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**CITY OF TAVARES  
MINUTES OF REGULAR COUNCIL MEETING  
FEBRUARY 18, 2009  
CITY COUNCIL CHAMBERS**

**COUNCILMEMBERS PRESENT**

**ABSENT**

Nancy Clutts, Mayor  
Robert Wolfe, Vice Mayor  
Bob Grenier, Councilmember  
Councilmember Pfister  
Norb Thomas, Councilmember

**STAFF PRESENT**

Lori Houghton, Director of Finance/Acting City Administrator  
Robert Q. Williams, City Attorney  
Nancy Barnett, City Clerk  
Jacques Skutt, Director of Community Development  
Bill Neron, Director of Economic Development/Grants  
Chief Richard Keith, Fire Department  
Chief Stoney Lubins, Police Department  
Chris Thompson, Interim Public Works Director  
Tamera Rogers, Director of Community Services

**I. CALL TO ORDER**

**Mayor Clutts called the meeting to order at 4:00 p.m.**

**II. INVOCATION AND PLEDGE OF ALLEGIANCE**

Pastor James Gardner of Liberty Baptist Church, gave the invocation and those present recited the pledge of allegiance.

**III. APPROVAL OF AGENDA**

**MOTION**

**Robert Wolfe moved to approve the agenda as submitted, seconded by Norb Thomas. The motion carried unanimously 5-0.**

1  
2 **IV. APPROVAL OF MINUTES**  
3

4 **Norb Thomas moved to approve the minutes of February 4, 2009 with the**  
5 **following corrections:**  
6

- 7 Page 3, line 27 – delete second “limited”  
8 Page 8, line 12 Change “Mayor Clutts” to “Vice Mayor Wolfe”  
9 Page 8, line 24, change “Buy” Street to “Ruby” Street  
10 Page 16, delete lines 25-27  
11

12 **The motion was seconded by Bob Grenier. The motion carried unanimously 5-0.**  
13

14 **V. PROCLAMATIONS/PRESENTATIONS**  
15

16 **Tab 2) Presentation by St. Johns River Water Management District**  
17 **Intergovernmental Coordinator**  
18

19 Brad Hayes introduced Nancy Christman, Intergovernmental Coordinator from St. Johns  
20 Water District Management.  
21

22 Ms. Christman discussed the various programs and functions of the District. She noted  
23 she had provided materials about those programs to Council. She discussed the recent  
24 changes that had made to the irrigation watering rule that will become effective March 8,  
25 2009. She thanked the City for developing its irrigation ordinance that will be consistent  
26 with the District’s water rules.  
27

28 Mayor Clutts requested clarification that the special rules that accommodate some  
29 neighborhoods such as the Royal Harbor Subdivision will still be in effect. Mr. Hayes  
30 replied in the affirmative.  
31

32 **VI.SWEARING IN BY CITY ATTORNEY AND DISCLOSURE OF EX-PARTE**  
33 **CONTACTS**  
34

35 Attorney Williams noted that Tab #8, the rezoning of the Hamlets Subdivision, was a  
36 quasi-judicial matter and asked those present who intended to give testimony to be  
37 sworn in.  
38

39 Attorney Williams asked that council disclose any ex-parte contacts they may have had  
40 regarding this matter.

1 **VII.READING OF ALL ORDINANCES/RESOLUTIONS INTO THE RECORD**

2  
3 Ms. Barnett read the following ordinances and resolutions into the record by title only:  
4

5 **ORDINANCE NO. 2009-04**

6  
7 **AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA; AMENDING**  
8 **CHAPTER 13 OF THE LAND DEVELOPMENT REGULATIONS,**  
9 **PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER**  
10 **CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST.**  
11 **JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING**  
12 **DEFINITIONS; PROVIDING LANDSCAPE IRRIGATION SCHEDULES;**  
13 **PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION**  
14 **SCHEDULES; PROVIDING FOR VARIANCES FROM THE SPECIFIC**  
15 **DAY OF THE WEEK LIMITATIONS; PROVIDING FOR APPLICABILITY**  
16 **OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE**  
17 **ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE**  
18 **ORDINANCE; PROVIDING FOR CODIFICATION; PROVIDING FOR**  
19 **REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING FOR**  
20 **SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

