



Ocala City Council Minutes

Tuesday, December 6, 2011

Regular Meeting

151 SE Osceola Avenue
Ocala, FL 34471
www.ocalafl.org

Angel Jacobs
352-629-8266

1. General Business

a. Opening Ceremony

1. Invocation given by Pastor Jacobs

2. Pledge of Allegiance

Council member Guinn stated the flag they are saluting was presented to the City by Staff Sergeant Jay Dean, Company A, Third Battalion, 20th Special Forces Group, flown over Jalalabad, Afghanistan. He introduced Sergeant First Class David Calhoun, who enlisted in the Army National Guard in 1985 and served in the military for three decades, and who had just moved to Ocala. He discussed Sergeant Calhoun's achievements and invited the two men to say the pledge. Council also invited Gavin, Council member Rich's great grandson, to give the pledge.

Mayor Ewers recognized Phyllis Ewers for her service to the community.

President Owen expressed appreciation to Council member Guinn for his service on City Council.

Council member Heinbockel thanked President Owen for his service on City Council.

Police Officer Lenny Uptagraft of the Police Department Bicycle Unit and Sergeant Erica Hay, head of the K-9 Unit, spoke about the Special Operations Division and expressed appreciation to Mayor Ewers for his service to the City.

Mayor Ewers thanked the Ocala Police Department and expressed his appreciation.

Coach Ken Woods expressed appreciation to Council member Guinn and gave a speech.

The Ocala City Council held a meeting at the Ocala City Hall, 151 SE Osceola Ave, Second Floor - Council Chambers on Tuesday, December 6, 2011 at 4:00 PM.

Attendee Name	Title	Status	Arrived
Reuben Kent Guinn	Mayor Elect	Present	
Randall Ewers	Mayor	Present	
John McLeod	Council Member	Present	
Daniel Owen	Council Member	Present	
Mary Sue Rich	Council Member	Present	
Suzy Heinbockel	Council President	Present	
John O. Priester	Council Member	Present	

Municipal Officers/Others Present: The meeting was also attended by City Manager Matthew Brower, Deputy City Manager John Zobler, City Attorney Pat Gilligan, Assistant City Attorney Jimmy Gooding, Assistant City Manager Catherine Cameron, Assistant City Manager Larry Novak, Chief of Staff Support Services Sandra Wilson, City Clerk Angel Jacobs, Deputy City Clerk Roseann Fusco, Communications Coordinator Sonny Allen, IT Director Jeannett Benson, Growth Management Director Tye Chighizola, Growth Internal Auditor Oscar Claudio, Internal Auditor Jeannie Covington, Fleet & Facilities Maintenance Director Chris Dobbs, Fire Chief John DeIorio, Water and Sewer Director Jeff Halcomb, Budget and Management Director Cindy Kelley, Chief Financial Officer John Lege, Executive Director Development Services Marc Mondell, Public Communications Manager Jeannine Robbins, City Engineer William Stevens, Police Chief Samuel Williams, Public Services/Purchasing Agent Tammi Rapier, Civil Engineer I John Miller, Accounts Representative Tony Clayton, Community Development Coordinator Aubrey Hale, Traffic Division Head Darren Park, Division Head of Facilities & Grounds Bruce Wiley, Ocala Police Department Officers, Human Resources & Risk Director Sorenson, Attorney William Dude Phelan, the news media and other interested parties.

Meeting Adjourned Sine Die at 4:23 p.m.

Swearing in of new Council Member and Mayor

Judge Jim McCune swore in Mayor Reuben Kent Guinn. Pastor Sasnett swore in Council member Mary Sue Rich. Attorney Robert Batsel swore in Council member John McLeod.

Council Reorganization - President Daniel Owen presiding

Approved motion to elect Suzy Heinbockel Council President.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary Sue Rich, Council Member
SECONDER:	John McLeod, Council Member
AYES:	McLeod, Owen, Priester, Rich, Heinbockel

Approved motion to elect Mary Sue Rich President Pro-Tem.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Suzy Heinbockel, Council President
SECONDER:	John O. Priester, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel, Priester

Mayor Guinn expressed his appreciation to Mayor Ewers for his service to the City and presented him with a key to the City.

Mayor Ewers expressed appreciation to Council and staff and stated he is looking forward to spending more time with his family.

Reconvene Meeting at 4:40 p.m.

2. Forfeiture Hearing

a. Council Approval of Conflict Attorney (William “Dude” Phelan) for Councilman Priester’s Forfeiture Hearing.

