

CITY COUNCIL OF EDGEWATER
REGULAR MEETING
JANUARY 25, 2010
6:00 P.M.
COUNCIL CHAMBERS

MINUTES

1. CALL TO ORDER

Mayor Thomas called the Regular Meeting to order at 6:00 p.m. in the Council Chambers.

ROLL CALL

Mayor Michael Thomas	Present
Councilwoman Debra Rogers	Present
Councilwoman Gigi Bennington	Present
Councilwoman Harriet Rhodes	Present
Councilman Ted Cooper	Present
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. Special Meeting/Executive Session of March 13, 2006

Councilwoman Bennington moved to approve the March 13, 2006 minutes, second by Councilwoman Rogers.

The MOTION CARRIED 5-0.

B. Regular Meeting of September 28, 2009

Councilman Cooper moved to approve the September 28, 2009 minutes, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

C. Executive Session of October 19, 2009

Councilman Cooper moved to approve the minutes of the Executive Session from October 19, 2009, second by Councilwoman Bennington.

The MOTION CARRIED 5-0.

D. Regular Meeting of October 19, 2009

Councilwoman Bennington moved to approve the minutes of the Regular Meeting from October 19, 2009, second by Councilwoman Rogers.

The MOTION CARRIED 5-0.

E. Special Meeting of November 2, 2009

Councilwoman Rogers moved to approve the November 2, 2009 minutes, second by Councilman Cooper.

The MOTION CARRIED 5-0.

F. Regular Meeting of November 16, 2009

Councilwoman Bennington moved to approve the November 16, 2009 minutes, second by Councilman Cooper.

The MOTION CARRIED 5-0.

G. Regular Meeting of December 14, 2009

Councilman Cooper moved to approve the December 14, 2009 minutes, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

H. Special Meeting/Executive Session of December 14, 2009

Councilwoman Bennington moved to approve the minutes of the Special Meeting/Executive Session from December 14, 2009, second by Councilman Cooper.

The MOTION CARRIED 5-0.

3. PRESENTATIONS/PROCLAMATIONS/PLAQUES/CERTIFICATES/DONATIONS

Finance Director McKinney informed Council the City had received \$15,950.61 from the WAV disbandment. They have completely sold all assets and made all distributions to the membering cities. Councilman Cooper asked if that was the final payment. Finance Director McKinney informed him yes and that he had received it last week. Mayor Thomas asked how they could use that money or if it was already allocated. City Manager Barlow informed him it would go back into the fund it was expended from, which was the Water & Sewer Fund and then down the road they will probably come back to Council and ask to have some of that reallocated towards a utility rate study which they haven't completed in some time.

4. CITIZEN COMMENTS

The following citizen spoke:

Mike Visconti, 316 Pine Breeze Drive, thanked the Council for their concern of his personal things and for thinking of him. He thanked Councilwoman Bennington for the card she sent.

5. APPROVAL OR CHANGES/MODIFICATIONS TO THE AGENDA

The following changes/modifications were made to the agenda:

City Manager Barlow referred to Item 8A - the Stipulated Settlement Agreement. One of the interveners recently added an additional attorney and it was the request of their attorney that he has some additional time to review the amendments associated with the stipulated settlement agreement. The intervener's attorney was requesting it be removed from the agenda and that it be put on the agenda for February 8th. Staff recommended this request be honored.

Councilwoman Bennington moved to move item 8A to the February 8th meeting.

Dominic Capria asked for a point of order. He was having difficulty hearing. He wanted to know the reason for the postponement, which City Manager Barlow reiterated.

Councilwoman Rhodes asked how this affects the Comprehensive Plan Amendment. She expressed concern with not having an agreement in place. City Manager Barlow explained the amendments to the Comprehensive Plan aren't effective until after the second reading. Councilman Cooper asked which side the lawyer that was coming on was representing. He asked if they foresaw any changes. City Attorney Ansary informed him the lawyer represents ECARD. The stipulation settlement agreement only is governing the case related to the Comprehensive Plan Amendment action. They received a notice of intent by the Department to find our Comprehensive Plan amendment not in compliance. There have been negotiations related to that and that stipulation settlement agreement resolved that case. If Council passes the motion to move that to the 8th, what would happen on the 8th is the first order of business would be to approve that agreement which DCA would have in the interim also approved and then it would be moving on to second reading and final adoption should Council decide to do that of the Comprehensive Plan amendment. The language in the Stipulated Settlement Agreement as drafted by DCA and the law itself doesn't require the Comprehensive Plan Amendments be done in one reading. They are doing them in two readings, by ordinance. They are proposing they do the first reading tonight and the second reading on the 8th. Just delay the agreement it will be the first order of business on the 8th and then they would move on to second readings of

both of those. She felt they should do this out of courtesy to the other side. There is no harm nor foul to the City to postpone action on that until the 8th.

Councilwoman Bennington stated by the Council removing it and giving him the time to read it, can he change anything in the resolution or is he just wanting the time to read it so he knows what is in it. City Attorney Ansay explained the Stipulated Settlement Agreement is a document that has signature pages for all parties to the agreement. If there is a new settlement proposal that he envisions that would allow ECARD to participate in the settlement, that would be something they would all consider between now and the 8th. To this point in time that they have been given no indication to what his position will be. From their perspective if there is no harm there is no foul. If they decide not to participate her guess is they wouldn't have participated in the agreement as it is drafted tonight anyway. At this point in time the City, the developer and DCA have agreed through those negotiations to partake in the stipulated settlement agreement. This will allow potentially time for ECARD to come up to speed on the issues and give them the advice they need to make that determination. Out of professional courtesy that is what they have recommended to Council to do.

Councilman Cooper asked if there was any indication by Counsel that he would be ready at the next Council meeting so it doesn't go on and on again. There are time delays that are pressing.

