He brought it up at the last Council meeting but because there were a couple Councilmembers absent they requested it be tabled until all Councilmembers were present. He also disclosed they want open, public comment, dialog in the public regarding this. Let's talk honestly and he told them to please not feel they will offend him by any means if they decide to go a different route and want him to go back as the Fire Chief. He has also offered if they are interested in keeping him he would be interested in considering a contract and becoming the City Manager. He asked for direction from Council.

Councilman Cooper felt this was a very big issue. He feels he has done a great job walking into a mess moral wise and financial wise. He believes the bad things that may happen in our economy he believes would put Acting City Manager Barlow in such a terrible position for his family and his friends. He thinks the Council needs to hold a workshop and throw all the issues on the table and make a decision once they look at all the issues on whether they want to interview or whether Acting City Manager Barlow really wants to tackle those things that may be part of what has to happen in the future. He suggested they don't put it on today but make a workshop as quick as they can and bring all the issues out and hash it over.

Councilwoman Rogers stated she has been contemplating on this for a while. As government officials they have to remember their responsibility is to who they govern. The administration we have now, the interims, they all came in during at time where they had a lot of upheaval. She doesn't want anyone to take offense with this. There have been some things that have happened from 2007 through the end of 2007 that she thought were going to take a turn and

with the interim administrators and this is not including Ms. Dewees. She thinks Ms. Dewees is doing an excellent job as an interim and has been in that position, working with Terry Wadsworth for 18 years. She feels she is perfect to go to the next level. She has grave concerns with the City Manager position as well as the Chief of Police position. She has been railed. There has been evidence that has been lost or destroyed. There have been things created, reports changed. She brought this up to the powers to be. There have been accounting records that she has requested that were never provided to her and this had to do with some donations made to the City. She is just touching on something. There are several things. She is a very precise direct person. She isn't going to say something and throw it out there as accusations unless she has something to back it up. She brought things to the powers that be's attention and they did not follow through. There was integrity lacking. She brought things forward and when it went to the next level, there were certain individuals or departments that were underneath the Chief as well as the City Manager, the two interims, whereby they could have done something and done it right and they didn't. She acquired some evidence where she requested, she did a public record request on a couple of things. One thing was to find out what accounting the City had for these donations. She was told there weren't any. She was told they never received these donations. She asked for that to be put in writing. She provided that to the next level of authority. That next level of authority she found out six months later, she found out two things. She thought our City had done an affidavit regarding some truth and facts and then she found out the City never did an affidavit. Then she found out that somebody in the City provided evidence contrary to the evidence she supported and provided. Then she found out that evidence was crated because anything that comes out of the Police Department, any interoffice memos, are in a log. They are dated and numbered. The evidence that was provided to the State Attorney's office was not numbered and was not in the Police log and it was evidence that somebody provided out of this administration that somebody used as evidence to superceded evidence she gave that she pulled from this administration. She didn't create it. Nobody did. That is just a couple of things. There is more to be told and in due time it will all come out. She thinks they need to deal with, she is telling the truth. Please remember that. Who is going to stand up with her and do the right thing

and go forward? This City has had a good old boy reputation. The development that they have on the table right now isn't going to rescue the community. She doesn't think it is a bad development. She feels it has a lot of positives. The Council needs to not be afraid to take another easy way out that only takes them backward again. Since she believes the latter part of the 80's they have done nothing but move people from within. When these people have to make hard choices all too often things get personal. In the choices to fix things to go forward are not made correctly. Integrity needs to be restored. This administration is still engaging in activities that brought down the last administration and that is why they need to go outside and start fresh. She thinks Tracey has done a good job as an Interim City Manager. She thinks there are things that maybe she wants to believe that he wasn't aware of and so therefore he didn't get all of the facts and that is why maybe he didn't overrule certain decisions. She brought to his attention where there was evidence supplied to certain personnel in the Police Department and they destroyed it or they lied about it. There was a harassment charge she filed and she provided everything and he even felt what she said was true and actual. Nothing happened. Nothing was done. If the system here is only about covering up problems so it doesn't get out in the public then how are they to come out of the dark ages? Edgewater has a bad reputation with covering up things and not going forward. We have a development that wants to come into the City that is really going to put us on the map. They need people in these leadership positions that aren't going to be afraid to lead. They won't worry about who their friends are or helping somebody. They will do the right thing irregardless. If they want to be a leader, they can't try to make friends with everybody. She thinks perhaps Acting City Manager Barlow should go back to being Fire Chief and be an Assistant City Manager and then they get someone outside that is experienced that doesn't have any contact within this City and then become an Assistant to him and work that way.