Approved motion to approve Conflict Attorney (William “Dude” Phelan) for Councilman Priester’s Forfeiture Hearing.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [4 TO 0]
MOVER:	Daniel Owen, Council Member
SECONDER:	Mary Sue Rich, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel
ABSTAIN:	Priester

b. Public Hearing - Forfeiture of Office Charge

President Heinbockel read the history of the charge and discussed the procedure. Council member Priester advised he has a conflict of interest and will abstain from voting on these items. Conflict Attorney William "Dude" Phelan presented a charge summary and the outline of applicable law. He presented necessary documentation for the record.

Attorney Steve Gray, 125 NE 1st Avenue, gave an opening statement on behalf of Council member Priester. He presented stipulated and associated documents to Council, and explained objections to elections must be raised within ten days of the final date of certification. He read stipulations to Council for their interpretation. He spoke about the process of mapping the districts and the process for challenging results of an election. He noted the question becomes interpretation of section 2.01(b) of the City Charter, and Council members are the interpreters. He explained he does not feel the second sentence applies to the situation. He stated if there is a requirement that the candidate reside in the district for the entirety of his term, then candidates would be required to forfeit office once they move outside the district. He assured Council that Council member Priester regrets that this happened, and explained that they requested the hearing in lieu of resigning. He remarked it was a string of bad luck that a mistake was made and missed by so many people. He urged Council to consider what everyone had been looking at in the past. He explained after two years no one had contested the results, and questioned whether the Code provisions stipulate that Council member Priester must forfeit his office. He stated that the Code requires a special election with a minimum cost of \$55,000.

Council member Owen asked if there will be a time to ask Mr. Gray questions. Mr. Phelan responded in the affirmative. He asked that anyone other than representatives be sworn in.

Council member Priester was sworn in and stated that he did not intend to deceive anyone. He stated it is a difficult situation and he welcomes any questions. Mayor Guinn questioned if Council member Priester had looked at the map on the wall in the Clerk's office. Council member Priester responded he filed the affidavit and report at the Clerk's Office, and at that time he had looked at the map in that office. He explained the map is no longer available. Mayor Guinn asked if Council member Priester pinpointed his property on that map. Council member Priester responded it is a gray area, and spoke about the learning curve in working with municipalities. He discussed the affidavit process and stated that Vicky Ramsey notarized his forms and the two of them had looked at the map to ensure he was in the district. Mayor Guinn commented he does not understand how this mistake could have been made. He stated Council member Priester's affidavit is Council member Priester swearing he is in that district, not Vicky Ramsey or Angel Jacobs or anyone else.

Council member Rich asked if they have the original map that was posted in the Clerk's Office. Ms. Jacobs presented the map to Council. Council member Rich asked if that was the same map Council member Priester had looked at. Council member Priester responded in the affirmative. Council member Rich remarked that map shows Council member Priester does not live in the district he ran in.

Council member Owen stated that he believes Council member Priester's statement. He questioned Council member Priester's view of the charter section 2.01(b) regarding eligibility. Council member Priester stated he likes the wording of it, and if one is aware of this information it is beneficial, but if it has been overlooked it is an error that needs to be corrected.

Council member McLeod commented on having representation from all districts.

Council member Owen questioned the language "assume intent" and asked if Council is to assume intent. Mr. Gray commented it is clearly a divided sentence, and the reason is because residency requirements are the same as candidacy requirements. He explained the question here is whether they are trying to set aside an election, which he does not believe they can do. He noted he believes the representative needs to reside in the district he or she is represented throughout the length of his or her term. He commented he does not believe being two or three houses from a district means that they would be serving that district any less or more. Council member Owen questioned why the language concerning district was put into the charter. Mr. Gray responded they intended that when elected there would be a spread of residences and locations. He explained he does not challenge that, but the Florida Statute that controls objecting to an election includes a basis any objection to the qualifications of the elected official to hold the office. He remarked he does not think they are present to set aside an election.

Council member Owen asked if this is the first time in the history of Ocala they have faced this issue. Mr. Gray responded he does not know. Mr. Phelan responded it is the first one he knows about. Council member Owen remarked the assumption of intent is the representative lives in the district. Mr. Gray remarked he does not think the issue of moving from district to district has ever been formally raised in Council member Owen's term. Council member Owen remarked then Mr. Gray can assume the intention of living in the district is there. Mr. Gray stated he is not assuming anything. Council member Owen commented Mr. Gray's direction was for Council to assume intent. Mr. Gray explained they would have to interpret what the intent is for that language. He stated the first sentence is the general qualification which becomes relevant because he does not believe under Florida law that they can set aside the election.