21  
22 **ORDINANCE 2009-03**

23  
24 **AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA AMENDING**  
25 **SECTION 3.6 OF THE CITY OF TAVARES CODE OF ORDINANCES**  
26 **PERTAINING TO THE CONSUMPTION OF ALCOHOLIC BEVERAGES**  
27 **AND POSSESSION OF OPEN CONTAINERS PROHIBITED IN**  
28 **CERTAIN PLACES; AMENDING CHAPTER 10.5, LICENSES AND**  
29 **BUSINESS REGULATIONS BY CREATING ARTICLE IX,**  
30 **REGULATIONS AND PERMITTING OF SIDEWALK CAFES;**  
31 **PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE**  
32 **DATE.**

33  
34 **ORDINANCE 2009-01**

35  
36 **AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA, REZONING**  
37 **APPROXIMATELY 10.35 ACRES LOCATED ON THE EAST SIDE OF**  
38 **COUNTY ROAD 561 AND NORTH OF THE TAVADORA SUBDIVISION**  
39 **FROM RMF-2 (RESIDENTIAL MULTI-FAMILY) TO RMF-3 (RESIDENTIAL**  
40 **MULTI-FAMILY); SUBJECT TO THE RULES, REGULATIONS AND**



1 **Easement off Nelson Street; Tab 4 – Fire Assessment Agreement with Property**  
2 **Appraiser, and Tab 5 – Fire Assessment Agreement with Tax Collector]. The**  
3 **motion was seconded by Norb Thomas. The motion carried unanimously 5-0.**  
4

5 **IX. ORDINANCES – PUBLIC HEARING**  
6

7 **(All Ordinances under First Reading will be considered for discussion at Second**  
8 **Reading)**  
9

10 **Tab 6) Ordinance #2009-04 – Amendment to Landscaping Irrigation Ordinance**  
11

12 Mayor Clutts explained Council policy on not discussing ordinances until second  
13 reading. She noted Ordinance #2009-04 will be discussed at second reading on March  
14 4, 2009  
15

16 **Tab 7) Ordinance #2009-03 – Sidewalk Cafes**  
17

18 Mayor Clutts noted Ordinance #2009-03 will be discussed at second reading on March  
19 4, 2009  
20

21 **Tab 8) Ordinance #2009-01 – Rezoning of Hamlets of Tavares from RMF-2 to RMF**  
22

23 Mr. Skutt gave the following summary on this ordinance:  
24

25 The subject vacant property is located on the east side of County Road  
26 561, north of the Tavadora Subdivision. The property is approximately 10  
27 acres in size and is owned by the Hamlets of Tavares, LLC. The site  
28 received preliminary plat approval in 2005 for the construction of a 101  
29 unit townhome complex. The developer installed the water and sewer  
30 lines and paved the subdivision's roads. Due to the decline in housing  
31 sales, the developer did not record the final plat for this subdivision and  
32 did not construct any dwellings. The property has been vacant and  
33 dormant for over a year.  
34

35 The owner is seeking alternate uses for the property. A market study  
36 indicated that Tavares has a need for assisted living facilities. The owner  
37 is proposing to develop the property for senior independent and assisted  
38 living. ACLFs are allowed only in the RMF-3 zoning designation and  
39 therefore a rezoning would be required to allow this use.  
40

1 The future land use designation applicable to this property is Moderate  
2 Density (10 dwelling units per acre). The applicant is not seeking an  
3 amendment to the land use category and therefore the maximum number  
4 of independent dwelling units that could feasibly be constructed on this  
5 property will not change from the maximum already allowed. If an ACLF is  
6 a component of this development, the area of the ACLF plus associated  
7 parking and open space would be deducted from the acreage of the total  
8 property thus reducing the number of allowable independent dwellings.  
9

10 Development of multi-family dwellings and ACLFs are subject to city site  
11 plan review and approval. The main access to the Hamlets Subdivision as  
12 presently designed is through a dedicated lot within the Tavadora  
13 Subdivision that backs onto the property. Residents from this subdivision  
14 have voiced concerns over increased traffic flows that the Hamlets would  
15 impose on their residential streets. The applicant has advised that they will  
16 improve and utilize an unopened road allowance (Division Street) running  
17 north and adjacent to the Hamlets as the primary entrance to the property.  
18 The access through the Tavadora Subdivision would be maintained only  
19 for emergency purposes.  
20

21 It is staff's opinion that the proposed rezoning would provide the owner  
22 alternatives for the development of this property that would not adversely  
23 affect neighboring properties. Further, the rezoning could lead to a site  
24 plan with improved access characteristics that would relieve the traffic  
25 impacts on the Tavadora Subdivision.  
26