City Attorney Ansay informed him she hadn't asked that question because from her perception she wouldn't recommend it continue to go on and on. If Council does indeed push this off to the 8th they will notify him first thing tomorrow morning. This was somebody who was started off from scratch and they have been doing their best to get them the information. They were trying to be as responsive as they could. She assumed it would go forward on the 8th and there would be no justification for him asking for any additional time that she could imagine.

Councilwoman Rhodes felt it wasn't their fault that they got a new attorney. City Attorney Ansay agreed. Councilwoman Rhodes wanted confirmation that there would be no price to be paid for allowing this extra time. City Attorney Ansay stated the only price that would be made is there would be additional papers that will have to be in the Council's agenda next month and they are significant because of the documents that are now going to have to again go into the agenda for the 8th. There may be some notice or mailing issues. There really isn't any exorbitant costs associated with it. If it gives ECARD the time they need to get advice of counsel, then she doesn't see any problem with that.

Councilman Cooper asked City Attorney Ansay if she would recommend they amend the motion that if they vote for this to go ahead and give them the extra time, they amend it to say that would be it and if they aren't ready they won't amend it again. City Attorney Ansay informed him that was clearly within their discretion. If that is the way Council votes they will then direct staff tomorrow to renotice and readvertise for the 8th. Those wheels will be in motion again. She suspects that is all that will be needed. Councilman Cooper asked if that would be her recommendation that they go that route. City Attorney Ansay stated she wouldn't recommend they need to lay down the law because she feels they don't have to. The Council ultimately decides what is on their agenda.

Councilwoman Bennington amended the motion that it goes it's removed and put on the February 8th meeting and that is the end. Nothing past that. That is the final determination. Councilman Cooper seconded the motion.

The MOTION CARRIED 5-0.

6. CITY COUNCIL REPORTS

Councilwoman Rhodes had nothing at this time.

Councilman Cooper stated due to the lengthy agenda he was going to forego his lengthy report. He just wanted to let the citizens know the Census was coming up. The Census is imperative to the people in Volusia County. He encouraged the citizens to please fill it out. It means an awful lot of money to the taxpayers.

Councilwoman Rogers had nothing at this time.

Councilwoman Bennington had nothing at this time.

Mayor Thomas had nothing at this time.

7. CONSENT AGENDA

- A. Authorization for the City Manager to enter into a Lease Agreement with SunTrust Equipment Finance and Leasing Corp. not to exceed \$210,000 and authorization for the City Manager to execute the Lease Agreement documents and budget amendment
- B. Authorization for the City Manager to enter into a contract with Biological Consulting Services, Inc., for the removal of the endangered gopher tortoises at the site of the new wellfields and approve the budget amendment

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

The MOTION CARRIED 5-0.

Mayor Thomas asked how many gopher tortoises they had out there. City Manager Barlow informed him they had 29 burrows. They didn't have many active turtles but 29 burrows. On a rough average the consultant says up to about 50% active burrows when they get into it.

Councilman Cooper asked the cost per turtle. City Manager Barlow stated some could be relocated onsite and others had to be taken offsite which would be another permit to transport them and another permit to relocate them. Mayor Thomas stated at least it wasn't a take permit and it was going to be a removal permit. City Manager Barlow informed him it was a relocate/removal permit at this time.

8. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS

- A. Resolution No. 2010-R-01; Approving a Stipulated Settlement Agreement between the City of Edgewater and the Department of Community Affairs

This item was moved to February 8, 2010.

- B. 1st Reading, Ordinance No. 2010-O-01; Amending the Comprehensive Plan to include text creating a new Restoration Sustainable Community Development district Future Land Use Category, the Future Land Use Map and Map Series of the Future Land Use Element and other applicable Elements and Map Series

City Attorney Ansay read Ordinance 2010-O-01 into the record.

Mayor Thomas stated before they proceed he needed to know if anybody on Council had any ex-parte communication with the developer and if they did they needed to disclose now. He asked City Attorney Ansay if she wanted to explain that a little more. City Attorney Ansay didn't think she needed to. Technically this particular item is not considered a quasi judicial hearing but the next item is so she would say they could go ahead and they were going to continue and hear both issues so if they wanted to disclose any now to the degree they exist that was fine. They could do it for both items, this one and the next one.

Mayor Thomas stated that meant if he saw Mr. Mears and said hi he would have to disclose that. City Attorney Ansay informed him not if he said hi. If he had any ex parte communications with the applicant or any representatives of the applicant pertaining to this particular agenda item.

No Councilmembers had any ex parte communication with the applicant or any representative of the applicant.

Development Services Director Darren Lear made a staff presentation. He commented on the additional changes that were requested by DCA to the Future Land Use Element and Housing Element. He commented on this item being a combination of negotiations between the developer, the City of Edgewater and DCA. The remedial amendments are for the Restoration Sustainable Community Development District Sub-Element and amendments to five current elements out of the Comprehensive Plan. He then went over some of the more significant revisions to the SCDD Sub-Element.

Mayor Thomas opened the public hearing and asked for Council comments.

Councilman Cooper commented on there being a lot of concern about not annexing until 2017. He asked Mr. Lear to give the City's position on why this is not such a drastic step on their part to move forward like that or grant something of this nature. He felt they owed the citizens an explanation.

Mr. Lear explained the restriction is not annexing any more property that would increase residential density within the City. There are no restrictions on annexing commercial or industrial property. There is no restriction on small scale enclaves that are within the City limits and also future CRA districts there would be no restrictions on large scale amendments to that.

Councilman Cooper stated it is strictly any DOR's or any building plans that have been approved. There would be none added to that with the acceptance of this development. Mr. Lear stated any development that has been previously approved and that is vested by the City can still build.

Councilwoman Rogers stated previously when they discussed the conservation easements it was something that wasn't going to be part of this order and now it is. She asked Mr. Lear to explain on the public record that this is something that hasn't happened before where a conservation easement is required before a developer can go forward with something of this size and magnitude. Mr. Lear stated this was being addressed in the development order but the DCA wanted that in the Comprehensive Plan as well. It isn't something that is usually contained in the Comprehensive Plan however they wanted it and they asked that it be in place prior to any building permits or any construction onsite and the developer has agreed to that.

