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**CITY OF TAVARES
MINUTES OF REGULAR COUNCIL MEETING
SEPTEMBER 2, 2009
CITY COUNCIL CHAMBERS**

COUNCILMEMBERS PRESENT

ABSENT

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

STAFF PRESENT

John Drury, City Administrator
Robert Q. Williams, City Attorney
Nancy Barnett, City Clerk
Lori Houghton, Finance Director
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
Brad Hayes, Director of Utilities
Lori Tucker, Director of Human Resources

I. CALL TO ORDER

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

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Bernice Odums, St. Johns Free Methodist Church, gave the invocation and those present recited the pledge of allegiance.

III. APPROVAL OF AGENDA

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MOTION

Robert Wolfe moved to approve the September 2, 2009 City Council Agenda, seconded by Norb Thomas. The motion carried unanimously, 5-0

IV. APPROVAL OF MINUTES

MOTION

Robert Wolfe moved to approve the minutes of August 5, 2009 as submitted, seconded by Robert Grenier. The motion carried unanimously 5-0.

MOTION

Robert Grenier moved to approve the minutes of August 19, 2009 as submitted, seconded by Robert Wolfe. The motion carried unanimously 5-0.

V. PROCLAMATIONS/PRESENTATIONS

None

VI.SWEARING IN BY CITY ATTORNEY AND DISCLOSURE OF EX-PARTE CONTACTS

Attorney Williams stated that Tab 4 [Ordinance #2009-24, LDR Amendments to the Downtown Zoning District], Tab 5 [Ordinance #2009-25 – LDR Amendments to Sidewalk Widths], Tab 7 [LDR Ordinance #2009-27 – LDR Amendments to Allow LED signs in certain zoning districts] and Tab 8 [Ordinance #2009-28 – Establishment of Downtown Waterfront Entertainment District] were quasi-judicial. He then swore in those who wished to speak on these matters.

VII.READING OF ALL ORDINANCES/RESOLUTIONS INTO THE RECORD

Mayor Clutts noted Ms. Barnett would be reading the resolutions regarding the tentative millage rate and the tentative budget at the time of the Public Hearing at 5:05 p.m.

Ms. Barnett read the ordinances into the record by title only:

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ORDINANCE 2009-24

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS; AMENDING CHAPTER 8 PERTAINING TO SETBACKS IN THE COMMERCIAL DOWNTOWN ZONING DISTRICT AND THE MIXED USE ZONING DISTRICT ON ALFRED STREET, SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING AN EFFECTIVE DATE.

ORDINANCE 2009-25

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS BY AMENDING CHAPTER 19, ENTITLED STREETS AND SIDEWALKS; SIDEWALK WIDTHS ALONG RUBY STREET, MAIN STREET AND ALFRED STREET AND ALLOWING FOR AN ADMINISTRATIVE ADJUSTMENT OF THE STANDARD WHERE OBSTACLES EXIST; SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING AN EFFECTIVE DATE.

ORDINANCE 2009-12

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA, PERTAINING TO PUBLIC SCHOOL CONCURRENCY; AMENDING THE LAND DEVELOPMENT REGULATIONS; ADDING SECTION 10.25 ENTITLED “SCHOOL CONCURRENCY” TO CHAPTER TEN; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE 2009-27

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS BY AMENDING SECTION 21-19, “LED SIGNS”; REMOVING RESTRICTIONS ON LED SIGNS; SUBJECT TO THE RULES, REGULATIONS AND

1
2 Mr. Custar asked what the millages were in other cities. Ms. Houghton said she
3 did not have those numbers and that she believed Tavares was somewhere in
4 between. Mr. Custar said he understood the only city higher than Tavares was
5 Umatilla and the rest were lower. He said he wondered if enough budget cuts
6 had been made.

7
8 Ms. Houghton said the other cities were also going through the same process
9 and that their proposed maximum millage may be higher than what they actually
10 adopt.

11
12 Mr. Custar asked if there were new employees in the Fire, Police, or Sanitation.
13 Ms. Houghton said there were no new positions. Mr. Custar noted the water rates
14 are going up the first of October. He asked if the annual increases could be
15 curtailed. Ms. Houghton answered that the water rate index is tied to the CPI
16 index.