27 Mr. Skutt advised that no public objection had been received regarding this project.  
28

29 Mayor Clutts asked if Council had questions and if there was comment from the  
30 audience.  
31

32 Mayor Clutts noted that she had read in the Planning & Zoning Board minutes that Mr.  
33 Tanner had asked if the ingress and egress would be addressed and that Mr. Skutt's  
34 recommendation had been to the Board to provide him with direction to ensure that one  
35 of the entrances be reserved for emergency vehicles only. She asked if it would be  
36 better for Council to provide that direction in the motion.  
37

38 Mr. Skutt said it could be included but that it is staff's intention to follow that direction.  
39

1 Itamar Goldenholz, architect for the project, stood to address Council. Mr. Goldenholz  
2 stated that the owner intends to close the road for access to emergency vehicles only,  
3 however, there was a possibility that the railroad may not approve the crossing. He said  
4 if this is a condition that might not be able to be fulfilled if the railroad does not agree, it  
5 could hamper the plan. He said although they had initiated the idea, since they have not  
6 approached the railroad, they could not guarantee the outcome.

7  
8 Attorney Williams stated it could be made a condition of the zoning and that it would  
9 mean if the applicant is unsuccessful obtaining his application from the railroad he  
10 would be required to come back to Council and modify this site plan. He said the  
11 Planning and Zoning Board had recommended this be approved upon the condition of  
12 the limited access. He said his concern about changing it on second reading is that  
13 there may be people who were satisfied with the recommendation of Planning & Zoning  
14 but were not present for second reading.

15  
16 Mayor Clutts said she was responding strictly to the minutes as she did not see  
17 anything further reflected in the minutes. Mr. Skutt said that was correct, the actual  
18 motion did not address that concern and it was during the conversation when this was  
19 discussed. Mayor Clutts stated that she felt staff recommendation was sufficient.

20  
21 **MOTION**

22  
23 **Lori Pfister moved to approve Ordinance #2009-01, seconded by Robert Wolfe.**

24  
25 Attorney Williams advised that Council should make clear what it is approving as the  
26 ordinance that is in the packet has no restriction on a division of street access. He said  
27 his understanding is that staff will look at that at the time of site plan approval but that  
28 Council would not be putting this condition in its approval. Mayor Clutts agreed and said  
29 she was withdrawing her request for a condition as she understood it may not be  
30 possible based on the applicant's testimony.

31  
32 **The motion was approved unanimously 5-0.**

33  
34 **Tab 9: Ordinance #2009-02 – Amendment to Sanitation Rate Ordinance – Second**  
35 **Reading**

36  
37 Mr. Drury reviewed the four city funds of water and wastewater, stormwater, and solid  
38 waste. He said he had noted when he became City Administrator that the solid waste  
39 fund is the only fund without any reserves. Therefore this fund requires particular  
40 attention in terms of financing issues.

1  
2 He said the issue of the fee started with the audit of 2005. He noted that he had  
3 provided a summary of the audits for 2005, 2006, 2007, and 2008. He noted that in the  
4 2005 audit, the change in net assets reflected that this fund was \$96,251 in the red  
5 which was noted by the auditors. At the time the decision was made to increase the rate  
6 and staff continued to look at options to correct the problem going forward. The Finance  
7 Department decided to do an analysis in-house instead of hiring a consultant to do a  
8 rate study. The staff recommendation was to institute a consumer price increase to  
9 correct the problem which was presented during the budget workshops in 2008. The  
10 Board voted unanimously to approve moving forward with a CPI increase to stabilize  
11 this fund. Once the budget was approved the next step was to implement the CPI  
12 increase through an ordinance.

13  
14 Mr. Drury said he also reviewed how the city will compare with rates in other cities if the  
15 4% increase is done. He indicated in addition that the solution in 2005 eliminated the  
16 \$96,251 deficit but in 2007 there was no increase, and the prediction for 2008 is a  
17 \$46,000 deficit. Mr. Drury then reviewed the fee information obtained from other cities  
18 and discussed the number of employees, turnover rate and how salaries compare with  
19 other cities. He noted the survey showed that Tavares' salaries were either in line or  
20 slightly lower than the marketplace.

21  
22 Mayor Clutts asked for confirmation that McDermitt Davis had been the auditor and this  
23 ordinance was in response to their findings during the audit. Ms. Houghton responded  
24 that this was correct and that if a fund is operating consistently in the negative, the city  
25 may see a management comment in the letter from the auditors. She said in 2005 the  
26 auditors made a presentation and stated that because Council was proactive and had  
27 prepared to present a rate increase they would not be making a comment. She said this  
28 year if the city does not respond to the negative loss it is probable that the city will  
29 receive a negative comment.

