

CITY COUNCIL OF EDGEWATER  
REGULAR MEETING  
JULY 19, 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	Absent
Councilwoman Gigi Bennington	Absent
Councilwoman Harriet Rhodes	Present
Councilman Ted Cooper	Present
City Manager Tracey Barlow	Present
City Clerk Bonnie Wenzel	Present
Assistant City Attorney Michael Ciocchetti	Present

**INVOCATION, PLEDGE OF ALLEGIANCE**

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

**2. APPROVAL OF MINUTES**

There were no minutes to be approved at this time.

**3. PRESENTATIONS/PROCLAMATIONS/PLAQUES/CERTIFICATES/DONATIONS**

There were no Presentations at this time.

**4. CITIZEN COMMENTS**

The following citizens spoke:

Thomas Armitage, 3034 Royal Palm Drive, stated they were commercial plumbing contractors and opened up a residential site and they put a list of important numbers together that they have been spreading out all over the town. Everybody loves them because they have important phone numbers. They put them in the Building Department and Darren Lear said they couldn't put them there. He said it was more of a community service than anything else. He had an advertisement on the bottom but it was still a community service. He asked Council if they could put them in the Building Department for informational purposes

only. He has done this at his own expense. He asked if they could put them in public places.

Councilman Cooper asked if they still had the board where contractors could put their business cards. City Manager Barlow informed him he didn't believe they normally do that. He assumed because it had an advertisement on there that was probably why Mr. Lear said they couldn't do it. He suggested if Council gives him direction to permit this that they put stipulations on there they will permit this along with any other business as space is allowed as long as they are a registered, Edgewater business. If they just allow anybody to put up that type of advertisement it can be perceived as that is who the City recommends and/or endorses and they can't do that as a government.

Councilwoman Rhodes asked about putting them where they pay the water bills. Since it has the City logo on it it is perceived as coming from the City. If they let Mr. Armitage do it then they have to let everybody do it.

Mayor Thomas stated Mr. Armitage talked to him about this and he told him he had to get permission to use the City logo, which they did get permission to do.

Councilwoman Rhodes asked who gave him permission.

Mr. Armitage stated anybody who becomes a new resident that was probably the most important list they could get.

Councilwoman Rhodes stated she would put them where they pay the water bill so it's not as if the City of Edgewater is endorsing one person over another. Councilman Cooper felt he would get more of a response by putting it where there is a higher traffic area.

Mayor Thomas asked if it was okay to put it there. City Manager Barlow informed him it was okay to put it there but they had limited space. Whatever offer they extend here they would have to offer to anybody. He didn't mean by giving him permission to use the seal for that to be construed or understood that the City would also be placing them in our facilities.

Assistant City Attorney Ciocchetti stated he would only review the ordinance to see if there was any prohibition there on placing essentially what is an advertisement in a City office. It does lend that perception that the City is endorsing it. He agreed to check out the ordinance. City Manager Barlow agreed to work with Assistant City Attorney Ciocchetti on this. Councilman Cooper felt if they weren't infracting on any ordinance that they should give him permission to put them in the locations they spoke of.

Mr. Armitage pointed out they have done the magnets for all the towns. He asked if they could get a community bulletin board in the Building Department for the sole purpose of saying let's keep the local contractors at work.

Councilman Cooper stated they used to have one. City Manager Barlow informed him not in the Building Department. He spoke of the battles involved with doing that.

City Manager Barlow further commented on there being an area on the website where a resident can go and find all of the businesses that have a business tax receipt and certificate of use in the City of Edgewater.

Mayor Thomas informed Mr. Armitage that Assistant City Attorney Ciocchetti was going to research it to make sure they aren't violating any City laws and that City Manager Barlow would be in touch with him.

Dominic Capria, 606 Topside Circle, commented on the grant for \$3 million to refurbish or update and dig wells here in Florida. He asked if they have refurbished or updated anything and if so who did it.