17
18 Public input was closed.

19
20 **MOTION**

21
22 **Robert Wolfe moved to approve Resolution #2009-13 for the tentative**
23 **millage rate for fiscal year 2010 to be 6.25, seconded by Robert Grenier.**
24 **The motion carried unanimously 5-0.**

25
26 Mayor Clutts noted that Council had conducted numerous workshops and there
27 had been much dialogue leading up to the vote.

28
29 **Tab 3) Resolution #2009-14 – Tentative Budget – 2009-2010**

30
31 Ms. Houghton stated that the information for the budget is the same as
32 previously stated for the millage resolution.

33
34 Mayor Clutts asked if Council had questions.

35
36 Mayor Clutts invited public comment.

37
38 The Public Hearing was closed.

39
40 **MOTION**

1
2 **Robert Wolfe moved to accept Resolution #2009-14 for the tentative budget**
3 **for fiscal year 2010, seconded by Robert Grenier. The motion carried**
4 **unanimously 5-0.**

5
6 Attorney Williams noted that the vote for the millage and budget was a tentative
7 vote and the final vote would be taken at the next Council Meeting on September
8 16th.

9
10 **X. ORDINANCES – PUBLIC HEARING**

11
12 **Tab 4) Ordinance #2009-24 – Amendment to Land Development**
13 **Regulations – Chapter 8, Table 8-3 – Building Setbacks in the Commercial**
14 **Downtown Zoning District & Mixed Use Zoning District – Second Reading**

15
16 Mr. Skutt stated that in June of 2009 Council adopted an ordinance which
17 amended Chapter 9 of the Land Development Regulations regarding new
18 architectural and site design standards which had been suggested by the
19 Downtown Master Plan. These new regulations reduce the yard setbacks within
20 the downtown and mixed use districts. This ordinance amends Chapter 8 of the
21 LDR's which deals with required setbacks for all city zones. This ordinance
22 amends the setback chart so that it coincides with the setbacks that were
23 approved in June. Staff recommends approval as presented.

24
25 Mayor Clutts asked if Council had questions. She then opened the ordinance for
26 public comment. The public hearing was closed.

27
28 **MOTION**

29
30 **Robert Wolfe moved to approve Ordinance #2009-24, seconded by Bob**
31 **Grenier. The motion carried unanimously 5-0.**

32
33 **Tab 5) Ordinance #2009-25 – Amendment to Land Development**
34 **Regulations – Chapter 19 – Section 19-18 – Sidewalk Widths along Main**
35 **Street, Ruby Street and Alfred Street – Second Reading**

36
37 Mr. Skutt said the new architectural standards require wider sidewalks in the
38 downtown—eight foot sidewalks on Main Street, Alfred Street, and Ruby Street—
39 unless the right of way is less than 70 feet or if there is some physical condition
40 that would create an obstacle to meet this standard. This ordinance amends

1 Chapter 19 of the LDR's that deal with streets and sidewalks and brings this
2 chapter into conformity with the standards that were adopted in June. Staff
3 recommends approval.

4
5 Mayor Clutts asked if Council had questions. She then opened the ordinance for
6 public comment. The public hearing was closed.

7
8 Councilmember Grenier asked who would the City Administrator designate to
9 enforce the ordinance. Mr. Drury stated he would typically designate the Director
10 of Community Development.

11
12 **MOTION**

13
14 **Robert Wolfe moved to approve Ordinance #2009-25 as presented,
15 seconded by Norb Thomas. The motion carried unanimously 5-0.**

16
17 Mayor Clutts thanked Mr. Skutt, Ms. Sullivan, and the Community Development
18 staff for their work on bringing the Land Development Regulations into alignment
19 to be consistent with the intent of the Master Plan.