Councilwoman Rogers wanted to add to that that the developer isn't going to be allowed to just start residential and just run with it. He has a step process. He will be allowed to do a certain number of residential units and then he has to go in and do commercial units and

he has to show that jobs are in place before he can go forward. Mr. Lear mentioned those being mixed use thresholds.

Mayor Thomas stated Councilwoman Rogers comment was the conservation easement has to be restored. Councilwoman Rogers stated the conservation easement has to be signed before they can begin and that is something that isn't normally done in a development like this. Mr. Lear commented on there being conservation easements and restoration of the wetlands. Councilwoman Rogers stated those are two things that if they go back into the public record that she had issues with and she brought them up and she is really pleased that it is in this and that it is a change.

Councilwoman Bennington stated when they are looking at the picture it really didn't look that big. Mr. Lear pointed out the building area was over 1,300 acres. The other 3,800 acres was conservation.

Ted Brown, Attorney for G.S. Florida, commented on this being a long and difficult process. He has been doing this for 42 years and he wanted to pay a particular compliment to staff. They are highly professional and they have aggressively and properly in all instances put the City's interest first and they have performed well and on the City's behalf in protecting the City's position in negotiations and dialog that has been ongoing with DCA. He wanted to be very clear in passing that praise. This is a very professional group of people that in many ways have grown through the process as they have learned about this and how it works.

Mr. Brown then stated the City of Edgewater for better or worse is the new poster child for this type of development across the State of Florida. The Comprehensive Plan they are being asked to vote on this evening and again on February 8th represents a very significant departure from what the DCA has historically asked developers or municipalities to go forward with. The level of detail and the nature of the commitments that are made in the Comprehensive Plan they will not find in another Comprehensive Plan in place anywhere in the State of Florida today but they would probably find some in the future. Why do they want to insist upon that? There are a variety reasons. One reason is they just don't trust local government to be able to enforce development orders. The Comprehensive Plan is always subject to the Department of Community Affairs review. There is nothing in the Comprehensive Plan that wasn't in the development order and there is nothing in the development order now that's not in the Comprehensive Plan. They are happy with what they have. They think it is a marvelous document that structures something that will be unique and at the time the cutting edge of where they think the market of new housing and urban development is going to go toward. In that sense, they are very excited about it.

Mr. Brown then commented on Councilwoman Rogers comments regarding jobs to housing. It is absolutely accurate to say there are a series of step areas in this document now that require a stop look and have you met the test. There cannot be what many have criticized and what they read about in the media, building just another bedroom community and not honoring the commitment to create jobs and commercial development. They must do that or they do not move forward with the other part of the process and any attempt to change that will be a decision the Council would make but they would have to make it with the blessing and consent of DCA.

Mr. Brown then commented on the conservation easement. They believe they are coming down the home stretch with the Army Corp of Engineers and St. Johns on the ability to do what they are saying they can do right here. That will mean once that is done they will be in a position to move forward with the recording of the conservation easement and that would be done very promptly and relatively soon. The City of Edgewater contrary to what they advertised before will not only have the largest but an even larger park system or conservation land of any City its size anywhere that he knows of. The planning for this project continues to include a very robust series of trails and access points in and out, around and about the large conservation area. There will be miles of opportunities in that 3,800 acres for people to wander around and see what is out there. The obligations now are finite. They were before but they were only in the development order but they are now also in the Comprehensive Plan for the timing of when they would actually undertake the restoration of the wetland area. It was never really a big issue from their point of view because they understood the permits they would achieve from the Corp and St. Johns would require that they be ahead of the curve. They must have so much of the wetlands restored before they are impacting wetlands where they desire to build.

Mr. Brown then commented on the rail system still being very much intact. He also spoke about there being a four year window from the time that this Comp Plan is finally resolved in which they must get to a place of having commenced the development. After they finish this stage of the undertaking which they hope to complete on February 8th, there are a number of other things they will be involved with City Staff and Council on going forward such as the planning for the PUD and the SMMP. Those are in the next phase of bringing more detail and more definition for the planning for Restoration. It's not unusual to have to negotiate with DCA in matters of this size and complexity. What is unusual is the fact that the DCA is very much in play in all decisions that affect this development. Any changes they would seek to make to the Comp Plan language they are asking Council to approve would now need to be approved by DCA. They would have always had to approve it but because these documents historically were much broader and general in their terms and definitions. They were not usually subject to that. They have that. They are prepared to live with it.

They think it will work for the City as well as work for them. They think it is the kind of protections to the City and its citizens and to the State that they seem to want going forward. He then asked for Council's support.

The following citizens spoke:

Richard Burgess, 405 W. Ocean Avenue, Vice President for ECARD, read a modified letter into the record speaking in opposition to the first reading of Ordinance 2010-O-01.

Dominic Capria, 606 Topside Circle, stated he saw they are finally making some progress and he wanted to say thanks to Councilwoman Rogers because she was the only one who opposed this when it first started. They have sure come a long way since. He asked since DCA, the City and the Attorney agreed on some changes, which are good changes, does that mean DCA no longer is objecting to the other changes? Water, public facilities, transportation impacts, affordable housing. Are they dropping all of this? Councilwoman Rogers stated they weren't dropping it. There are more restrictions on transportation and if he wanted they could ask Mr. Brown to come back up and explain that. Mr. Capria stated he would like to hear that.

City Manager Barlow stated it appeared he referenced everything that was sent out in the notice of intent and statement of intent and yes all of those have been addressed to DCA's satisfaction and that is what has brought them to the stipulation settlement agreement. He asked if that was what he referenced. Councilwoman Rogers stated true but he was asking questions about transportation. These are things they have read but if it could be explained on the public record for the public interest.