Environmental Services Director Brenda Dewees provided an update on the four new wells. She then provided an update on the Southeast ground storage tank. Both projects were on schedule. McMahan Construction was doing the well project and Masci Corporation was doing the Southeast ground storage tank.

Mr. Capria then commented on two positions being eliminated. He asked if the positions have been eliminated or did they just not hire anyone to fill those positions. He asked if anybody had been laid off. City Manager Barlow informed him nobody had been laid off. If he was talking about next year's budget there were three positions and those were three vacant positions they unfunded.

#### **5. APPROVAL OR CHANGES/MODIFICATIONS TO THE AGENDA**

Mayor Thomas read Item 8D.

City Manager Barlow informed Council Item 8D was being pulled from the agenda and they were going to re-advertise it.

Councilman Cooper asked if there were one or two items tonight. City Manager Barlow informed him Item 8B needed to be read into the record but he was going to ask Council to continue this to a date certain so he didn't have to re-advertise it.

#### **6. CITY COUNCIL REPORTS**

Councilwoman Rhodes had nothing at this time.

Councilman Cooper reported on the RCC meeting that was held last Friday. Budget wise for three years they have had reductions in calls and have been able to trim their budget and have been able to give money back to every city. They still have a few pennies to give back to every city. He made the suggestion that rather than refund the small amount of money that won't help the cities to give it back to their staff that has had no raises in three years. He also reported that Oak Hill as well as Daytona Beach has asked to join RCC. The Director was willing to do the communications or the code reporting on homeowner burglar and fire alarms. He commented on homeowners' insurance giving a 20% reduction if someone has an alarm system.

#### **7. CONSENT AGENDA**

- A. Approval of Amendment No. 2 to DEP Agreement No. G0215 for the Eastern Shores Stormwater Improvement Project and authorize the City Manager to execute the document

City Manager Barlow made a staff presentation.

**Councilwoman Rhodes moved to approve the Consent Agenda, second by Councilman Cooper.**

**The MOTION CARRIED 3-0.**

#### **8. PUBLIC HEARINGS, ORDINANCES AND RESOLUTIONS**

- A. 2<sup>nd</sup> Reading, Ordinance No. 2010-0-10; Annexation of 9.13+ acres of property located at 3515 U.S. Highway 1

Assistant City Attorney Ciocchetti read Ordinance 2010-0-10 into the record.

City Manager Barlow made a staff presentation.

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

**Councilman Cooper moved to approve Ordinance 2010-0-10, second by Councilwoman Rhodes.**

**The MOTION CARRIED 3-0.**

- B. 1<sup>st</sup> Reading, Ordinance No. 2010-0-13; Amending the Land Development Code by enacting Article X (Boat Slip Allocations)

Assistant City Attorney Ciocchetti read Ordinance 2010-0-13 into the record.

City Manager Barlow requested Council consider this to a date certain of August 16th.

**Councilwoman Rhodes moved to reschedule Ordinance 2010-0-13 to a date certain of August 16<sup>th</sup>, 2010 meeting, second by Councilman Cooper.**

**The MOTION CARRIED 3-0.**

C. 1<sup>st</sup> Reading, Ordinance No. 2010-0-15; Amending Articles VI (Sign Regulations) and Article XVIII (Indian River Boulevard - S.R. 442 Corridor Design Regulations) of the Land Development Code

Assistant City Attorney Ciocchetti read Ordinance 2010-0-15 into the record.

City Manager Barlow made a staff presentation.

Councilwoman Rhodes commented on having this a long time ago but the benches got defaced so they were taken out. They were a constant maintenance problem. City Manager Barlow informed her the company would be maintaining the benches, not the City. Councilwoman Rhodes pointed out the City didn't maintain them when they were a problem either. She had no problem with trying again. City Manager Barlow commented on this being an opportunity for some revenue.

Mayor Thomas asked who would approve the design. City Manager Barlow informed him it could be the City Council. Mayor Thomas didn't think it needed to be the City Council. City Manager Barlow stated they could have the Planning Department, Development Services Director that writes the contract that would solicit those bids and be very specific and that could be brought back to Council.