Mayor Guinn questioned if it was possible to live in District Four and run for District Three. Mr. Gray responded in the negative and explained he has to qualify as a candidate under this eligibility provision. He stated he was not a qualified candidate, but objections were not filed within the ten day period after and before the election. He noted Council member Priester is a member of City Council. He questioned how they would interpret the City Charter if a representative moved from one district to another.

Mayor Guinn questioned the potential to redraw an elected official out of a district every two years. Mr. Gray responded in the affirmative. Mayor Guinn asked what the problem with this is, given that it does not matter whether or not they live in their district. Mr. Gray discussed issues with redistricting officials out and holding special elections. Mayor Guinn remarked they cannot redistrict them out because they can live anywhere they want based on Mr. Gray's interpretation. He stated he would not have been able to move out of District Four when he was on Council.

Council member Owen questioned whether the bigger issue is the Charter question or the logistics of holding a special election. Mr. Gray responded they can present arguments both ways on the Charter, suggesting it is a secondary issue. He spoke about invalidating votes and stated Council can find that Council member Priester did not forfeit his office, eliminating the requirement for a special election. He explained his interpretation is that the representative may move, and he suggested they recognize that challenges to the vote must have been filed within ten days of the election.

Council member Owen clarified Mr. Gray's statements. Mr. Gray noted there are no provisions saying the representative cannot move. Council member Owen voiced concerns about too many people running in one district and not enough running in another. Mr. Gray stated if the system works correctly, everyone would be a resident of their district when they were elected, decreasing the likelihood of having multiple people on one ballot.

Mayor Guinn stated it is not that the system did not work correctly, it was that a legitimate mistake was made that caused the system not to work. Mr. Gray commented the system should be such that it minimizes the occurrence issues like this. Mayor Guinn commented he thinks it is fairly straightforward and remarked a legitimate and unintentional mistake was made.

President Heinbockel commented on the intention of the charter and the districts of Council. She remarked the intention is to have representation from all districts. Council member McLeod noted they have two open seat representatives at this time, and he does not believe the Charter was set up this way.

President Heinbockel asked that they move on to Presentation of Testimony and/or Evidence Requested by City Council.

Mr. Phelan suggested Council consider filing the map as Exhibit 8. Council directed Ms. Jacobs to mark District Map 2008 as Exhibit 8.

President Heinbockel invited members of the public to speak.

Randy Briggs, 521 SE Fort King Street, was sworn in and commented on the credibility of Council. He stated he has no doubt that this was an unintentional error but this is not an issue of whether Council member Priester is a good representative, but is an issue of what makes sense. He voiced concern about public perception of an affidavit given by candidate.

Rusty Juergens, 1727 SE 28th Street, was sworn in and discussed fines and stipulations dealing with districting. He commented that he contacted S.O.E. and was told what district he lived in. Mayor Guinn asked what district he lived in. Mr. Juergens responded he lives in District Three.

Shirley Campion, 2304 NE 40th Avenue, was sworn in and voiced support for Council member Priester to remain in office. She stated it would save the City the cost of a special election.

Randy Ewers, 2308 SE 13th Street, was sworn in and commented that he has always understood that if you move out of the district that elects you to office, you forfeit the office.

Dr. Bill Coan, 1037 SE 9th Avenue, was sworn in and remarked the credibility of Council is very important. He stated he is not happy that three Council members represent his district.

Approved motion, based upon the charter, the Code of Ordinances, and the facts presented, that John Priester forfeit his office as District Three City Council member and, effective immediately, that the office be declared vacant.

There being no further discussion, the motion carried unanimously upon roll call vote.

President Heinbockel thanked Mr. Priester for his service to the City. She announced the City will hold a special election for the District Three seat.

RESULT:	APPROVED [4 TO 0]
MOVER:	Daniel Owen, Council Member
SECONDER:	John McLeod, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel
ABSTAIN:	Priester

11e. Failed Single Stream Curbside Recycling Services and contract with F.D.S. Disposal, Inc. for curbside recycling services to coincide with one day per week garbage collection.

Presentation by Catherine Cameron

Assistant City Manager Catherine Cameron read the details of the item. She asked Waste Pro representatives to give their presentation, followed by FDS Disposal Inc.

Jim Cinelli, Vice President of Waste Pro, thanked the Board and introduced Brad Avery, Waste Pro Local Municipal Marketer, and Jerry Lourenco, Division Manager.