30  
31 Mayor Clutts asked what would have been the cost to do this study if it had not been  
32 done in-house. Ms. Houghton answered that it would have been about \$30,000.

33  
34 Councilmember Thomas asked what the monthly increase per household will be if the  
35 ordinance is approved. Ms. Houghton responded that it will be 79.6 cents per household  
36 or 2.6 cents per day. Mr. Drury noted that there is an increase recommended in  
37 February and one in October. He recommended that the city not do the October  
38 increase, that it be limited to February only and be an annual increase thereafter. He  
39 said the fund will be monitored and staff will report on the status during the budget  
40 season.

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Denise Laratta, Tavares resident

Ms. Laratta said she wished to reiterate that she was opposed to any rate increase that is tied to the CPI as it leads to an attitude of entitlement and that she hoped in the future some other system would be utilized to determine the rates.

Julia Wilson, resident of Tavares

Ms. Wilson said the county is reporting a decrease in the tonnage being delivered to the landfill and if this is true she assumed it would mean less costs to the city. She discussed the tipping fees and the city's utility rates. She asked the city to scrutinize its spending practices before increasing the rates. She asked that Council reconsider the mandatory annual rate increase for sanitation and re-address the mandatory increase to the water/sewer rates to either remain the same or be lowered.

Mayor Clutts encouraged Ms. Wilson to meet with the Finance Director to review the fund and to bring any errors that she observed in the fund to the attention of the city.

Cindy Heffler, Chelsea Oaks Subdivision

Ms. Heffler said half the Chelsea Oaks Subdivision is empty because they cannot afford to live there. She discussed the comparison of the rates report. She criticized the use of the CPI as she said it includes food, clothing, manufacturing costs, etc. She noted that the city had budgeted for raises for the staff which she did not think was fair. She said she understood that the city had not increased the commercial rate which means that the residents are supplementing their rate. She noted that there were only a few people present to address this issue but that the city holds its meetings at 4:00 in the afternoon which makes it difficult for working persons to attend. She said there is a fairer way to calculate an increase or decrease in the rate which is called a Refuse Rate Index which is much more comparable to the garbage industry.

Allen Sherrod, Vice Mayor of the City of Groveland

Mr. Sherrod noted that Groveland's fee is about \$24.00 per month and is sub contracted out. He said that by doing an in house study, Tavares had saved a great deal of money. He said Groveland had decided not to utilize the MCI (Municipal Cost Index) and now will be paying \$280,000 for studies and that he thought Tavares was making the right decision.

1 Norman Hope, Tavares resident

2  
3 Mr. Hope asked Ms. Houghton what the effect would be from a negative auditor's  
4 report. Ms Houghton said it could cost the city its bond rating which affects all funds. Mr.  
5 Hope asked what would happen if this fund is at a deficit. Ms. Houghton said the  
6 taxpayers would have to make up the difference; not the service customers.

7  
8 Mr. Hope said he disagreed completely that the city employees should not be well  
9 compensated for their duties. He said he did not like increases any more than anyone  
10 else but that he believed it was a positive fiscal step to make this decision.

11  
12 Mayor Clutts asked if there was any additional public comment. She then closed the  
13 Public Hearing.

14  
15 **MOTION**

16  
17 **Robert Wolfe moved to approve Ordinance #2009-02, seconded by Lori Pfister.**

18  
19 Councilmember Pfister added that this motion should include the statement that the fee  
20 is not to be re-addressed in October.

21  
22 **Robert Wolfe stated that his motion should be amended to reflect Ms. Pfister's**  
23 **statement.**

24  
25 **Mayor Clutts clarified that the motion is to accept Ordinance #2009-02 with the**  
26 **provision that the increase does not take place in October, that it will be re-**  
27 **addressed in the February timeframe.**

28  
29 **The motion carried unanimously 5-0.**

30  
31 **X. RESOLUTIONS – PUBLIC HEARING**

32  
33 **Tab 10) Resolution #2009-03 –Budget Amendment**

34  
35 Ms. Houghton reported that this resolution represents increases to the adopted budget  
36 for the fiscal year 2009. The increases represent adjustments to the budget for changes  
37 in reserve appropriations as previously approved by City Council. Some adjustments  
38 have been made to the TIF fund. This amendment changes the total budget city-wide  
39 from \$41,393,000 to \$41,079,000.