Councilwoman Bennington stated she was on the Council in the 1980's. In the beginning and at the end of the 1980's they brought in outside City Managers to straighten up the mess. She doesn't see them around. Mr. Hooper was an outsider who came in. Where is he now? As long as she has lived in this City and been involved in politics in this City, which is 35 years, she has never seen this City run

as efficiently and all of the personnel from the very bottom to the very top as harmonious as they have been under Tracey's administration. She feels they would be doing the citizens and employees an injustice to waste any more time going out for advertisements for City Managers, dragging their feet, interviewing people from who knows where that want a lot of money to take a job that Tracey has been doing and doing it the best she has seen this City done. As far as the good old boys, that is long gone. When she first came in there were the good old boys. They aren't there any more. She is happy with Tracey. She doesn't want to see anybody else. She doesn't want to interview anyone else. She doesn't want to waste any more time on this issue. When they put Tracey in charge that was a big step and he has stepped up and lived up to everything. She feels some of the issues brought up by Councilwoman Rogers were personal issues. They don't know anything about what she is talking about. Councilwoman Rogers stated of course they don't and none of them have done anything. Mayor Thomas banged the gavel. Councilwoman Rogers stated Councilwoman Bennington is attacking her and told him to act like a Chairman. Councilwoman Bennington stated she thought they were personal issues they knew nothing about. In the best interest of the citizens, she thinks they need to negotiate with Tracey as their City Manager.

Councilwoman Rhodes felt there were two issues going on. One is with the Police Chief and one is with Acting City Manager Barlow. She has known Acting City Manager Barlow a long time. His integrity is the thing that she would never question about him. Councilwoman Rogers has questioned his integrity. She thought it was against Acting City Manager Barlow's integrity. It might not have been. She was confused as to what part was Acting City Manager Barlow and what part was the Police Chief. They don't have any purview over the Police Chief. That is not their job. The Council has no purview over the Police Chief. That is the City Manager's job. She has seen Tracey take the ball and just run miles with it. He is largely responsible along with the City Attorney and Darren with the development order they saw tonight. It was a masterpiece. She has never seen anything that precise and that well written and addressing every issue down to the smallest detail. She agreed with Councilwoman Bennington. She felt there were personal issues there and maybe they aren't but Councilwoman Rogers is saying these are problems she has

had. She felt they were personal issues and personal issues shouldn't enter into this decision. It should be based upon what is best for this City. Right now the best for this City, he took a City that was mired in mud and pulled it out of the mud and is moving it forward into the next decade. As long as he keeps doing that and as long as his integrity is never an issue and it never has been from her perspective then she doesn't see why they would waste money and time trying to find something they already have. A lot of times the grass is greenest in your own backyard.