Mr. Avery, 209 Fern Gulley Drive, Seffner, FL, gave a power point presentation to Council. He discussed the history of the company and emphasized its focus on customer service. He spoke about Waste Pro's involvement in the local community and employment of local residents. He discussed environmental impact, other contracts,

Rob Eck, 4977 SE 36th Avenue, Ocala, FL, Rehrig Pacific Company, spoke on behalf of Waste Pro. He stated his company would manufacture the roll out carts, and they have worked with Waste Pro on numerous projects and are prepared to provide a sturdy, guaranteed container to the citizens of Ocala. Council member Rich questioned if the carts would need to be made, or if they have already been manufactured. Mr. Eck responded they would manufacture the carts if Waste Pro received the contract.

Jerry Lourenco, 9875 SE 58th Avenue, Belleview, FL, stated that he has worked in the past with City staff regarding a pilot program. He discussed the history of Waste Pro's discussions with the City, and stated that Waste Pro's focus is local. He spoke about FDS and advised Council against contracting with them. Council member McLeod questioned the number of employees in Marion County. Mr. Lourenco responded 51 or 52. Council member McLeod asked if they anticipate adding more. Mr. Lourenco responded they will likely add two or three more employees.

Mr. Cinelli thanked Council for their time.

William Ray, Vice President of FDS Disposal Inc., 4358 South Blue Water Point, Homosassa, FL, spoke about the history and scope of the company. He presented the proposal of services for a one-day per week pickup and noted the containers would also be provided by Rehrig, as in Waste Pro's proposal. He discussed customer service, community outreach, routing system, and public safety. He addressed House Bill 7243 and sustainable solid waste practices. Council member McLeod asked how many municipal contracts they currently have. Mr. Ray responded they have one contract with the city of Crystal River, but they service 38,000 residential customers in Citrus County. He noted the only significant difference between his company and Mr. Lourenco's is that they merged, and FDS did not. Council member McLeod questioned how many people he anticipates hiring in Ocala. Mr. Ray responded nine, some of which may come over from the solid waste division.

Council member Owen questioned if the City was looking to go to a one-day pickup with sustainable savings. Ms. Cameron responded in the affirmative. Council member Owen requested that Catherine Cameron review the RFP process. Ms. Cameron explained how the selection committee decided to recommend FDS and noted the major decider was FDS's customer service. Council member Owen questioned if staff was prepared for the education of citizens. Ms. Cameron responded in the affirmative, and explained staff has budgeted for a recycling coordinator. Mr. Brower voiced agreement and stated there is no doubt there will be a learning curve for citizens to get on board with the recycling program.

Council member Rich questioned if the City had tried recycling in the past. Ms. Cameron stated that she did not know of any attempt. Mayor Guinn stated he remembers that the City tried recycling in the past, but it was not economically feasible.

Council member Owen stated that he is comfortable with staff recommendation. He noted he has received dozens of emails in support of a recycling program.

Randy Ewers, 2208 SE 13th Street, confirmed that the City had looked into curbside recycling in the past and found it was not feasible. He stated that he is in favor of recycling and hopes that Council will support the program.

Frank Kraft, 12505 Fillmore Street, Spring Hill, FL, Waste Pro employee, stated that the company is financially sound. He clarified the company will be hiring more like nine to eleven people, rather than what was previously stated.

Council member Rich commented that if they hire Waste Pro, Ocala residents at Rehrig will be employed making the carts. President Heinbockel clarified that both FDS and Waste Pro will be using Rehrig. Council member Owen noted that is also a one-time project.

Council member McLeod expressed concerns of being the second municipality with FDS.

City Attorney Jimmy Gooding noted that Council President may second the motion, but may not initiate it.

There being no discussion, the motion failed upon roll call vote with Council members Rich and McLeod voting no, and Council member Owen and President Heinbockel voting yes.

RESULT:	FAILED [2 TO 2]
MOVER:	Daniel Owen, Council Member
SECONDER:	Suzy Heinbockel, Council President
AYES:	Owen, Heinbockel
NAYS:	McLeod, Rich

Approved Single Stream Curbside Recycling Services and contract with Waste Pro for curbside recycling services to coincide with one day per week garbage collection.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Daniel Owen, Council Member
SECONDER:	John McLeod, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

3. Awards

Council member Rich presented a plaque from United Way thanking the City for 50 years of service.

4. Public Comments

a. Update - Save the Muscovy Ducks, Inc.

Rachelle Harrell, 3001 SW 24th Avenue, thanked Council and staff for their support. She presented the City with a check for \$3,200.

Council member Owen commended Ms. Harrell for her work and received the check on behalf of Council.