20
21 **Tab 6) Ordinance #2009-12 – School Concurrency Implementation – Second
22 Reading**

23
24 Mr. Skutt stated that in 2008 the city adopted a final version of an Interlocal
25 agreement with the Lake County School Board and all the local governments that
26 detailed the specifics of how development permitting would be reviewed for
27 school concurrency. The City amended its Comprehensive Plan and the various
28 elements of the plan affected by School Concurrency which has now been
29 approved by the Department of Community Affairs. The final step in the process
30 is to adopt an implementation ordinance which will become part of Chapter 10 of
31 the LDR's dealing with concurrency. This ordinance codifies the procedures that
32 were adopted through the Interlocal agreement. Staff recommends approval of
33 this ordinance.

34
35 Mayor Clutts asked if Council had questions. She then opened the ordinance for
36 public comment. The public hearing was closed.

37
38 **MOTION**

39
40 **Norb Thomas moved to approve Ordinance #2009-12 as presented,**

1 **seconded by Robert Wolfe. The motion carried unanimously 5-0.**

2
3 **Tab 7) Ordinance #2009-27 – Amendment to Land Development**
4 **Regulations – Chapter 21 for LED Signs on Highway Commercial – Second**
5 **Reading**

6
7 Mr. Skutt noted that the City sign code that was adopted in 2005 restricts the
8 size, message, color, text and animation of LED signage. He noted that since
9 that date LED technology has evolved significantly. He said Organic LED
10 medium, presently under development, surpasses all other display forms with
11 respect to clarity, energy efficiency, longevity and versatility. It is anticipated that
12 these ultra thin materials will soon become the industry standard for signage. The
13 city's sign code allows LED signs, with restrictions, only in the General
14 Commercial, Highway Commercial and Public Facilities Districts. The commercial
15 districts are concentrated along our two major corridors, State Roads 441 and
16 19. The proposed ordinance continues to allow LED signs only in these districts.
17 The size limitation of twenty square feet was removed from the proposed
18 ordinance. Instead, the ordinance proposes that LED signs be restricted in size
19 and location in the same manner as any other sign that would be allowed in that
20 zoning district. Restrictions concerning text, color and animation have been
21 removed. The city's sign code continues to contain general prohibitions
22 respecting intensity and motorist interference that pertain to all signs.

23
24 It is staff's opinion that LED signs should be regulated in the same manner as
25 traditional signs and continued to be allowed along our two major commercial
26 corridors. The technology offers many advantages over traditional signage from
27 an advertiser's perspective. If the cost of these signs becomes less, they will
28 become an increasingly popular option for commercial advertising.

29
30 Staff recommends approval.

31
32 Mayor Clutts asked if Council had questions. She then opened the ordinance for
33 public comment. The public hearing was closed.

34
35 **MOTION**

36
37 **Robert Wolfe moved to approve Ordinance #2009-27, seconded by Norb**
38 **Thomas. The motion carried unanimously 5-0.**

39
40 **Tab 8) Ordinance #2009-28 – Establishment of Downtown Waterfront**

1 **Entertainment District – Second Reading**

2
3 Mr. Skutt reported that on October 15, 2008 the City Council approved the
4 adoption of our Downtown Redevelopment Plan. This Master Plan called for the
5 establishment of a Downtown Waterfront Entertainment District characterized as:

6
7 ***"A waterfront entertainment district providing a venue for festivals, shops,***
8 ***restaurants, the arts and cultural amenities that will firmly establish***
9 ***Downtown Tavares as a regional destination."***

10
11 The City has begun the implementation of the Plan with the development of the
12 Wooton Park/Seaplane Basin and the construction of the Children's Splash Park.
13 These will be the focal point of the Downtown Waterfront Entertainment District
14 designated in the Plan.

15
16 Working with suggestions from the Downtown Business Committee and from the
17 Community Redevelopment Area Advisory Board, an ordinance has been drafted
18 that defines the boundaries of the proposed district and provides distinct
19 regulations intended to incentivize businesses offering entertainment.

20
21 The following are the highlights of the ordinance:

22
23 1. The District's boundaries are specifically defined by a map, but generally
24 include properties on Main Street and Ruby Street between Sinclair and St. Clair
25 Abrams Avenues and the associated side streets between these. The event area
26 of Wooton Park is included but the Splash Park and Wooton Wonderland are
27 excluded.

28 2. Outdoor entertainment is encouraged and is exempt from the city's noise
29 ordinance until 10 P.M. Sundays through Wednesdays and midnight Thursdays
30 through Saturdays.