Mr. Brown asked what the question was. City Manager Barlow informed him he thought Councilwoman Rogers wanted to know how they address some of those issues in the notice of intent and statement of intent. Councilwoman Rogers stated specifically transportation.

Mr. Brown didn't have that document in front of him. It is his understanding that they have reached a place with DCA where as they conclude this process and on the 8th adopt the stipulated settlement agreement, the DCA's next step in that process would be to file their notice of intent to find the Comp Plan in compliance and to withdraw their objection to the development order. When that happens the DCA in terms of the 120 proceeding which is what drove them to this place will then be realigned and will be standing shoulder to shoulder with the City and the Developer to defend that plan against any other contest that might occur by reason of ECARD or any other citizen that is qualified to challenge it. As to the specifics of the transportation issues, he didn't believe there were any unique changes in the transportation component of the development order that are

different than what were previously approved. Within the context of the development order he didn't know of any specific changes. There were some adjustments in the phase language because of the way they had to come out with new phasing dealing with the jobs to housing balance but that didn't substantively change any calculations or trip calculations or any of the other requirements that the developer has imposed upon him within the context of that document.

Councilwoman Rhodes stated it wasn't a change from what she could remember. She remembered something about transportation, the idea, the whole reason for being is that it does not impact outside of that community. The whole idea is for those people that live there to be able to access what they need there so they aren't having a lot more cars on the road. It was in there.

Mayor Thomas questioned having to make some allowances because they affected Port Orange and New Smyrna with the volume of traffic. Mr. Lear commented on it being taken out of the development order and placed on the future transportation map.

City Manager Barlow commented on the water supply plan being adopted in June 2009 and they are waiting on the satisfaction from St. Johns and DCA.

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

Councilwoman Rhodes moved to approve Ordinance 2010-0-01, second by Councilwoman Bennington.

The MOTION CARRIED 5-0.

C. 1st Reading, Ordinance No. 2010-0-03; Amending and restating the previously adopted development order approved pursuant to Section 380.06, Florida Statutes for the Restoration Development of Regional Impact for real property generally located northwest of the intersection of I-95 and SR 442.

City Attorney Ansay read Ordinance 2010-0-03 into the record.

Development Services Director Lear made a staff presentation. He went over a few of the changes to the Development Order.

Mayor Thomas asked for Council questions or comments.

Councilman Cooper stated this DOR and this settlement they are talking about and what they are doing, now DCA has agreed with the six outstanding things they had concerns about. They have made a settlement on that. He explained for Mr. Capria their DOR now the language has dropped into the Comp Plan but what was brought up about

infrastructure, roads, and water that they had in the DOR have now also been placed in the Comp Plan so now it is doublely covered legally now to be taken care of the way they want so it won't be a cost to the citizens or the City.

Mayor Thomas opened the public hearing.

The following citizen spoke:

Bill Glaser, 1703 Needle Palm Drive, asked who wrote the Restoration Sustainable Community Development District land use category document.

City Attorney Ansay explained it was a combination of probably 15 people. Language gets proposed by the City, the developer, and DCA. In the negotiation discussions they had, since they received the statement of intent to be the intervener, ECARD has also been a part of those discussions but somewhat negotiated with themselves and they have not proposed any language for change other than no change at all.

Mr. Glaser asked if he was mistaken that once upon a time during discussion of the original ordinance in February of last year that the Planning & Zoning Board said the attorney for the developer wrote that new since there had not been a sustainable community development district prior to that for DRI's etc, that the lawyer for the developer had written that plan. City Attorney Ansay informed him if he was talking about the original very first iteration of what would have been thrown on the table the first step is most always taken by the applicant and that would have been the lawyer representing the developer submits something to the City for consideration and then somebody kicks off the negotiation.

Mr. Glaser asked if the Planning & Zoning Board and City staff were normally the ones who write the actual document. City Attorney Ansay informed him it depended on what the document was.

Mr. Glaser asked who wrote the development order. City Attorney Ansay informed him the original very first development order came from the applicant.

Mr. Glaser stated he was wondering because this was part of the item that they deferred until the 8th but the DCA had 45 line items, comments on the development order and it says 14.

Mayor Thomas thanked Mr. Glaser.

Councilwoman Rhodes stated DCA has made comments and requests all along the line. They have tried to comply with those. It's her opinion that almost every stipulation that they made, everything they wanted was a good one. She didn't have a problem with any of them. It made this better. Mayor Thomas agreed. Councilman Cooper stated they

all were agreed to and now are put in the plan. There is some major reassurance here.

Councilwoman Bennington stated they had special executive meetings regarding the changes DCA wanted to propose to them. The Council as a whole agreed with them so everybody in the City had input in this final say and it was DCA that had the most say. No one is at fault and no one is responsible for the whole thing.

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

Councilwoman Rhodes moved to approve Ordinance 2010-0-03, second by Councilman Cooper.

The MOTION CARRIED 5-0.

D. 1st Reading, Ordinance No. 2010-0-02; An amendment of the City Charter by amending Article V "Elections", by modifying Section 5.03(c) "Qualification of Candidates".

City Attorney Ansay read Ordinance 2010-0-02 into the record.

City Clerk Wenzel made a staff presentation.

Mayor Thomas asked for public comment.

Dominic Capria, 606 Topside Circle, read not later than noon on the 46th day. He asked what that changed it to. City Clerk Wenzel informed him they were changing it to be consistent with Volusia County and the State. For this year, what it would be is June 12th to June 14th. She wasn't sure of the exact date. It would put our qualifying period the same as Volusia County. She read the way the ordinance would read. Mr. Capria confirmed the only change was the change to the date. City Clerk Wenzel informed him that was correct.

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

Councilman Cooper moved to approve Ordinance 2010-0-02, second by Councilwoman Rogers.

The MOTION CARRIED 5-0.