5. Presentations

a. Presentation of Certificate of Completion of the 2011 Advanced Institute for Elected Officials, held October 28-29, 2011, to Councilwoman Suzy Heinbockel

Presentation by Matthew J. Brower

City Manager Brower presented a 2011 Certificate of Completion to President Heinbockel on behalf of the Florida League of Cities.

6. Public Hearings

President Heinbockel opened the Public Hearing at 6:18 p.m.

The City Clerk filed proof of publication for Ordinance No's. 2012-15 & 2012-16 (Legal Ad No. A000725605 - December 9, 2011). The City Clerk read the ordinance titles into the record.

- a. Approved** Case No. 45681 Marion Cultural Alliance, Inc. for an alcoholic beverage location permit for on-premise consumption and on-premise consumption outside an enclosed building at Marion Cultural Alliance, Inc. d/b/a Marion Cultural Alliance located at 23 SW Broadway Street. (Quasi Judicial)

Presentation by John Zobler

Mr. Zobler read the details of the item.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary Sue Rich, Council Member
SECONDER:	Daniel Owen, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

- b. Adopted Resolution 2012-19** to abrogate that portion of SW 17th Avenue (an unimproved right-of-way) lying south of SW 17th Street and that portion of SW 20th Street lying west of SW 17th Avenue (Case ABR11-0005, OPZC 11/14/11, unanimous approval)

Presentation by John Zobler

Mr. Zobler read the details of the item.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Sue Rich, Council Member
SECONDER:	John McLeod, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

7. Second and Final Reading of Ordinances

(All are Public Hearings)

8. Consent Agenda

Consent Agenda items are considered to be routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of Council or the public request specific items be removed for separate discussion and action.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John McLeod, Council Member
SECONDER:	Mary Sue Rich, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

- a. **Adopted Resolution 2012-15** for the Subordination of City Utility Interests to State of Florida Department of Transportation for utility easement within Parcel 258.4R, Section 36009-2504, FP No. 238677-1 “Lots 21, 22, 23, 24, 25 and 26, Block C, HI-CLIFF HEIGHTS”

Presentation by Larry Novak

- b. **Adopted Resolution 2012-16** vacating and rescinding Resolution No. 2009-1 which abrogated and closed a portion of SW 42nd Street.

Presentation by Jimmy Gooding

- c. **Approved** Work Order #3 - Engineering Department, with Nodarse for testing services to be performed on the SW 13th Street Sidewalk (from SW 27th Ave to SW 33rd Ave) and SW 27th Avenue Pedestrian Refuge Island Project.

Presentation by John Zobler

- d. **See section 9.**

- e. **Approved** Second Hand Dealer License #A41577 for Blockbuster LLC located at 2750 E Silver Springs Blvd. (Quasi Judicial)

Presentation by John Zobler

- f. **Approved** repayment of \$49,598.16 to Pulte Home Corporation, which is a portion of the remaining balance owed on \$250,000 that Pulte advanced to the City for Fire Station #6 per the Fore Ranch Development Agreement.

Presentation by John Zobler

- g. **See section 9.**

- h. **Approved** Work Order #4 with Geotech, Inc. for testing services on the SE/SW Fort King Street Reconstruction Project.

Presentation by John Zobler

- i. **Approved** Revised Neighborhood Stabilization Agreement Concerning Disposition and Leasing of Property between City and Ocala Housing Authority.

Presentation by Jimmy Gooding

- j. **Approved** payment of the first invoice from Dorman Wood for the Fluid Routing bankruptcy case.

Presentation by Jimmy Gooding

- k. **Approved** agreement with Lewis Longman & Walker, P.A. for legal services regarding pension matters.

Presentation by John Lege

1. Approved Regular Meeting City Council Minutes for Tuesday, November 15, 2011

Presentation by Angel Jacobs

9. Consent Agenda Items Held for Discussion

Should any items be removed from the Consent Agenda for discussion, they will be discussed at this time.

8d. Approved Contract for Sale and Purchase of property located at 224 NE Tusawilla Avenue for the new construction of Fire Station # 1.

Presentation by John Zobler

Mr. Zobler read the details of the item.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Daniel Owen, Council Member
SECONDER:	Mary Sue Rich, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

8g. Approved the re-appropriation of \$40,000 of housing rehabilitation funding, to the eligible CDBG activity of acquisition for the 2011 grant year.

Presentation by John Zobler

Mr. Zobler read the details of the item.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary Sue Rich, Council Member
SECONDER:	Daniel Owen, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

10. Introduction and First Reading of Ordinances/Introduction of Resolutions

(Second and Final Reading will be December 20, 2011)

a. Introduced Ordinance 2012-15 amending the Downtown Parking Enforcement.