1 Mayor Clutts asked if Council had questions. She then asked the public if they had  
2 comments.

3  
4 **MOTION**

5  
6 **Norb Thomas moved to approve Resolution #2009-03, seconded by Bob Grenier.**  
7 **The motion carried unanimously 5-0.**

8  
9 **Tab 11) Resolution #2009-04 – Amendment to Capital Improvement Program to**  
10 **Include Tav-Lee Trail Section to Wooton Park and Request to Make Grant**  
11 **Application**

12  
13 Mr. Neron stated that as part of the grant application the proposed project must be part  
14 of the City's approved capital improvement program. The resolution amends the capital  
15 improvement program to include the Tav-Lee Trail project and also authorizes staff to  
16 file the grant application.

17  
18 Mayor Clutts invited comment from Council and asked those in the audience if they had  
19 comments.

20  
21 **MOTION**

22  
23 **Norb Thomas moved to approve Resolution #2009-04 to amend the capital**  
24 **improvement plan, seconded by Robert Wolfe. The motion carried unanimously 5-**  
25 **0.**

26  
27 **XI. GENERAL GOVERNMENT**

28  
29 **Tab 12) Ranking of Sidewalks**

30  
31 Mr. Drury advised that previously Council adopted a five year sidewalk replacement  
32 program that called for budgeting \$30,000 a year to replace or finish sidewalks, and add  
33 ADA ramps. This year Council chose to have the Mansfield Road constructed. The bids  
34 from the prior year were \$4.76 per square foot and this figure was used as a budget  
35 estimate for the Mansfield Road. When the project went out for bids, the price had  
36 decreased and came in at \$2.88 per square foot. Therefore this leaves \$15,000  
37 remaining in the sidewalk fund for the current year. Staff have looked at the plan  
38 originally approved and have identified four areas in the downtown area that need work  
39 that will cost around \$15,000: Joanna Avenue between Alfred and Caroline; Maude  
40 Street and Joanna and New Hampshire; Maude Street and St. Clair; and the

1 intersection of Givens and Disston and Clifford and St. Clair. Staff is recommending that  
2 Council authorize staff to prioritize those areas to finish this year's sidewalk program.

3  
4 Mayor Clutts asked Council for comment. She asked the audience if they wished to  
5 address Council.

6  
7 **MOTION**

8  
9 **Norb Thomas moved to accept staff's recommendation, seconded by Bob**  
10 **Grenier.**

11  
12 Councilmember Grenier asked that the motion include "Pillar Homes" as the contractor  
13 as they had submitted the recent bid on Mansfield Road.

14  
15 **Councilmember Thomas clarified his understanding that the staff**  
16 **recommendation meant to negotiate a price with the contractor who is Pillar**  
17 **Homes. Councilmember Grenier re-confirmed his second of the motion.**

18  
19 **The motion carried unanimously 5-0.**

20  
21 **Tab 13) Bassmaster Event – Letter of Intent**

22  
23 Mr. Neron reported that this is a proposed Letter of Intent to contract with the Bass  
24 Federation to hold a major event for 2009 and for 2010. The event would involve the  
25 Bassmaster presidents' from all over the U.S. They would be holding a series of  
26 meetings and then hold a fishing tournament. He said they are requesting  
27 approximately \$18,000 out of pocket expenses. Half of those funds will be provided  
28 from the Tourist Development Council. He said this will actually occur next fiscal year  
29 and the proposal is to use CRA funds subject to budget approval. If Council approves  
30 the Letter of Intent, Attorney Williams will develop a contract for the two year events to  
31 bring back to Council. He said Tavares and the staff have developed a good reputation  
32 and these events have a positive economic impact through the spending that is done in  
33 the community by the participants.

34  
35 Mayor Clutts noted that Mr. Neron had provided additional information to Council as to  
36 the economic impact of these events. Mayor Clutts said when she had met with Mr.  
37 Drury to review the agenda, she had requested additional information on the economic  
38 impacts and she appreciated the assistance from staff.