E. Resolution No. 2010-R-02; Amending the By-Laws of the Library Board

City Attorney Ansay read Resolution 2010-R-02 into the record.

City Manager Barlow made a staff presentation.

Due to there being no comments from the public or Council, Mayor Thomas entertained a motion.

Councilwoman Bennington made a motion to approve Resolution 2010-R-02, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

There was a ten-minute recess at this time. The meeting recessed at 7:00 p.m. and reconvened at 7:10 p.m.

Robert Lott, 2112 S. Riverside Drive, stated he also belonged to the Rotary. Last year the Rotary took over the Easter Egg Hunt and the Rotary sponsored that and they continued that tradition. They have decided to try to expand that a little bit similar to Port Orange Family Days. They were going to call it Easter Egg Extravaganza. They were going to have 50 or 60 businesses and it would be a two-day event. He commented on why they thought about doing the Easter Egg Hunt at Hawks Park rather than Rotary Park. They are going to hold the event a week before Easter. He wanted to give Council a heads up and get any comment from them.

Mayor Thomas and Councilwoman Rhodes thought that was a great idea.

Councilman Cooper assumed the vendors would be paying them a rental fee. He asked if they would be sharing some of that with the City. Mr. Lott stated they were kind of expecting the City to foot the bill so the Rotary can take the money and give it back to the community like they do.

Councilman Cooper asked if they would open their arms to the YMCA and involve them as well. Mr. Lott stated they are working with the YMCA. One of the reasons they chose Hawks Park was because they met with City Manager Barlow, Leisure Services Director Jack Corder and it became evident that should be the location they should go with simply because it is for the youth. Rotary Park is a great park but when you have an event that could become very large parking becomes a problem and it clogs up the roadways. This way they have the YMCA working with them for parking in the back and they have extended parking behind the cemetery. He thought it was about time they use this resource they have in the City. Hawks Park is a wonderful place and it is totally underutilized. They have the stage sitting there which is soon to be an amphitheater.

Councilman Cooper asked Leisure Services Director Corder if he could have the roof on by Easter. Leisure Services Director Corder informed him they were trying.

Mr. Lott commented on a lot of good people working on it and they are going to do the best to make this happen.

Councilman Cooper informed Mr. Lott he appreciated that he brought the business community together and their Rotary members to help do this. He wanted him to put in his bonnet their professional fishing tournament and see if they might be able to help them with that as well.

Mr. Lott stated now that they can count on the Council's support they will keep them informed. They have two months and there is a lot of stuff to get done in two months. He felt it would be a nice event for the City.

City Manager Barlow commented on this being a pretty recent brainstorm and the City will partner with the Rotary essentially as a co-sponsor and our share will be the in-kind services of man hours and of course the expertise of Mr. Corder. He spoke of the economy and people staying closer to home and taking advantage of those inexpensive outings. He feels this will be great exposure for the City as well. He spoke of deciding to hold it at Hawks Park. He wasn't sure there were any formal conversations with them yet but it gives great exposure for the YMCA to get folks there and try and promote that as well.

9. BOARD APPOINTMENTS

- A. Police Pension Board of Trustees - Request to ratify the appointment of Larry Leaf

Councilwoman Bennington made a motion to ratify the appointment of Larry Leaf, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

10. OTHER BUSINESS

- A. Discussion concerning the Request for Additional Information (RAI) sent by City staff in November 2009 to the Volusia Growth Management Commission (VGMC) regarding the City of Deltona's Water Supply Facilities Work Plan (WSFWP) and associated comprehensive plan amendments

City Manager Barlow made a staff presentation. They needed to have it on the record tonight that the Council was okay and had no other concerns and they can communicate that to the Volusia Growth Management that their concerns have been addressed.

Councilman Cooper mentioned talking about this previously. Edgewater will be expanding to the line they are retracting. City Manager

Barlow stated they have the opportunity by State Statute that they can go within five miles beyond our current boundaries. Councilman Cooper asked if that was his intent. City Manager Barlow informed him if that was the direction of the majority of Council that is certainly something they will take into account the next time they go to amend that.

Councilman Cooper felt this was a great thing. He then commended City Manager Barlow and Development Services Director Lear for pulling this off.

Councilwoman Bennington asked if the City of Deltona voted on January 19th. City Manager Barlow was assuming they did. Councilwoman Bennington stated they haven't heard that they didn't. City Manager Barlow informed her yes. Councilwoman Bennington asked if they should have checked that. City Manager Barlow informed her that is the only way their agreement is satisfied and he can communicate that to Volusia Growth Management with a favorable vote that they retract it back to the five miles. That is a good point. He would make sure that was a point of clarification when they communicate that to Volusia Growth Management Commission, the Council has no other concerns provided Deltona moved that back and it was a successful vote on January 19th. He asked Council if that would satisfy. They agreed it would.

Mayor Thomas entertained a motion. City Clerk Wenzel informed him there was nothing to vote on. City Manager Barlow informed him it was just consensus.

- B. Authorization for the Mayor to execute the Lease Agreement with the Florida Inland Navigation District (FIND) for the use of dredge material

City Manager Barlow made a staff presentation. This allows them to utilize the dredge material they have in the containment area as incentive to attract future growth to the ParkTowne area.

Councilwoman Bennington asked how much it was going to cost them. City Manager Barlow informed her they were talking a few hundred bucks for a great incentive.

Councilman Cooper stated he didn't read anything on a date fact or a time frame where they had to remove the material completely. He asked if he had permission use at his discretion. City Manager Barlow informed him that was correct as long as they keep track of how much they are taking out.

City Manager Barlow commented on working on a program to associate a cubic yard for every job created which he would bring back to Council. So many cubic yards for every job they are going to bring which would

be an incentive to attract those manufacturers that bring jobs. That is his overall goal. He spoke of being creative and competing against other neighboring communities.

Councilman Cooper moved to authorize the Mayor to execute the Lease Agreement with the Florida Inland Navigation District for the use of dredge material, second by Councilwoman Bennington.