Mayor Thomas asked who would regulate them if the Council didn't have to do that. City Manager Barlow informed him the Planning Department.

Councilman Cooper felt it was okay to try this but he would clearly outline the maintenance.

City Manager Barlow commented on complaints he has received because Edgewater does not have benches at the bus stops. He further commented on the benches currently being prohibited in Edgewater.

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

**Councilman Cooper moved to approve Ordinance 2010-0-15, second by Councilwoman Rhodes.**

The MOTION CARRIED 3-0.

- D. 1<sup>st</sup> Reading - Ordinance No. 2010-O-18; Amending Article III, Section 21-37.03 (Special Activity Requirements) of the Land Development Code)

This item was pulled from the agenda and would be re-advertised.

**9. BOARD APPOINTMENTS**

- A. Firefighters' Pension Fund Board - Councilwoman Rhodes' appointment due to the expired term of Laura Reilly, who seeks reappointment

Councilwoman Rhodes moved to reappoint Laura Reilly to the Firefighters' Pension Fund Board, second by Councilman Cooper.

The MOTION CARRIED 3-0.

- B. Firefighters' Pension Fund Board - Council's affirmation of the re-election of Jim Jollie and Ron Hayward

Councilman Cooper made a motion to affirm the re-election of Jim Jollie and Ron Hayward to the Firefighters' Pension Fund Board, second by Councilwoman Rhodes.

The MOTION CARRIED 3-0.

**10. OTHER BUSINESS**

- A. Approval of Draft Ordinance No. 2010-O-16; Establishing Policy to temporarily reduce impact fees for non-residential properties

City Manager Barlow made a staff presentation. Changes were made based on their last discussion.

Councilwoman Rhodes would feel more comfortable discussing this when the whole Council was present. Mayor Thomas felt comfortable with doing it tonight.

City Manager Barlow informed her this was still in draft form. The next time it would come before Council would be the first reading so they would still be able to discuss it. This was only for impact fee reduction for non-residential. He spoke of the agreement being very detailed.

City Manager Barlow then commented on discussions with City Attorney Ansay who recommended they place a lien on the property up front. Once all of the provisions have been satisfied they could then satisfy the liens.

Councilwoman Rhodes questioned why City Attorney Ansay recommended that. Assistant City Attorney Ciocchetti explained to do it at the end it wouldn't necessarily be contested and they would essentially have to litigate it. If they put it up front then it is by agreement of the parties going in. It is a much more efficient process.

Mayor Thomas asked for public comment.

The following citizen spoke:

**Mike Visconti**, 316 Pine Breeze Drive, asked why they didn't do residential and non-residential impact fees.

Mayor Thomas informed him the purpose was to try to shift the tax burden from the residences to the businesses. Councilwoman Rhodes stated they are trying to encourage business.

City Manager Barlow explained this was based on full-time equivalent jobs created.

Mr. Visconti asked if they deleted item 8D. City Manager Barlow informed him he had to re-advertise.

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

**Councilman Cooper moved to approve Draft Ordinance No. 2010-0-16, second by Councilwoman Rhodes.**

**The MOTION CARRIED 3-0.**

- B. Approval of Draft Ordinance No. 2010-0-17; Establishing Policy to temporarily defer applicable Sidewalk, Fire/EMS, Police and Transportation/Road Impact Fees

City Manager Barlow made a staff presentation by identifying the changes.

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

**Councilman Cooper moved to approve Draft Ordinance No. 2010-0-17, second by Councilwoman Rhodes.**

**The MOTION CARRIED 3-0.**

11. OFFICER REPORTS

- A. City Clerk

City Clerk Wenzel had nothing at this time.

B. City Attorney

Assistant City Attorney Ciocchetti had nothing at this time.

C. City Manager

City Manager Barlow commented on the last County Council meeting and there being a great deal of discussion regarding the ability to do contingency transport and possibly even full-time transport. He provided Council with a draft letter looking for authorization for the Mayor to send the letter to Chairman Bruno letting them know that the City of Edgewater at the very minimum is interested in providing contingency transport similar to the service they provided prior to Mike Mellon terminating that agreement.