31 3. The \$250 special event fee waived within the District.

32 4. Games, sporting events and artistic performances are encouraged and
33 permitted subject to compliance with applicable safety regulations.

34 5. On-site banners, up to 75 square feet in size, promoting grand openings and
35 coming attractions, will be allowed for a 30 day period.

36 6. The City Administrator is given the authority to approve permits for Special
37 Events that include the sale and consumption of alcoholic beverages. Presently,
38 the code requires Council approval for these special events

39
40 **Alcoholic Beverages-Open Container Regulations:**

1 The Downtown Business Committee made a presentation to the CRA Advisory
2 Board requesting that the Downtown Waterfront Entertainment District be
3 created. They are also seeking the relaxation of our present alcoholic beverage
4 regulations that would allow individuals to walk freely within the District with
5 open, plastic containers, under 16 ounces. The CRA Advisory Board
6 recommended approval of this change and an ordinance was drafted, modeled
7 after that adopted by Savannah, Georgia for their Riverside District.

8
9 Local regulations governing alcoholic beverages vary greatly and are formulated
10 on the community's preference and their government's policy towards
11 consumption of alcohol. City Council has the ability to amend or repeal their
12 codes should their policy change due to problems encountered with their
13 ordinances. An amendment to our Code of Ordinances allowing alcoholic
14 beverages to be served in licensed sidewalk cafes was passed by Council in
15 March of this year. Staff recommends that City Council approve an ordinance
16 that creates a Downtown Waterfront Entertainment District. Mr. Skutt stated that
17 if there are aspects of the ordinance that do not meet with the vision of Council
18 then the ordinance can be amended or redrafted to reflect Council's policy.

19
20 Mayor Clutts asked if Council had questions. She then invited the public to
21 comment.

22
23 **PUBLIC HEARING**

24
25 Bryan Clemons, 384 Magnolia Ridge Avenue, stated he had been a full time
26 resident since 2005. He said his background was an ordained minister, educator,
27 as well as being Dean of Men at Purdue University in the 1970's. He noted that
28 the State does not allow alcoholic beverages in the State parks. He discussed his
29 experience with regulating alcohol when he was Dean at Purdue University. He
30 said he was not in support of the open container section of the proposed
31 ordinance and questioned whether it was essential as a source of revenue.

32
33 Roger Kooser, owner of Tavares Station

34
35 Mr. Kooser commended staff and the City Council for the time spent in the
36 Visioning Sessions and implementing those plans. He said many positive things
37 have been happening in Tavares and there is a more confident attitude. He noted
38 that part of the Visioning process was the creation of an entertainment district.
39 He noted the ordinance is patterned after ordinances in other cities that have the
40 open container law and have been very successful. He said it is very difficult to

1 draw retail businesses into an area that does not have foot traffic. He said this
2 plan will encourage the businesses and entities that will be involved in pulling
3 special events together. He asked the persons who were in attendance to stand
4 up who were 100% behind the proposed ordinance. He noted that the Downtown
5 Business Development committee [out of the Chamber of Commerce]) had
6 worked together to support the plan.

7
8 Mayor Clutts asked Mr. Kooser what was the number one factor he would look
9 for before investing in a community. Mr. Kooser answered that the majority of
10 restaurants are looking for foot traffic.

11
12 Alex Cook, Holiday Inn Express

13
14 Mr. Cook said his hotel is about a mile and a half from the downtown area. He
15 said he had recently taken a trip and driven through several small towns in
16 Florida that looked deserted. He said the community is trying to turn that around
17 for Tavares and have a vibrant growth oriented downtown. He said he also
18 develops events through his contacts with the hotel industry. He said it is critical
19 to bring in outside money and it brings in revenues for all the businesses. He said
20 he was in full support of the ordinance.

21
22 Denise Laratta, Royal Harbor resident

23
24 Ms. Laratta spoke in favor of the ordinance and discussed the impact on
25 businesses and noted the positive impact on foot traffic a similar ordinance had
26 for the Savannah riverfront.