The MOTION CARRIED 5-0.

- C. Addendum #3 to the YMCA Agreement, changing the name on the Agreement from the Greater Daytona Beach Young Men's Christian Association Inc., to Volusia Flagler Family YMCA Inc.

City Manager Barlow made a staff presentation regarding this being a simple amendment to the name to appropriately reflect within the agreement we currently have with the YMCA. Back in 2001 they entered into an agreement. At that time it had the old name. With a recent merger it is now the Volusia Flagler Family YMCA Inc.

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

Councilwoman Bennington made a motion to approve addendum #3 changing the name on the agreement to Volusia Flagler Family YMCA Inc and authorize City Manager Barlow to sign the addendum, second by Councilman Cooper.

The MOTION CARRIED 5-0.

- D. Addendum #4 to the YMCA Agreement, extending the time frame for expansion to March 19, 2011

City Manager Barlow made a staff presentation by discussing the phases of improvements the YMCA had to implement. He spoke of having numerous extensions on Phase 2 and they were back to ask Council for another extension which would allow the new association time to complete a feasibility study with their organization. They are currently going through a strategic planning process as they are looking at all of the YMCA's in the County. They have experienced a change in the economy as well.

City Manager Barlow informed Council a representative, Lori Devilbiss, from the YMCA was present.

Councilman cooper asked if the public had an opportunity to meet the new YMCA director. He asked Ms. Devilbis to come up and introduce herself.

Lori Devilbis, Executive Director of the Southeast Volusia YMCA, commented on being in the process of creating a strategic plan. They were hoping to be done by April. She agreed to present it to Council once it was complete.

Councilman Cooper serves as a Board Member for the YMCA and commented on a couple of things that were in the process with regard to finding ways to get the money for Phase 2 so the YMCA could be all that it could be and they wouldn't have to come back and ask for another extension.

Councilwoman Bennington stated from what she understood they are asking for an extension of the time frame from the ten year period to do Phase 2. But then it says they want the extension to do an addendum to strategic planning so then they can bring something back to Council. To her it was contradicting. She asked if she wanted the Phase 2 extended a year or did they want the planning ability extended a year and Phase 2 then looked at at the end of that year.

City Manager Barlow informed her they wanted Phase 2 extended to March 2011, which is at the conclusion of their ten year agreement with them. They are doing their strategic planning now. They may be back next year and amend the entire agreement.

Councilwoman Bennington confirmed this was giving them the time and the ability. City Manager Barlow informed her that was correct, to come back and really do their due diligence.

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

Councilman Cooper moved to approve addendum #4 extending the time frame for expansion and authorize the City Manager to sign the addendum, second by Councilwoman Bennington.

The MOTION CARRIED 5-0.

E. Ratification of the Teamsters Agreement (Police Union Contract)

City Manager Barlow made a staff presentation by going over the changes to the Teamsters Agreement.

Councilman Cooper asked if this would increase their need for more police cars. City Manager Barlow informed him over time it would balance because the cars last longer is what they have shown. When they assign them they are better taken care of and they are more accountable so the cars last longer. Councilwoman Rhodes stated they are using them half the time.

Councilman Cooper stated as it stands right now they won't be into a position to charge the taxpayer additional funds to go out and buy additional cars to cover the shifts because the cars are now going home. City Manager Barlow informed him no, this is a plan they have worked out with them. They made sure that it would not increase their need for capital replacement or increasing the capital. This is over time. Currently they only have five cars they can institute. Every year when they replace one or two or add one or two they can add those to that.

Councilman Cooper stated because they are taking the cars home, is there anything from the insurance company where they are going to raise the rates because the cars are not parked at the City lot. City Manager Barlow informed him no. They have researched other cities and they have not increased. Edgewater is one of the few last cities that have not implemented some type of program like this as an incentive.

Councilwoman Rhodes questioned them just driving the cars home and not to the grocery store. She felt they needed to make to clear that it's back and forth. City Manager Barlow stated they do not use them for personal use.

Councilman Cooper thanked the Police Department for their due diligence on this and understanding the salary caps and how bad the economy really is. They have done everything they possibly could. They have gone out of their way as a Police Department to accept this agreement and work within the City and it just goes to show they are good stewards of the City.

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

Councilwoman Bennington moved to approve the Teamsters Agreement for fiscal year 2009-2010, second by Councilwoman Rhodes.

The MOTION CARRIED 5-0.

11. OFFICER REPORTS

A. City Clerk

City Clerk Wenzel informed the Council they were at the five-year point to review the Charter so they were going to implement the Charter Review Committee that went over the election process a year ago to go over any changes that may be necessary. There may or may not be. Those would be brought before Council after the review to possibly put on referendum for the upcoming election. She hoped to start the meetings in the middle to end of February.

Councilman Cooper asked if they would be able to offer suggestions and items of improvement. City Clerk Wenzel informed him they could. Councilman Cooper asked if they should submit them to City Clerk Wenzel. City Clerk Wenzel informed him yes.

City Clerk Wenzel reported to Council on February 9th the MPO would be having their Make Your Mark in 2035 Planning Event in the Council Chambers. They are basically going to be looking at the Edgewater, New Smyrna and Oak Hill area when they come here. It was going to be held at 6 p.m. As she got more information she would provide it to Council.

Councilman Cooper further commented on what they would be doing at the Make Your Mark in 2035 Planning Event. He encouraged everyone to come out and help.

City Clerk Wenzel stated New Smyrna, Port Orange and Edgewater were looking to have a meeting with the City Councils' on March 11th at 6:00 p.m. City Manager Barlow commented on every couple of years getting the Councils' together from Southeast Volusia to talk about subjects that pertain to Southeast Volusia. A couple of the topics that have already been added by Port Orange were an update on RCC, talk about the Southeast Transportation Study, which they are about $\frac{3}{4}$ of the way through. Since then the County's recently completed a Freight Transit Study for entire Volusia County and talk about future truck routes, and fire services. If Edgewater wanted to add anything else, now was the time to do that.