Mayor Thomas agreed with Councilwoman Bennington and Councilwoman Rhodes. He thinks we have a winner sitting here. He asked Acting City Manager Barlow how long he had been doing this. Acting City Manager Barlow informed him a little over a year. Mayor Thomas stated he stepped in and he was there the next morning and asked Acting City Manager Barlow what he wanted him to do and he told him to go on and that he had it. He's done excellent. He goes to meetings all over the County and they are bragging on an Interim City Manager. He can't say in enough words what he has done for this City. No only is he reactive to their problems he is proactive on this City Hall, the Visioning Process, the Video. He was sure that man's mind was thinking when he went to bed at night. He commented on the City employees. They are looking for some stability. Acting Chief Bennett wants to get on with his program. If he gets elected, he thinks he has a good program in mind. Ms. Dewees and Mr. McKinney, all these people that are in interim positions are looking for stability and he thinks they should give them that stability. Acting City Manager Barlow is a homegrown product. His son was in little league and he loves this City just as he does. He thinks they shouldn't waste time and go ahead and make the decision tonight.

Councilwoman Bennington made a motion to start negotiations with Tracey Barlow to be City Manager.

Carol Stoughton asked if there would be public comment.

Mayor Thomas told her to go ahead.

Carol Ann Stoughton, 2740 Evergreen Drive, stated they had Mr. Hooper and they all said he was doing a great job and he put our City in debt. Then they got Mr. Williams. Guess what. Mr. Williams decided to go in and investigate

overtime with the fire department and the salaries and the salaries compared to the police are way off so when Mr. Williams decided to do his job that is when the good old boys got together and got Mr. Williams out. It was Gigi Bennington who was put in there by the Fire Department. All of her campaign contributions came from the Fire department. One day she asked Mr. Barlow something and he told her he didn't have to answer to her. She still hasn't gotten an answer as to how much money was given by Restoration or Hammock Creek to the Fire Department. She thinks that is a severe conflict of interest. She feels Mr. Barlow is an excellent Fire Chief and she feels he is too much with the developer and she also feels he is not qualified. We have not had a qualified City Manager. His salary right now is about \$120,000 with perks. She was sure someone would come in here for \$85,000. There are so many people out of work. She feels it is time to hire a City Manager with past experience. There are many people out there. Nothing personal against Mr. Barlow but she feels there is a lot of non-transparent goings on as Ms. Rogers said. She was even slammed in an e-mail. They all know what she is talking about. They need a manager with experience who can cut their debt, who is not related, who is not involved and is not associated with and treats the Fire department and Police Department with great respect and equality. We need a man that can come in here and bring in business. They need a man with experience. They come in for public records and he says they don't have it. He came running out when she told him someone else had it already. She thinks a lot of these people are collaborating too much with the developers and she thinks he is one of the main ones and the pusher of this project. She approves of Mr. Bennett and he should be in there. She feels Mr. Barlow should be Fire Chief. She thought he was going to be retiring. That would be two pensions.

Mayor Thomas entertained a motion.

Councilwoman Bennington moved they start negotiations with Tracey Barlow for their permanent City Manager, second by Councilwoman Rhodes.

The MOTION CARRIED 4-1. Councilwoman Rogers voted NO.

Acting City Manager Barlow commented on doing a Summit with Southeast Volusia cities, which include New Smyrna and Oak

Hill. He had potential dates; the afternoon of March 4th or the afternoon of March 18th, which are both on Wednesday.

It was the decision of Council hold the Summit on the 18th.

Councilman Cooper asked what time. Acting City Manager Barlow informed him it would be in the afternoon but that they had to secure a time. They were looking at around 2:00 p.m. They are going to look to have it at the Daytona State College on 10th Street.

Acting City Manager Barlow informed Council he would be looking to them for some major topics that affect Southeast Volusia that they would like to talk about and they would put those on the agenda.

Acting City Manager Barlow spoke about the second meeting in February. They are going to wait to see what the agenda looked like if they had to reschedule the February 16th meeting because of President's Day. He needed to schedule that for February 17th, which is a Tuesday due to a bid opening for the Kennedy Park project on February 3rd and he needed to fast track that project to make sure they get the grant money so they need to award the bid on February 17th.

It was consensus of Council to meet on February 17th at 7:00 p.m.

Acting City Manager Barlow informed Council the auditors started this week on auditing last year's budget.