It was the consensus of Council to send the letter to Chairman Bruno.

City Manager Barlow informed Council he needed them to recognize that they had to do an emergency purchase due to having two 15 horsepower submersible pumps go down at the Wastewater Treatment Plant. The purchase was for \$24,506. He needed Council to authorize the emergency purchase.

**Councilman Cooper moved to authorize the purchase of two 15 horsepower submersible pumps for \$24,506, second by Councilwoman Rhodes.**

**The MOTION CARRIED 3-0.**

City Manager Barlow commented on a draft ordinance that has been a discussion of VCOG regarding pain clinics that are operating out of cities and issuing booklets of pain medication. He commented on legislation currently working to try and get a handle on this where they can regulate it. He mentioned South Daytona adopting a similar moratorium. He spoke with City Attorney Ansary on this. This would be adopting a moratorium not allowing them to permit through business tax receipts and certificates of use any pain clinics within the City for a period of six-months. He spoke of the problems they are having with them down in South Florida.

Councilman Cooper stated they had a similar moratorium they tried to imply a while back and he had issue with it because his concern is singling or specifying or depicting out a certain business where they look discriminatory and he was worried about potential lawsuits that may come from that. He asked if there were other people that regulate this that would stop this prior to making a City make itself vulnerable to any further attacks for lawsuits because they discriminated against this one particular type and have a moratorium

of 180 days for this one business. Assistant City Attorney Ciocchetti informed him his understanding was legislation was being drafted potentially and that the purpose of the moratorium is to freeze the issuance of any permits until such time as the City drafts its own regulations or the State does. A moratorium is a perfectly acceptable legal principal. He spoke of this being very common.

It was the consensus of Council for City Manager Barlow to continue to work towards this.

Councilwoman Rhodes stated as long as the language when it comes back it doesn't exclude legitimate pain clinics. Those are necessary and she would hate to not be able to provide for the citizens in that manner if one approached them. City Manager Barlow informed her that was the entire intent with this. Not to exclude legitimate physicians that are treating ailments whether it is pain related and/or medical conditions verses those that are just writing prescriptions.

City Manager Barlow ran over some dates on some upcoming meetings. He requested on August 16<sup>th</sup> to do an Executive Session at 4:00 p.m. to discuss a pending lawsuit against the City from an accident that involved one of our police cruisers several months back. At 5:00 p.m. they will have a Budget Workshop. At 6:00 p.m. will be the Regular Council meeting.

City Manager Barlow informed Council they may be going to litigation with Principal regarding their pensions as well. They knew that was coming down the pike. Their litigators would be here next week to do their first assessment and start to put everything together and come back and give the Pension Boards a report at a joint workshop on what their findings are and which direction they feel they should move. He suggested and recommended they include the Council in the joint workshop as well. That may be on August 16<sup>th</sup> or August 30<sup>th</sup> and he was going to have City Clerk Wenzel coordinate with Council prior to that when that meeting is and if they can include the Council.

Councilman Cooper questioned on this law firm having experience with suing this very same insurance provider and pension provider in other States and other areas. He spoke of this law firm being knowledgeable in this similar situation. He wanted to make sure they are reaching out to a good source that is familiar with what has happened to us.

City Manager Barlow informed Council on August 30<sup>th</sup> they had a tentative Budget Workshop scheduled for 5:00 p.m. if they don't finish up at the Budget Workshop on August 16<sup>th</sup>.

City Manager Barlow informed Council he was going to be on vacation starting on July 21<sup>st</sup> and he would be returning on August 2<sup>nd</sup>. Jack Corder would be acting in his absence but he would still be accessible by cell phone and e-mail.

Mayor Thomas asked if the Restoration lawsuit had been resolved yet. City Manager Barlow informed him they hadn't received any order from the judge yet.