Presentation by Marc Mondell

Introduced by Council Member Daniel Owen

Council member Owen requested a bulleted list of this information at the next meeting. Mayor Guinn remarked there used to be a sign for a designated loading area, and questioned the valet service.

Executive Director Development Services Marc Mondell explained staff is not recommending any major changes to the ordinance. He noted the predominant changes from the customer's

perspective will be that they are reducing the fees. He discussed minor changes related to clarification of metered parking and anti-shuffling. He pointed out the primary changes are there. Mayor Guinn urged staff to make it as easy as possible for people to enjoy the downtown area.

City Manager Matthew Brower suggested that this item be added to the work session on December 13th. Council member Owen remarked it may not be necessary, given the bulleted list of major changes, but he voiced support for a fifteen minute discussion at the work session.

President Heinbockel directed staff to add the item to the work session agenda.

RESULT:	INTRODUCED	Next: 12/20/2011 4:00 PM
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- b. Introduced Ordinance 2012-16** to amend Section 106-1 to extend expiration dates and performance deadlines an additional year (January 1, 2012 to January 1, 2013) for approved development permits (COD11-0008).

Presentation by John Zobler

Introduced by Council Member Mary Sue Rich

RESULT:	INTRODUCED	Next: 12/20/2011 4:00 PM
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11. Other Business

- a. Adopted Resolution 2012-17** supporting the Florida League of Cities Legislative Agenda Modifying State Statute to Sustain Police and Firefighter's Pension Plans for Current and Future Retirees.

Presentation by Matthew J. Brower

Development Services Astrida Troupovnieks explained to Council the resolution requested by the Florida League of Cities requesting reasonable modification of pension plans for Police and Fire.

Mayor Guinn questioned when the report on the pension programs would be available. Chief Financial Officer John Lege responded three to four weeks. Mayor Guinn asked when the legislative session will begin. Ms. Troupovnieks responded January 10th. Mayor Guinn voiced concern that this request comes before Council has reviewed the report. Mr. Lege responded the first report will be on the General Pension Plan, and this item covers Police and Fire only. Ms. Troupovnieks noted these provisions were placed before the legislature last year but had not been passed at that time.

Council member Owen spoke about difficult decisions for Council. He stated he supports the item but this is only the first step. Mayor Guinn voiced agreement. He asked how many cities are involved. Ms. Tuoupovnieks responded she does not know how many cities are in the league but all of them are involved. President Heinbockel voiced agreement with Council member Owen and stated it can be meaningless or meaningful.

Mr. Brower stated this initiative was brought forward by Council member Rich. He commented these two changes will be positive for the City and recommended approval.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Mary Sue Rich, Council Member
SECONDER:	Daniel Owen, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

- b. No Vote Taken Resolution 2012-18** urging tobacco retailers to stop the sale and marketing of flavored tobacco products.

Presentation by Jimmy Gooding

Mr. Gooding read the details of the item.

Joshua Millman, 315 SE 41st Avenue, and Annalese Bushfield, 3697 SE 138th Street, voiced support for the resolution.

Council member Owen commended the two young people for their work with the resolution. He suggested that language be added to the resolution that specifically includes the youth of Marion County. Mr. Gooding stated that the resolution could be amended by adding the phrase "to youth."

Council member Rich asked if Mr. Millman and Ms. Bushfield approved the change. Ms. Bushfield responded in the negative and explained it is already illegal for young people to buy tobacco products.

Council member McLeod voiced agreement with Council member Owen. He stated he agrees with Mr. Millman and Ms. Bushfield, but they have a situation in which they must tread carefully. Council member Owen suggested emphasizing personal responsibility. Mayor Guinn echoed comments by Council members Owen and McLeod. He remarked that the country is not going to outlaw cigarettes altogether because there is too much money being made off of them.

Mr. Brower suggested adding to the language so it prohibited "encouragement of the sale and marketing to the youth."

Scott Hackmeyer, 215 NW MLK Avenue, stated that the resolution targets stopping the selling of flavored tobacco that he feels is targeted to youth and not adults. He remarked that this is one area where the City can stop tobacco companies from attracting young people to smoking. Council member McLeod voiced agreement but expressed concerns about the language.

Council member Owen asked how the youth are getting the cigarettes. Mr. Hackmeyer explained that some young people will ask adults standing outside to buy a single cigarette for them and let them keep the change.