27
28 Billy Powell, Tavares resident

29
30 Mr. Powell spoke against the ordinance stating he did not think Tavares should
31 be compared to Atlanta or Savannah. He said the ordinance would only benefit
32 the businesses. He asked who would regulate or check on the disbursement of
33 alcohol. He asked that the district be further away from the government
34 complexes and schools.

35
36 Shirley Hawkins, Lake County resident

37
38 Mr. Hawkins spoke against the ordinance. He said there had been a problem
39 with bottles being thrown against their church in Tavares. He said as a Christian
40 man he was against the ordinance.

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Andrew O’Keefe, O’Keefe’s Irish Pub & Restaurant

Mr. O’Keefe said the restaurant had been in Tavares for 25 years and he is very excited about what the City is doing and the vision of the CRA. He said he supported the open container law.

Rick Gonzales, Owner of Property on Oakview Drive

Mr. Gonzales spoke in favor of the ordinance and discussed his experience working with the Rotary and Chamber on events. He said he did not think religion should be part of the discussion.

Roger Kooser

Mayor Clutts asked Mr. Kooser about a recent event held in the downtown. Mr. Kooser described a progressive dinner event held recently that was developed around having the participants visit different parts of the downtown.

Mayor Clutts asked those in the audience who had participated in the development of the ordinance either by serving on the CRA board or by attending meetings to raise their hands. She asked those who were in opposition to the ordinance to raise their hands. She then asked those who were in support of the ordinance to show their hands.

Peter Napoles, resident of Tavares

Mr. Napoles said believed the whole community will benefit from the ordinance and that the businesses will be able to work together.

Laura Hargrove, Member of the CRAAC (Community Redevelopment Area Advisory Committee)

Ms. Hargrove said the Board had worked with the downtown business owners to develop the ordinance. She said there had been improvements made to the park and there is more activity downtown making it safer. She spoke in support of the ordinance.

Council Discussion

1 Councilmember Grenier said he supported the Entertainment District and the
2 Historic District. He said he disagreed with changing from council approval to city
3 administer approval for alcohol permits for special events.

4
5 Mr. Drury said this change was based on the issue raised by the business
6 owners regarding the lengthy process required to get events approved.

7
8 (At 5:05 p.m. the Public Hearing on the millage and budget resolutions was
9 convened – See Tab 2 and 3.)

10
11 **The discussion continued on the Entertainment District at 5:21 p.m.**

12
13 Councilmember Thomas said he had some disagreement with the map of the
14 Entertainment District and it appeared to need better defining on the north side.
15 He said he was not sure why open containers were needed 365 days of the year.

16
17 Discussion followed on the boundaries of the District and on the issue of no
18 longer charging for a special events permit in this area.

19
20 Councilmember Thomas said he could support the ordinance but would prefer to
21 see a mandatory two year review.

22
23 **MOTION**

24
25 **Lori Pfister moved to accept Ordinance #2009-28 as written, seconded by**
26 **Robert Wolfe.**

27
28 **Discussion**

29
30 Mayor Clutts noted she had had some significant concerns which she had
31 discussed with Mr. Drury and with staff. She said she was originally concerned
32 about it being too broad but that she felt the community and staff will bring back
33 concerns regarding the ordinance.

34
35 Councilmember Pfister noted the City did not pass the fire assessment or raise
36 the millage rate and this ordinance will be a way to raise revenues from people
37 from outside the community.

38
39 **The motion carried 4-1 as follows:**

1 **Nancy Clutts** **Yes**
2 **Norb Thomas** **Yes**
3 **Lori Pfister** **Yes**
4 **Robert Grenier** **No**
5 **Robert Wolfe** **Yes**

6
7 **XI. RESOLUTIONS**

8
9 **None.**

10
11 **XII. GENERAL GOVERNMENT**

12
13 **Tab 9) Appointment to Selection Committee for Selection of Alfred Street**
14 **Engineering Designer**

15
16 Mr. Skutt advised that an interlocal agreement between the City of Tavares and
17 Lake County, which provides for the design, construction and maintenance of the
18 downtown segment of Alfred Street and Caroline Street in accordance with the
19 desired one-way pair option, has been approved by both the City of Tavares and
20 the Lake County Board of County Commissioners. The Agreement allows the
21 City to negotiate with a design professional for the engineering of the project.