Councilman Cooper asked if it would be out of consensus to try and include Oak Hill into that. City Manager Barlow stated they haven't in the past. City Clerk Wenzel could certainly toss it out to the other two cities. Councilwoman Rhodes informed City Manager Barlow Oak Hill had participated in the past.

Councilman Cooper wanted to extend an invitation to oak Hill because he believes in Edgewater, with the fine services they provide, they may be able to increase their revenue base by extending some of their services to Oak Hill. He wants to get that sister City into those conversations so they may have an opportunity to help them with their tax base, water, police, fire, and also expand Edgewater's capabilities because they end up getting better service all the way around. He would like an opportunity to give them four or five things in advance of the meeting. City Manager Barlow informed Councilman Cooper to communicate his four or five things to City Clerk Wenzel.

Councilwoman Bennington asked where the meeting was going to be held. City Manager Barlow informed her right now they were looking at the New Smyrna Commission Chambers.

City Clerk Wenzel asked the Council to let her know as soon as possible if that worked for them.

B. City Attorney

City Attorney Ansay had nothing at this time.

C. City Manager

City Manager Barlow commented on his list of goals for 2010. He encouraged Council to tell him if they didn't like something and wanted something taken off. Once this is agreed upon that gives him direction to put a budget together for some of these and also direct staff in that direction. He then asked for Council direction.

Councilman Cooper asked if it was too late to add anything.

Councilwoman Rhodes had a couple of things that she had questions about. She asked about the Community Christmas Party. She asked if that was a Church and State thing that would get them in legal trouble when one Atheist in Edgewater decides to sue them.

City Attorney Ansay stated obviously there are certain constitutional issues with endorsing any particular religious observance without participating in others. Her easy answer which is not good on her firms' bank account is to avoid having those problems. She commented on a case in Delray Beach where they got in trouble because they had a Christmas Tree in front of City Hall but not a Menorah. Unfortunately the world we live in is to avoid it if they want to avoid legal issues. If they want to take the legal issues on then go for it.

Councilwoman Rhodes stated they could have a community event in December but it can't be for Christmas. City Attorney Ansay stated a lot of local governments will have holiday events that theoretically endorse whatever one celebrates or doesn't celebrate and it is politically correct and neutral.

Councilman Cooper stated personally he has a problem with the political correctness. More than 98% of the citizens believe in Christmas and like Christmas and they did a little experimental one at the YCMA that was a wild success. He thinks the City needs to show that they believe in Christmas. Councilwoman Rhodes pointed out the YMCA is a Christian organization. She doesn't have a problem with it being at the Y. She said Councilman Cooper said 98% of the people believe in Christmas and she would probably agree with him but then there are the 2% that don't. Councilman Cooper stated they are here to represent the citizens aren't they. The majority rules. Councilwoman Rhodes stated all of the citizens. City Attorney Ansay stated the U.S. Supreme Court unfortunately doesn't agree with that.

Councilwoman Rhodes stated it's not even about do you believe in Christmas or you don't believe in Christmas. It's about the law.

Mayor Thomas stated they are there to best represent the citizens of Edgewater and to avoid a lawsuit which is going to cost them money.

Councilwoman Bennington stated they have a Christmas Parade every year. Leisure Services Director Corder stated it is a holiday parade. Councilwoman Bennington questioned then why do they call it a Christmas Parade. Leisure Services Director Corder informed her they don't. Councilman Cooper stated all of the notices that go out call it a Christmas Parade. Mr. Corder was going to check but he thought they said Holiday Parade.

City Attorney Ansay stated the point is they certainly can and many communities do events and nobody complains and they can do that and hope that the 98% and 2% of the people aren't going to complain. If they do, they call her and she rolls with it. Councilwoman Rhodes stated and they pay her a fortune when it could be avoided before it ever happens.

Councilwoman Bennington didn't see why they couldn't do it this year like they did it last year. It worked out great. The Y participated, some of the Council participated, the City participated, the ones that wanted to. It came after the Holiday Parade. Why does the City have to officially do it when they have one of their branches doing it?

Councilman Cooper stated what he was looking for was to work in conjunction with the Y. Have the event still be the Y's main event but he was also looking to give the kudos to citizens and the City itself for supporting such a well received community event. He further commented on the event being a fun time for everybody.

Councilwoman Bennington thinks the whole list is horrendous and there is just no way for anybody to accomplish all of this stuff. She feels they need to wean out the things that are important to the majority of them and cut it down a little bit. Mayor Thomas stated good point. Councilman Cooper stated he didn't think it was Council's point to do that as much as the citizens have probably never seen this. The citizens don't know what they are going to wean out. Councilwoman Bennington stated it's not up to them. They are their representatives.

Councilwoman Rogers didn't see anything wrong with keeping the list. She feels they could prioritize. They don't want to lose sight of somebody's brainstorming when they thought something out and they approved and it is on there. The one item she would like to add has to do with grants and if somebody could seek grants and opportunities for their sidewalk along Riverside, getting it wider and getting prepared because they are eventually going to be tied into a trail

system and the sidewalk is very narrow and there are issues already with the sidewalk where the slabs of concrete are not level. She has seen some people trip. What she is looking at is down the road they are going to be tied into a trail system so what can they do to make their sidewalk wider, like over by the causeway in New Smyrna Beach. If they could do something like that and in the interim seek grants to do that because it is eventually going to tie into the trail system. That is something she thinks they should start looking at now before Obama changes his mind and starts pulling away a bunch of money for grants.

Councilwoman Bennington suggested they table this and have a workshop where they can discuss it with just those items.

Councilman Cooper liked that idea and also suggested the list be put in the newsletter and have the citizens attend the workshop. Councilwoman Bennington pointed out the newsletter was online. Councilman Cooper felt if it was in the water bill more people would read it due to a lot of people not going online.