39

1 Councilmember Thomas asked how the multiplying factor is determined. Mr. Neron said  
2 it is a common factor that is used in the industry for events. He said he had seen the  
3 factor as high as 4 and 5 but that the factor being used (3.5) is a customary multiplier  
4 factor. He said he believed this was an acceptable industry standard. Mr. Drury  
5 discussed a study that had been done in a previous community where dollar bills were  
6 converted to \$2.00 bills and then the bills were tracked to find out where they ended up  
7 being spent (four or five times throughout the community).  
8

9 Mr. Neron noted that the participants in the fishing tournaments also fill out a survey. He  
10 said during the Crappie tournament there were attendees staying three or four weeks at  
11 a time.  
12

13 **MOTION**  
14

15 **Robert Wolfe moved to approve the Letter of Intent for the city to host the Bass**  
16 **Federation National Championship Tournament in October 2009 and 2010,**  
17 **seconded by Bob Grenier. The motion carried unanimously 5-0.**  
18

19 **Tab 14) Proposal for Jet Ski Racing Events**  
20

21 Mr. Neron stated this is a request for approval for the City to host two Hot Water Tour jet  
22 ski racing events. Last November the first jet ski race was hosted in Wooton Park. Hot  
23 Water Tours has again approached the city for assistance in sponsoring two jet ski  
24 races—one which will be on July 4<sup>th</sup>. This will tie in well with the 4<sup>th</sup> of July events in  
25 Wooton Park. The second event is in August which will also bring in people during the  
26 off season. He said he could not get participation from the Tourist Economic council  
27 because of the timing of the request and their budget constraints. He said the cost will  
28 be about \$9,000 to the city and he thought this would be an excellent investment based  
29 on the economic impact to the city.  
30

31 Mayor Clutts asked if Council had questions. Councilmember Grenier requested  
32 clarification that this event would tie in with the 4<sup>th</sup> of July event. Mr. Neron and Ms.  
33 Rogers concurred.  
34

35 Mayor Clutts asked if anyone in the audience had comments.  
36

37 **MOTION**  
38

1 **Bob Grenier moved to approve the proposal for the City to host the two Hot Water**  
2 **Tour Jet Ski racings events in July and August 2009, seconded by Robert Wolfe.**  
3 **The motion carried unanimously 5-0.**  
4

5 **Tab 15) Proposed Wooton Park Pavilion/Pier – Update on Status**  
6

7 Mr. Drury stated that previously Council budgeted for the design, permitting and  
8 construction of the down town Marina/Seaplane multimodal facility which includes the  
9 following:  
10

- 11 1. Seaplane Base
  - 12 2. Marina
  - 13 3. Fueling Facilities
  - 14 4. Ship Store
  - 15 5. Special Events area
  - 16 6. Train Platform
  - 17 7. Splash Park
  - 18 8. Pier with Pavilion and Water Taxi staging docks
- 19

20 Staff has enjoyed a good working relationship with the Department of Environmental  
21 Protection (DEP) Central Office in Orlando. Conceptual design, environmental impacts  
22 and mitigation issues have all been identified and submitted to the Department of  
23 Environmental Protection (DEP). Negotiation of the permitting aspects of this project  
24 have been positive with DEP and DEP has agreed to permit every aspect of the project,  
25 however they have requested that the Pavilion remain on the landside and the pier be  
26 narrowed down from what was proposed. (He noted that he had provided an exhibit that  
27 showed what had been approved through the Visioning process and in the master  
28 plan.) DEP is proposing that the pavilion be located on the landward side overlooking  
29 the water versus what was originally constructed in 1912 and removed in [1961]. DEP  
30 contends that they do not permit structures over the water and therefore has thus far  
31 denied the city's request to reconstruct the pier and pavilion as it originally stood in the  
32 early 1900's.  
33

34 Mr. Drury said through the visioning process and then the subsequent Master Planning  
35 process the citizens had expressed a desire to replace the pier and community pavilion  
36 that stood from 1912 through [1961]. The purpose of rebuilding the pier and pavilion as  
37 submitted was to remain true to the citizens' vision statement "Tavares, the capital  
38 water front city of Lake county - Building on a historic foundation creating an authentic,  
39 accessible community...". Similar to other historic replicas like the Captain Haynes  
40 house/shipstore, the pier and Pavilion would also be a functional public service and

1 water dependent facility including a passenger waiting area for water taxi service, Water  
2 Taxi staging area, a covered special events area and fishing pier.

3  
4 Staff seeks direction on whether to accept the modification or continue to negotiate  
5 including, if necessary, a friendly challenge to DEP's denial through the Administrative  
6 Hearing process and court system.

7  
8 It is anticipated that should Council desire staff to challenge DEP's denial of the original  
9 proposal, the process could take up to a year, however staff would work with DEP to  
10 separate that one issue from the rest of the project so that permits could be issued  
11 within the next 60 days for all aspects of the project except the Pavilion/Pier.

12  
13 Mr. Drury said the city's goal is to revitalize the downtown, get people back to work, and  
14 get this project going as soon as possible.