**12. CITIZEN COMMENTS**

The following citizens spoke:

**Dominic Capria**, 606 Topside Circle, asked if the negotiations were still going on with the Fire Department. City Manager Barlow informed him the contract was still being negotiated.

Mr. Capria wanted to remind everyone that whether they are a candidate in the next election or not or whether they are just a plain citizen they are not allowed to campaign in City Hall.

**Mike Visconti**, 316 Pine Breeze Drive, congratulated Edgewater for a beautiful 4<sup>th</sup> of July and the fireworks. Edgewater did itself proud.

Councilman Cooper thanked and congratulated Mr. Visconti for his efforts on the Beautification Award.

**Thomas Armitage**, 3034 Royal Palm Drive, asked if there was a way to reanalyze some of the things that the City actually pays for. He was talking about the backflow devices that go in front of the buildings, residential and commercial, the City maintains them and they take care of them but when the freeze comes through the City says people need to call a plumber and that they test them yearly. He asked if there was a way they could reconsider that. He works all over the State of Florida and only here in eastern Volusia County has he seen where the City actually maintains those backflows and tests them on a yearly basis. Other than that, the rest of the State doesn't. City Manager Barlow thought it was a requirement. Ms. Dewees informed him it was up to the utility. The City will fix them but they will not replace them.

Mr. Armitage asked if there was a way they could consider that and let the local contractors take care of that. He felt the City acquired a good debt on that. City Manager Barlow stated the only way they could consider that would be to contract it out. He spoke of owning and being accountable for the integrity of our water system.

**Joie Alexander**, 1930 Seclusion Drive, Volusia County Councilmember, commented on Votran. She spoke of addressing an alternative to eliminating the routes. They think they have something that will save the taxpayers as well as provide that level of service. She spoke of a flex type of system. The ones who were there and spoke about it were very much in favor of it. It would not be eliminating the service in Edgewater.

City Manager Barlow asked if the flex service was where you call. Ms. Alexander informed him they would call two hours ahead of time. It's just not the fixed route. It is almost like a taxi service. They are very hopeful this works out because they know there needs to be a level of service in Edgewater.

City Manager Barlow asked Ms. Alexander to get the Votran Director to provide them a letter describing the new program. Ms. Alexander was sure he would come to one of the City's Council meetings. She agreed to have him contact City Manager Barlow.

**Bill Glaser**, 1703 Needle Palm Drive, stated he was perusing his estimated taxes for the roll year 2010 and he noticed on there that most of the County taxing authorities, their proposed millage is less than the roll back millage and everybody else including the City of Edgewater's proposed millage is the same as the roll back millage. Councilwoman Rhodes informed her ours wasn't and Councilman Cooper informed him he was wrong. Mr. Glaser stated he was wondering since this came off the Property Appraiser's website if the City was late in getting the information to them. Councilman Cooper informed him the roll back was 7.74 and what was voted on was a flat 7, which was less than roll back. Mr. Glaser stated the Property Appraiser thought it was the same as roll back. Councilwoman Rhodes stated he was wrong. Councilman Cooper asked City Manager Barlow to contact him.

Mr. Glaser asked what the Water Authority of East Volusia was. City Manager Barlow thought it was the Daytona group that formed before the Water Authority of Volusia dissolved, which he thought included Daytona, Port Orange and Holly Hill.

Councilman Cooper commented on the letter they received from William Pool. He asked City Manager Barlow to contact him and explain to him that his taxes are actually lowered by the City of Edgewater and show him how that has happened. City Manager Barlow agreed to contact him.

Mayor Thomas commented on the letter regarding the good things they are doing at the Animal Shelter. He asked if anyone had the copy of their letter that they could give to Ms. Wagner. Councilwoman Rhodes agreed to give her hers.

### **13. ADJOURNMENT**

There being no further business to discuss, Mayor Thomas adjourned the meeting at 6:58 p.m.

Minutes submitted by:

Lisa Bloomer

Attest:

APPROVED:  
City of Edgewater, Florida

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Bonnie Wenzel, City Clerk

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Michael L. Thomas, Mayor