22
23 Since this is a joint project, funded through County impact fees, it is suggested
24 that the qualifications of the design professionals seeking this contract be ranked
25 by a selection committee comprised of both city and county representatives. The
26 County's Director of Engineering for Public Works and the City's Director of
27 Community Development are prepared to sit on this committee. Staff is
28 requesting that a City Council member be appointed to this committee. A similar
29 request will be made by to the County Board of Commissioners. This four person
30 committee will rank the proposals and make a final recommendation.

31
32 Staff recommends that the mayor appoint a councilmember subject to approval
33 by the City Council.

34
35 Mr. Drury noted that Councilmember Pfister is the liaison on this project.

36
37 Councilmember Pfister indicated she would be willing to be appointed.

38
39 Mayor Clutts stated that she wished to appoint Ms. Pfister.

40

1 **MOTION**

2
3 **Norb Thomas moved to appoint Councilmember Pfister to this position,**
4 **seconded by Robert Grenier. The motion carried unanimously 5-0.**

5
6 **Tab 10) Update on the Department of Environment's Position on the Pier**
7 **and Pavilion Project**

8
9 Mr. Drury presented the following report:

10
11 The Marina/Seaplane/Pier/Pavilion Horizon Project team of Council Member Lori
12 Pfister, City Administrator John Drury and Economic Development Director Bill
13 Neron would like to update Council on the status of the Pier/Pavilion portion of
14 the project.

15
16 Previously Tavares citizens and stakeholders held visioning workshops for two
17 years which resulted in the crafting of a vision statement and among other things
18 a request to re-build the pier and pavilion that stood for 50 years off Wooton Park
19 in Lake Dora. The Pavilion was the focal point of community activities where
20 school graduations, city council meetings, weddings, women club meetings and
21 many other community events were held.

22
23 Tavares then spent one year developing a Master Plan that set the framework for
24 implementing the visioning workshop requests. The Master Plan showed the
25 rebuilding of the pier and pavilion (See exhibit B). The purpose of the pier and
26 pavilion includes a rebuilding of Tavares sense of history to complement the
27 historic Woodlea House that is now under construction near the water front to be
28 used as the Marina/Seaplane ship store and the plan to bring back the historic
29 Train station resulting in "Historic Village" water front feel with modern day uses.
30 Each of the historic structures including the proposed Pier and Pavilion support
31 economic development. The Pier and Pavilion will provide a venue for trade
32 shows associated with the water front special events, the water taxi service for
33 the Golden Triangle cities and can be used for a variety of functions similar to
34 those that were used in the past.

35
36 Upon completion of public workshops and public input both from the visioning
37 process and Master plan process, the City Council developed and implemented a
38 Capital Improvement program that supported the Master Plan. One of those
39 projects was to bring back the pier and pavilion. The proposed budget is \$1.4

1 million and is funded by a bond whose debt service payments are supported by a
2 pledge of Utility Tax revenues – not property taxes.

3
4 Previously the City bundled the DEP permitting of Marina/Seaplane project with
5 the Pier and Pavilion project for efficiency purposes. DEP indicated a concern
6 about issuing a permit for the project because they were opposed to the
7 Pier/Pavilion portion of the project. DEP offered an alternative to locate the
8 pier/pavilion project wherein the pier would remain as proposed but the pavilion
9 would be on the water's edge in Wooton Park and not at the end of the pier over
10 the lake as proposed by the City. The City Council was previously made aware of
11 this and after thoughtful discussion and evaluation instructed staff to:

- 12
- 13 1. Separate (de-bundle) the Pier/Pavilion project from the Marina/Seaplane
14 project permit application.
- 15 2. Retain the services of an Environmental Attorney versed in DEP
16 permitting to be co-counsel to the City Attorney to work with DEP to permit
17 the Pier/Pavilion as it originally stood and consistent with the citizens
18 request during the visioning/master planning process.
- 19 3. If negotiations with DEP were unsuccessful to move the permitting conflict
20 into the Administrative Hearing process for an Administrative Law judge to
21 render a decision on permit denial or permit approval.
- 22