15  
16 Attorney Williams commented that FDEP is an administrative executive agency. He said  
17 the law is vague and basically says that it is the policy of the state of Florida to minimize  
18 adverse impact to water and the FDEP shall adopt regulations accordingly. FDEP then  
19 develops regulations aimed at trying to minimize or eliminate unnecessary impacts to  
20 water. The scientific issue is whether a structure that is built over water has an adverse  
21 affect to water because of the shade. He said the biologists have confirmed that it  
22 possibly does have impact but it is almost immeasurable. He said FDEP uses the term  
23 "water dependent structure" in its interpretation of its own rules. He said they have  
24 taken the position that a water taxi court is not necessarily water dependent—i.e. they  
25 maintain that it could be on land. He said if the city wishes to disagree with an  
26 administrative agency, it could do so through the Administrative Hearing process which  
27 is similar to going to court but more streamlined.

28  
29 Mayor Clutts said the two options are very different and that the city has to determine  
30 how important it is to have the historical integrity or whether the compromise is more  
31 important. She noted that previously she would have been reluctant to go through the  
32 Administrative Hearing but now she understands that the agencies make changes to  
33 their rules based on the outcomes of those hearings.

34  
35 Mayor Clutts said it seemed that the compromise being suggested by FDEP might have  
36 greater environmental impact. She asked Mr. Ern to comment. Mr. Ern stated he  
37 thought Ms. Clutts was correct. He said the proposal shows the pavilion landward but  
38 extending out over the wetlands which is currently dry but is considered to be wetlands.  
39 He discussed the clarity of the water, noting that beyond a certain depth of water there  
40 is not the ability for enough sunlight to penetrate the water for vegetation to grow. He

1 noted in the survey that LPG Environmental did for the city it showed submerged  
2 aquatic vegetation and emergent vegetation. The emergent vegetation is what is in the  
3 wetlands area which is able to get sunlight and grow. The submerged vegetation is in  
4 the deeper areas of the lake in the proposed location for the pavilion.

5  
6 Mayor Clutts said the issue may be more about precedent setting and that Attorney  
7 Williams is researching to find additional support.

8  
9 Mr. Drury said one of the recommendations is to negotiate with FDEP including a  
10 friendly challenge to the rule. He said staff would work with DEP to exclude that part of  
11 the project, get everything else permitted and then put it out to bid, while continuing to  
12 work on the original vision. Attorney Williams added that the right to make the  
13 administrative challenge doesn't begin until DEP turns down the request and they have  
14 not made that stance official as yet.

15  
16 Councilmember Grenier said that Ms. Burleigh had done some research on this issue.  
17 He said the plans were originally approved in 1912 and the first meeting in the pavilion  
18 was held in 1914 (graduation from Tavares Middle School). He said in 1961 the pavilion  
19 was dismantled. He said he would be voting to direct staff to continue negotiating on the  
20 original plan due to his commitment to historical preservation. (He commented that the  
21 Tavares Historic Museum contains the city's historical files that need to be preserved.)

22  
23 Attorney Williams added that the unique aspect of this project is the length of time it was  
24 there and that the city also owns the lake bottom out to about a mile.

25  
26 Vice Mayor Wolfe stated he agreed to continue negotiating with the DEP.

27  
28 Councilmember Thomas noted that he agreed with having DEP accept a majority of the  
29 project now and then the pavilion issue can be a separate matter.

30  
31 Mayor Clutts asked if there was comment from the public.

32  
33 Ms. Betty Burleigh stated she supported Option #2.

34  
35 Mr. Sherrod discussed his background as a scuba diving instructor and noted that water  
36 clarity is an issue. He offered to go to the site and make a report on the vegetation. Mr.  
37 Drury asked Mr. Sherrod if he thought he could locate the old piers which would be  
38 helpful. Mr. Sherrod said he would be willing to provide assistance.

39  
40 Cliff Ryan, Tavares resident

1  
2 Mr. Ryan asked why this was an issue for the pavilion to not be built in that location. Mr.  
3 Drury explained the issues presented by DEP and the arguments that would be made  
4 by the city.

5  
6 Mr. Ryan asked about the possible delay to the progress of the job. Mr. Drury said the  
7 motion that will probably be made will result in the city moving forward with 80% of the  
8 project but that the pavilion issue will be investigated further and discussed with DEP  
9 before going through an administrative hearing process. Mr. Ryan said he supported  
10 that plan.