Councilman Cooper stated the motion was made to start negotiations with Tracey. He would like a definition of what they mean by negotiations.

Councilwoman Bennington stated for him to get with the City Attorney and see what he is willing to talk about. They know what he is getting paid now. See what he wants and let him negotiate through her and let her bring it to Council.

City Attorney Ansay stated what she could bring to Council is a proposed contract that would have a framework and then she can outline for Council the issues they will need to negotiate and come to some agreement between Council and Mr. Barlow. She agreed to try to do it by next Monday but if she couldn't by the 17th for certain they would have a

document they would begin working off of. They can either set a workshop session or the entire Council could meet to flesh out those terms. Alternatively they could have the Mayor or one of the Councilmembers. Councilwoman Rhodes stated they did that the last time. She recalled they had Dennis. City Attorney Ansay commented on delegating that to get some framework and then obviously anything comes back for council. Those are the ways she has done it in the past.

Councilman Cooper stated the only concern he has and it is unfair to Mr. Barlow is he has never been interviewed and they all know Mr. Barlow. More than half the citizens don't know how he has expanded his life through the last 25 years with the City. He thinks they owe in fairness a proper interview process. There are some tough issues and that is why he suggested the workshop. Get it out. Let's hear their answers from Mr. Barlow because he can't turn a blind eye to some things that may be coming up and get it all done in one quick, the easy way to go. He thinks they owe him an interview process and they owe it to the citizens.

Councilwoman Rhodes stated how many people do you hire and then interview. She asked Councilman Cooper why he didn't say this before that he wanted to interview. Councilman Cooper commented on hiring Mr. Barlow and they were supposed to be researching a City Manager and they never went forward with that. He thinks they should do the proper process so the Council and citizens know they are getting the best candidate for the job.

11. CITIZEN COMMENTS

The following citizens spoke:

Danny Rogers, 510 S. Riverside Drive, stated there is a lot of emotion going on that they are seeing. The smartest thing he is hearing is coming from Mr. Cooper. This deserves the Council privately discussing this issue and let Tracey speak and let Debby speak and hear what they have to say and then they will come back with an education and they will know more than they know now. Without dirtying laundry here, give yourself that chance and they will come back wiser and everyone will be the better for it. Perhaps Tracey is the man for the job but understand what is really going on here. There are reasons why people

said what they said. People need to take a stand and validate what happened and why it happened. Do the citizens the favor of having their private meeting.

Councilwoman Rhodes stated under Sunshine they can't meet privately.

Councilman Cooper stated he suggested a workshop. Councilwoman Rhodes informed him that is still public.

Mr. Rogers recommended they have a workshop.

Mayor Thomas stated they could do that. They can't meet privately but they could do that but he doesn't think he wants to know what he knows because he knows a lot. He tried to stay unpersonal but if he wants to get it out he thinks it is going to be real embarrassing to Mr. and Councilwoman Rogers. Mr. Rogers informed him he thought it was time. He thinks if they have something to say. Councilwoman Rogers informed Mayor Thomas he didn't know the half of it and had no idea. Mr. Rogers stated let's not start this. Councilwoman Rhodes stated either discuss it publicly or don't.

Councilman Cooper stated they would do a proper forum and hold a workshop. Councilwoman Rhodes stated throwing innuendo around isn't fair to anybody. Mr. Rogers asked Councilman Cooper if there was a proper way to do it. Councilman Cooper felt if they had a workshop because his issues aren't with some of Debra's issues. His concern is more along the expertise of the individual. Is it the right individual? He has a list of some real hard choices he believes the City needs to make that he wants to hear him say to him and look him in the eye and say he can do that if he has to. That is what he wants to discuss.

Mr. Rogers stated give the opportunity for everyone to voice pros and cons and let it be done. Put it all on the table and do the right thing.