Council member Rich asked if Council would approve the resolution if it were reworded. Mr. Hackmeyer noted the law already says that young people cannot buy tobacco products. He suggested rewording the resolution in a way that discourages the sale of the flavored tobacco products. He commented that he does not believe the adult community buys candy-flavored tobacco. Council member Rich asked where the resolution would go. Mr. Hackmeyer responded the hope is that the resolution will grow in popularity until it reaches the State level. Council member Rich asked if Marion County had passed the resolution. Mr. Hackmeyer explained that he had come to the City first because he operates within the City. Council member Rich remarked the City would need more time to review the resolution. She asked for their contact information to follow up on the resolution.

Mayor Guinn commended the young people for their involvement. Mr. Brower commended Ms. Bushfield for recognizing that Council member Owen's proposal was not what they wanted. Council member Owen suggested they go to Tallahassee, and he will go with them, to request that the State of Florida ban the sale of tobacco. Mayor Guinn spoke about the state of drugs and tobacco in Ocala.

Council member Rich suggested that staff be allowed to work on the resolution and will contact once available.

RESULT: NO VOTE TAKEN

- c. Approved** the award of the ITB 12-006 SE/SW Fort King Street Reconstruction Project (from Pine/301/441 to Osceola Avenue) to the lowest responsive bidder, Pospiech Contracting, Inc., in the amount of \$1,648,500.00.

Presentation by John Zobler

Mr. Zobler read the details of the item.

President Heinbockel questioned the delay of other projects. Mr. Zobler stated they had planned a traffic reversal in Tuscawilla Park, but are now recommending they delay that project for one year while this process is underway, and reallocate those funds to this project.

Council member Owen noted this is just another step in enhancing the downtown area. He questioned the time frame of the project. Mr. Zobler responded the project will take 150 days, and staff will coordinate with business owners along that corridor.

There being no further discussion, the motion carried unanimously upon roll call vote.

RESULT: APPROVED [UNANIMOUS]
MOVER: Daniel Owen, Council Member
SECONDER: John McLeod, Council Member
AYES: McLeod, Owen, Rich, Heinbockel

- d. Approved** award of contract for the ITB 11-042 SW 13th St Sidewalk (from SW 27th Ave to SW 33rd Ave) & SW 27th Ave Pedestrian Refuge Island project to AWA Contracting in the amount of \$121,919.86.

Presentation by John Zobler

Mr. Zobler read the details of the item.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT: APPROVED [UNANIMOUS]
MOVER: Mary Sue Rich, Council Member
SECONDER: Daniel Owen, Council Member
AYES: McLeod, Owen, Rich, Heinbockel

- f. Approved** agreement to replace worn traffic pavement markings and striping on SW 27th Avenue, SW 24th Avenue and SW 3rd Street.

Presentation by Catherine Cameron

Ms. Cameron read the details of the item. This item was originally pulled from the 11/15/11 meeting.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John McLeod, Council Member
SECONDER:	Daniel Owen, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

- g. Pulled** the contract for Water Main Replacement Phase V to Hamlet Construction in the amount of \$1,648,895.00 and approve Change Order No. 1 reducing bid items on the Contract to the budgeted amount.

Presentation by Larry Novak

RESULT:	PULLED	Next: 12/20/2011 4:00 PM
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- h. Approved** request to make available additional cemetery space for private operation.

Presentation by John Zobler

Mr. Zobler read the details of the item.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary Sue Rich, Council Member
SECONDER:	Daniel Owen, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

12. Utility Report

Assistant City Manager Larry Novak presented the Utility Report.

Mr. Novak reminded Council that over the summer Moody's downgraded the ARP revenue bonds from an A1 to an A2 rating. He stated that in November, the Executive Committee directed the Business Management work group to review this particular situation. He reported that staff will have follow-up meetings with the Business Management work group to determine a strategy. He stated staff will continue to address this and work to get the rating back up. Mr. Brower noted that a lower credit rating incurs certain costs as a result, and staff is working to bring the credit rating back up and ensure this does not happen again.

Mr. Novak gave an update on the Pay-As-You-Go Program. He reported a favorable editorial in the Star Banner and presented information regarding the doubling of participation and the increased recovery amounts.

13. Internal Auditor's Report

Oscar Claudio presented the Internal Auditor's Report on the General Employee Pension Plan.

Mr. Claudio reported the findings in the report were accepted by the Board of Trustees and they plan to complete the recommended actions by March 2012. He stated they will perform an audit in April 2012 to determine their compliance.