City Manager Barlow stated what he was hearing was a consensus that they land on a date for a workshop just for future project goals. Advertise that in the newsletter. He asked if they wanted him to print his list out as a starting point or just advertise a workshop and then advertise they can go online and see a draft list now or if they wanted the draft list to be mailed.

Councilwoman Rhodes felt the list should be kept to something that can realistically be accomplished in 2010. If they wanted to do a five year plan and a ten year plan, that is fine. When they make a goals list, they expect him to accomplish it and she feels that is unrealistic. City Manager Barlow pointed out the list was a compilation of the Council.

Councilman Cooper stated any time they set goals they have to start some of these programs that will take longer than a year and they have to start them sooner or later. If they don't ever want to start them because they can't get them done in a year they won't do anything as always and that is what he is totally against. He felt the goals needed to be listed and that this was a good starting point for the citizens to look at in the newsletter and let them pick and choose or prioritize but not to add.

Councilwoman Rhodes pointed out some of the goals cost money that they don't have. If they could get a grant to accomplish a goal that is fine but they don't have money for it. She feels they need to be realistic about it.

Councilwoman Bennington suggested doing it like this. In the newsletter or online, City Council goals for 2010 draft copy, will be

discussed at such and such a meeting. Councilwoman Rhodes suggested inviting them to add anything to it that they want to. What the citizens want.

Councilwoman Rogers asked about staff taking a look at this. They know the timeline. Put it in a five year category. Put it in a ten year category so they don't lose it. Obviously they will focus on that which they can accomplish in the short term but let the staff go ahead and put it in order and they probably won't need a workshop to discuss goals. Let staff put it in order to narrow the time frame.

City Manager Barlow stated he needed prioritizing from Council before he could put timelines on there. He could put timelines and recommendations on this but he works for Council and he needs their prioritization.

Councilman Cooper suggested they start planning and start maneuvering and start looking at them to really accomplish them. They don't have to get them accomplished this year but don't lose sight of them. Many of these things, there are many financing avenues to raise this money from public support to pull these things off. He referred to the Rotary wanting to expand the Easter Egg event and the Fishing Tournament.

Councilwoman Rhodes wanted to see a funding source because they don't have money to do all of this stuff.

City Manager Barlow stated he was okay based on that concept, they land with these. At budget time he comes back and some of these they put funding towards and they are taken out of the budget. He understood those fell on the list for later, lower priority. Everything else, as those opportunities present themselves, if somebody walks in tomorrow and wants to do a fishing tournament, certainly he is going to pledge staff to make that happen. He doesn't have staff to go out and shake those trees but he isn't going to pass up that opportunity if he knows it is a priority of the majority of Council.

Councilman Cooper felt if they tend to spearhead it he thinks they could go after the revenue areas to have these things come to fruition without the cost to the City. City Manager Barlow stated he doesn't want to get in a position, if they are all under that same understanding and they land with this big list and they look at him at the end of the year and say wow with the minimal staff they have they couldn't believe he didn't accomplish all of this.

Councilwoman Rhodes stated typically that is what they do. They set goals for the year and they expect them to be accomplished that year. Councilwoman Bennington stated but they still have the ones that are on-going.

City Manager Barlow stated if he understood them right, they were somewhat okay with this. It may change during the budget time. If he puts funding opportunities to them and the Council says they aren't comfortable funding that and they take it off it will fall off and be carried on but if an opportunity presents itself that it's funding somewhere else, they are okay with it.

Councilwoman Bennington questioned if everybody was saying they were going to go with the list and they weren't going to prioritize it. Councilman Cooper stated he thought he would have certain things he had to budget for to prioritize some of the things that are carried over. Some of the new things, he thought they needed to get excited about it and try and look at how they might be able to generate the revenue sources. Of the 80 items he has suggested he already knows where he can get the revenue sources so he doesn't want to see the idea fall. Those little parks in Edgewater with the lakes, he believes the business community may buy each pavilion and they would put their name on the pavilion as provided by the citizens and businesses of Edgewater to have them for them and it increases the betterment of that entire community. As a City elected official he believes that is a big part of his job.

Councilwoman Bennington felt ram rodding this without the Council going through this, there are some issues that take money to do but if they are planning for the future she wants a capital improvement program for the Animal Shelter for five-year.

City Manager Barlow pointed out there were two additions and stated if it was all right with Councilwoman Rogers he could either separate or he could put it up there where it says identify locals and plan for future addition of sidewalks in the community. Councilwoman Rogers stated widen those that they have. Councilwoman Rhodes commented on Florida Shores having no sidewalks. They should have some. Councilwoman Rogers stated well Florida Shores can't exactly have sidewalks because they have got the swale ditches. Councilwoman Rhodes stated they could put the swales under the sidewalk. Councilwoman Bennington stated they could do a capital improvement program.

Councilman Cooper stated to offer some insight in the long term planning, Strings and Ribbons that they are about to attend, he put over 30 miles of sidewalks and bike trails and everything else into every proposal he has put forward trying to cover some of this. He spoke of how important it was to attend the Strings and Ribbons because their say so will carry some weight whether they get the federal funding for that and then they only have a matched source and many sidewalks and trails are not a matched source.

12. CITIZEN COMMENTS

The following citizen spoke:

Dominic Capria, 606 Topside Circle, stated he loved the way they debated this. He was glad with Councilwoman Rogers bringing up sidewalks. Edgewater Landing, three phases, one phase has sidewalks, two phases do not. Put that on the record and maybe when they get grants, they can get sidewalks.

13. ADJOURNMENT

There being no further business to discuss, Councilwoman Rhodes moved to adjourn. The meeting adjourned at 8:04 p.m.

Minutes submitted by:

Lisa Bloomer

Attest:

APPROVED:

City of Edgewater, Florida

Bonnie Wenzel, City Clerk

Michael L. Thomas, Mayor