Councilwoman Bennington suggested they ask City Attorney Ansay if she could come up with a rough framework for a contract at their next meeting based on what he's got and what he wants and at that next meeting they set a workshop and sit down within the next month and talk over with him, ask the questions and go negotiate the contract that has been presented and then have a special meeting.

Councilman Cooper wants to hardcore interview Tracey Barlow for the City Manager's job and either prove he is right that he is the right person or prove to himself that maybe they should look outside.

Acting City Manager Barlow suggested doing a one on one with Councilman Cooper if it would help the situation because it appears there is only one strong interest of that interview. Councilman Cooper expressed concern with the other Councilmembers not being there. Councilwoman Rhodes stated they know. Mayor Thomas stated they are already convinced. Councilwoman Rhodes stated she has known Acting City Manager Barlow for 25 years. She knows what Acting City Manager Barlow can do and doesn't need to interview. But Councilman Cooper is right. In the interest of the citizens he is absolutely right. If the citizens don't know, she just assumes they know what she knows and that they have seen the way the City is run so it makes sense. If they feel that is important maybe Acting City Manager Barlow submit a resume' that they have on file that any citizen can get a copy of. Councilman Cooper can talk to him and ask his questions. Councilwoman Bennington stated if there is an issue he isn't happy with he can bring it to Council and let them know he didn't like an answer. Councilman Cooper stated if they did the workshop they would hear the issue instantly and they wouldn't have to have 40 different meetings and they could solve the whole problem with one meeting.

Mayor Thomas stated they are talking on a moot point. They have already voted to initiate contract negotiations with Mr. Barlow. If Councilman Cooper wanted to interview him he had that personal right. Councilwoman Rhodes stated she feels there should be a resume' on file.

Dominic Capria, 606 Topside Circle, agreed with Mr. Rogers. He feels they should have workshops and he thinks what Mayor Thomas or anybody else knows should come out. Mrs. Rogers doesn't seem to care. He thinks what is happening is they have too much nepotism. Councilwoman Rhodes stated they haven't heard anything come out. Mr. Capria stated but he thinks she knows what is going on. They all know what is going on. Bring it out.

Councilwoman Rhodes stated any time you want to bring it out she is more than happy to bring it out.

Carol Ann Stoughton, 2740 Evergreen Drive, stated they all said Mr. Hooper did a fantastic job. Well he didn't. They must admit to that. Councilwoman Rhodes stated she still disagrees with that. Ms. Stoughton stated she guessed she liked debt. It seems that the Council allowed the Fire Department and it's union to come forward and allow them to get rid of Mr. Williams like that. She doesn't feel the Fire Department has any say or any right to come to the meeting and demand somebody's resignation and then they have the Fire Company running our town. That is what all the citizens are saying right now. Tracey has done a good job as Fire Chief. If Mr. Barlow does get the Council's okay she intends to go further up the line to agencies to let them decide if what the Council is doing is right. She knows Mr. Bennett is a great man. Mr. Cousins is a great man but what they are looking for in the Fire Department is more houses, more people, more lieutenants and more captains. What about the people that don't have jobs? She thinks \$120,000 with perks is a lot of money in today's economy. She thinks they need someone that is unbiased and not from the area to run our City. She again mentioned Mr. Barlow telling her he didn't have to answer her when she asked a question. She was accused with the last Police Chief of threatening a public official which was not the case and that was about what Ms. Rogers is putting up with. They are there to speak their minds whether the Council likes it or not. If they want to expose they are going to expose. She intends to go far up to get people investigated. She hopes they are all clean because they are all going to be looked into. She wanted to know if the Mayor would supply water to the Restoration project because he applied for the water rights. She wanted to know if that was forthcoming. Mayor Thomas asked her what she was talking about. Ms. Stoughton informed him he knew what she was talking about. Mayor Thomas told her she was absolutely crazy.

12. ADJOURNMENT

There being no further business to discuss, Councilwoman Bennington moved to adjourn. The meeting adjourned at 11:19 p.m.

Minutes submitted by:

Lisa Bloomer