14. City Manager's Report

- a. Approved** recommendation to City Council approving \$5,000 to support the services provided by the Ocala Symphony Orchestra.

Presentation by Matthew J. Brower

Mr. Brower read the details of the item.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary Sue Rich, Council Member
SECONDER:	John McLeod, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

- b. Approved** request to schedule the Annual City Council Strategic Planning Session for January 18-19, 2012 and to hire Jean Freeman of Jean Freeman & Associates as the facilitator.

Presentation by Matthew J. Brower

Mr. Brower read the details of the item.

There being no discussion, the motion carried unanimously upon roll call vote.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mary Sue Rich, Council Member
SECONDER:	Daniel Owen, Council Member
AYES:	McLeod, Owen, Rich, Heinbockel

- c. Request to consider changing current assignments of City Council members to various boards and committees.**

Presentation by Matthew J. Brower

Mr. Brower asked Council to consider any changes of assignments.

Council concurred that Council member McLeod would serve on the Investment Committee.

Council concurred that President Heinbockel would serve on the EDC and Chamber Board of Directors.

All others to remain the same.

15. Mayor's/Police Department Report

Mayor Guinn reported on future projects and stated the Police Department will be aggressive in reducing crimes.

16. City Attorney's Report

a. Proclamation for Special Election.

Mr. Gooding stated the Special Election would be held on February 28th, and the elected official would assume office on March 6th. He announced qualification dates will commence on December 19th at 12:00 p.m. and end on December 23rd. He noted there would be a proclamation that would be signed by the Mayor. Mayor Guinn stated that Mr. Mautner made the suggestion when he left that they hold the Special Election on the same day as the Presidential Primary on January 31st. Mr. Gooding reported Mr. Gilligan had discussed that with the supervisor of elections and she recommended against it due to issues with sealing the boxes. He added that it would be difficult for City staff to meet that deadline. Mr. Brower discussed the issues with holding the election on January 31st.

President Heinbockel questioned whether they had set dates for a potential run-off election. Mr. Gooding responded in the negative and stated he would request that Mr. Gilligan speak with Council about that, as State law likely precludes a run-off. Mayor Guinn asked if that situation would then be resolved by whoever has the most votes. Mr. Gooding responded in the affirmative.

Attorney Client Session - Tuesday, December 20th 3:00 p.m.

Mr. Gooding reported that Mr. Gilligan would like to have a meeting with Council regarding the School Board litigation. Council agreed to meet with Mr. Gilligan on December 20th at 3:00 p.m. Mr. Gooding read the request to Council. He asked Ms. Jacobs to give the appropriate notice.

Mr. Gooding stated he is not sure where Robert's Rules stands on whether the President can second a motion.

17. Informational Items

a. Calendaring Items

- 1. Joint City/Citrus County Workshop - Friday, December 9, 2011 - 10:00 am - Ocala Police Department - Training Room - 402 South Pine Avenue**
- 2. Business Tax - Equity Study Commission Recommendation Workshop - Tuesday, December 13, 2011 - 11:30am - City Council Chamber**

b. Comments by Mayor**c. Comments by Council Members**

Council member Owen congratulated newly elected members.

Council member Owen suggested that Council revisit the farmer's market downtown and requested an audit on its progress. He requested that staff look into the cost in maintaining the grass in that area.

Mayor Guinn remarked the Downtown Business Association recently elected a new president and now would be a good time to audit them. Council member McLeod voiced support for looking into the farmer's market. Council member Owen remarked he was not against the farmer's market when he voted against the item, but he was against the farmer's market being held in the square. Mayor Guinn noted that other farmer's markets are held in parking lots to avoid tearing up the grass. Council member Owen commented he would like to know the costs associated with replacing the grass. Council member Rich explained she had heard from the vendors that the City was giving them a hard time about signage. Council member Owen voiced concerns about this becoming a larger issue if they do not regulate it.

Mr. Brower suggested leveraging the Internal Auditor to conduct the audit. Mayor Guinn asked if they intend to audit the DBA. Council member Owen clarified he would like them to audit the farmer's market, and he believes the City has a right to know the details and effects of holding a farmer's market downtown. Council member Rich asked if the vendors pay a fee for having the tents there. Council member Owen responded in the affirmative.

Council member Rich thanked Kathy Crile and her staff for their work on Light Up Ocala.

Council member McLeod stated he looks forward to working with Council and City staff.
Council congratulated Council member McLeod.

d. Informational**18. Adjournment**

Adjourned at 9:02 p.m.

Minutes Approval

Suzy Heinbockel
Council President

Angel B. Jacobs
City Clerk