23 Environmental Law Attorney Geoffrey D. Smith (Previously a DEP attorney now
24 in private practice in Tallahassee) was retained as co-counsel to negotiate a
25 resolution/permit with DEP. Upon completion of his research he wrote an
26 excellent letter to DEP District Director Vivian Garfein outlining as a matter of law
27 the reasons DEP should re-consider its position on the matter (Exhibit C). In
28 summary he concludes that as a matter of law the project should be permitted
29 and in addition the proposed project with the associated mitigation would improve
30 the environmental or "ecological value" of this area as supported by expert
31 testimony from Environmental Biologist Dr. Robert Taylor. Therefore since this
32 project improves the environment and falls within the law to be permissible that
33 DEP should reconsider its negative opinion of the project.

34
35 A subsequent meeting was held with DEP, the City Administrator, Geoffrey Smith
36 and Dr. Taylor in Orlando at DEP District Headquarters to discuss Mr. Smith's
37 and Dr. Taylor's conclusions. Upon conclusion of the discussion DEP advised
38 that the only option they would consider was the placement of the Pavilion in the
39 park along the water's edge and not at the end of the Pier as has been proposed

1 by the City and its citizens. The City relayed the concern of DEP's proposal as
2 follows:

- 3
- 4 1) This was not consistent with the voters request during the visioning
5 workshops and master planning workshops
- 6 2) This was not consistent with Councils previous thoughtful deliberation
7 and discussion on this proposal
- 8 3) This could damage the old oak trees that the park is known for
- 9 4) This would impact the wetlands/vegetation along the water's edge and
10 cause environmental damage
- 11 5) The placement of the Pavilion in the park would be out of character for
12 the park, reduce the park's usability and degrade the water view shed
13 along Ruby Street.
- 14 6) The placement of the Pavilion in the park would not be in keeping with
15 its history and historic value would be lost
- 16 7) This would degrade the environment and not improve the environment
17 "ecological value" as compared the City's proposal which would improve
18 the environment.
- 19 8) As a matter of law this project is permitable.
- 20

21 Despite these efforts, DEP advises that they will deny the project, primarily
22 because they believe it may set a precedent for other cities to request a Pier and
23 Pavilion over a lake body of water approval from DEP. Consistent with Council's
24 previous direction to present the case before an Administrative Law judge, staff
25 obtained an estimate to prepare for trial including attorney fees, deposition fees
26 of expert testimony and court costs of \$100,000. Currently, the budget of this
27 project is \$1.4 million. The Horizon Project team is seeking Council approval to
28 utilize up to \$100,000 of the \$1.4 million budget to complete the permitting
29 process of this project through the Administrative Law Judge hearing process
30 and to authorize the team to work with our legislative delegation, Lake County,
31 environmental support groups and the historical societies of Tavares and Lake
32 County to support this quest.

33 Discussion

34
35 Councilmember Pfister said she agreed with Mr. Drury's summary.

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Mayor Clutts asked for comment from Attorney Williams

Attorney Williams said the city has been advised by its consulting attorney that the law and the science behind the issue is supportive of the city’s position.

Councilmember Pfister said she had met with the state senator and will be meeting with the state representative on this matter.

Mayor Clutts asked for comment from the audience.

T.J. Fish, 1110 Juniper Court

Mr. Fish spoke in favor of the city continuing to pursue this matter legally and he felt it was important to follow up in order to maintain Home Rule by the local governments.

Norm Hope, Fox Run resident

Mr. Hope asked what would happen if the Administrative Judge rules against the city. Attorney Williams said the city would not obtain its permit. He said a judge’s rule can be appealed and the case may resolve itself before going to Court.

Councilmember Grenier spoke in favor of continuing the appeal.

MOTION

Robert Grenier moved for Option 1 [Approve the Horizon Project Teams recommendation to utilize \$100,000 of the \$1.4 million budget to complete the permitting process of this project through the Administrative Law Judge hearing process and to authorize the team to work with our legislative delegation, Lake County, environmental support groups and the historical societies of Tavares and Lake County to support this quest). The motion was seconded by Robert Wolfe.