11  
12 Mayor Clutts asked if the DEP compromise would be affected should the administrative  
13 hearing not go in the favor of the city. Mr. Drury said he thought it would still be  
14 acceptable and that FDEP has been very helpful in working with the city.

15  
16 **MOTION**

17  
18 **Lori Pfister moved to approve Option #2 to authorize staff to negotiate with DEP**  
19 **including, if necessary, a friendly challenge to DEP's denial through the**  
20 **Administrative Hearing process and court system, but to proceed with what has**  
21 **already been approved and see if the other projects can be separated but to go**  
22 **ahead and try to have the pavilion built on the water. The motion was seconded**  
23 **by Norb Thomas. The motion carried unanimously 5-0.**

24  
25 **Tab 16) Alfred Street School Board Property**

26  
27 Mr. Drury said that he and Vice Mayor Wolfe had met with the School Board to discuss  
28 the long term plans for the area where the bus barn and the facility maintenance  
29 buildings are located which are also in one of the five gateways that the citizens  
30 identified in the master planning and visioning process. It was suggested through that  
31 meeting that city staff and school board staff explore options. He said he was  
32 recommending that Council create another Horizon project team to meet with the school  
33 Board and its staff to move forward the implementation of the vision for the gateway as  
34 included in the master plan. He said that would require Council to appoint a  
35 councilmember to participate on that team. He said the team would be comprised of  
36 him, Mr. Skutt, and a councilmember.

37  
38 Councilmember Pfister said she thought Vice Mayor Wolfe should continue to serve.

39  
40 **MOTION**

1  
2 **Norb Thomas moved to appoint Vice Mayor Wolfe to the [Alfred Street School**  
3 **Board Property and Gateway] Horizon Team, seconded by Bob Grenier. The**  
4 **motion carried unanimously 5-0.**

5  
6 **XII. OLD BUSINESS**

7  
8 None.

9  
10 **XIII. NEW BUSINESS**

11  
12 None.

13  
14 **XIV. AUDIENCE TO BE HEARD**

15  
16 Mayor Clutts invited the audience to speak on matters not on the agenda.

17  
18 **XV. REPORTS**

19  
20 **City Administrator**

21  
22 Mr. Drury noted he had provided a list of meetings. In addition, he said a letter was  
23 received from the Fox Run boaters who stated they had problems with their pontoon  
24 boats scraping at the Wooton Park dock when it is windy. He said staff is looking at  
25 some solutions to that problem. One is utilizing old fire hose as a buffer. He said they  
26 will also look at purchasing some longer bumpers for boats to keep at the dock. He said  
27 there is also the option of removing one of the dock pieces, stabilizing the ends, and  
28 then allowing the pontoon boats to come in and be in more protected waters. He said  
29 the issue is that it would prevent the public from being able to walk the length of the  
30 dock.

31  
32 **Denise Laratta**

33  
34 Ms. Laratta said she is a boater and owns a pontoon and that she believes this is the  
35 boater's responsibility, not the city's.

36  
37 Mr. Drury said he is also a boater and he agreed that the captain is responsible but that  
38 this is problem is a little unique because of the design of the floating docks.

39  
40 **Norman Hope, Fox Run**

1  
2 Mr. Hope said he appreciated the city trying to address the problem and that he wanted  
3 it known that this concerns the Fox Run Boat Club, not the entire community. He said  
4 they do not represent the Fox Run subdivision. He said he is also a boater and has not  
5 had that problem.

6  
7 **Councilmember Pfister**

8 No report.

9  
10 **Councilmember Grenier**

11 Councilmember Grenier complimented Dave [Patton] who sets up the Tavares Civic  
12 Center and thanked him for cleaning the Rotary Club bell.

13  
14 **Vice Mayor Wolfe**

15 No report

16  
17 **Ms. Rogers**

18 Ms. Rogers stated the city has just received notification from DEP that they have issued  
19 a permit for the dredging project and boat ramp installation project at Summerall Park.  
20 She said the project came in under budget by about \$5,000.

21  
22 **Mayor Clutts**

23 Mayor Clutts stated that since December, staff, Mr. Drury and she have been activated  
24 to travel on behalf of the citizens of Tavares to position the city to be ready for  
25 infrastructure funding when funding becomes available.

26  
27 **Adjournment**

28 There was no further business and the meeting was adjourned at 5:56 p.m.

29  
30 Respectfully submitted,

31  
32  
33  
34  
35 \_\_\_\_\_  
36 Nancy A. Barnett, C.M.C.  
City Clerk