The motion carried unanimously 5-0.

Tab 11) Update on “How Shall We Grow” Event

1 Mr. Drury provided a background of the “How Shall We Grow” movement noting
2 that Mayor Nancy Clutts has served on this Board representing the city for the
3 last few years. He discussed a recent event held in Orlando where Tavares was
4 featured as one of the model cities that is moving forward in getting people to
5 move back downtown and to grow their downtown in one of the toughest
6 economic times in history. He then showed a video of the event.

7
8 **XIII. OLD BUSINESS**

9
10 None.

11
12 **XIV. NEW BUSINESS**

13
14 None.

15
16 **XV. AUDIENCE TO BE HEARD**

17
18 Mayor Clutts asked if there were any audience members who would like to speak
19 to Council.

20
21 **T.J. Fish, Director of the MPO**

22
23 Mr. Fish discussed the commuter rail movement in Central Florida. He discussed
24 a meeting that we held in Apopka recently. He encouraged Council to attend
25 future meetings.

26
27 Mr. Drury discussed the actions that Council has taken to support commuter rail,
28 noting Council has taken a leadership role in this issue.

29
30 Mr. Fish stated that Mr. Drury had done an excellent job at the meeting and he
31 said he just wanted to continue to encourage the elected officials to be active in
32 this issue.

33
34 **XV. REPORTS**

35
36 **Tab 12) City Administrator**

37
38 Mr. Drury noted he had no further report beyond what had already been
39 discussed regarding commuter rail.

40

1 **Attorney Williams**

2
3 No report.

4
5 **Councilmember Pfister**

6
7 Councilmember Pfister said she was told that Mr. Drury had been on the radio
8 recently and that he had done a good job.

9
10 **Councilmember Thomas**

11
12 Councilmember Thomas said e had noticed a Lake Express Bus completely full
13 on the highway.

14
15 Councilmember Thomas noted the Legislative delegation session will be
16 upcoming in Leesburg and there are plans to petition them on the pavilion. In
17 addition he said he would like t have the issue of allowing golf carts to operate on
18 the Tav Lee Trail and the issue of allowing golf carts to be allowed to cross US
19 441 and SR 19 to be added as items for the legislative delegation.

20
21 Mr. Drury asked if there was consensus from Council to move forward on these
22 three issues.

23
24 **There was consensus to present these three additional issues.**

25
26 Councilmember Thomas asked about the topic of special legislation to expand
27 the limit for non-profit civic organizations to get temporary permits for serving
28 alcohol on premises. Mr. Drury said that was already approved by the Board and
29 it has been filed.

30
31 Mayor Clutts discussed the importance of establishing relationships with the
32 elected representatives prior to the legislative meetings.

33
34 **Councilmember Grenier**

35
36 Councilmember Grenier noted that Wooton Park is a historic park and that the
37 historic reconstructed buildings will be an asset to the city.

1 Councilmember Grenier asked about the regulations on allowing customers into
2 the Splash Park. Mr. Drury said the regulations are set by the Health Department
3 and it is limited to 59 persons.

4
5 Ms. Rogers noted that an updated sign will be created to reflect the 59 rather
6 than 40 persons stated currently.

7
8 **Vice Mayor Wolfe**

9 No report.

10
11 **Bill Neron**

12 Mr. Neron discussed the activity on the construction of the sea plane base and
13 marina.

14
15 **Nancy Barnett**

16 Mr. Barnett said that she is moving closer to getting the entire agenda posted to
17 the web and should have that accomplished by the first meeting in October. Mr.
18 Drury added that this had been an initiative supported by Councilmember
19 Thomas.

20
21 **Tammy Rogers**

22 Ms. Rogers discussed the “pop art” show being presented at City Hall and the Art
23 Stroll on September 18th.

24
25 Ms. Rogers noted a big turnout is expected at the Splash Park for Labor Day
26 weekend.

27
28 **Mayor Clutts**

29 No additional report.

30
31 **Adjournment**

32 There was no further business and the meeting was adjourned at 6:38 p.m.

33
34 Respectfully submitted,

35
36
37
38
39 _____
40 Nancy A. Barnett, C.M.C.
City Clerk