

## CITY OF POLK CITY

February 10, 2009

**City Council Meeting**  
Polk City Government Center  
123 Broadway Blvd

7:30 P.M.

### MINUTES

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**THE ELECTRONIC RECORD FAILED TO START UNTIL 8:30 P.M.; HOWEVER, WE OBTAINED AN ELECTRONIC COPY FROM THE COURT REPORTER THAT WAS PRESENT.**

Mayor Penton called the meeting to order at 7:30 p.m.

The invocation was given by Pastor Walter Lawlor, Polk City Assembly of God Church.

Those present recited the Pledge of Allegiance, led by Mayor Penton.

Present: Mayor Donald Penton, Vice Mayor Chris Denico, Councilor Nancy Adorno, Councilor Dan Ames, Councilor Kristi Eilertsen, City Manager Cory Carrier, City Attorney Jeff Sullivan—arrived at 7:35 p.m., and Interim City Clerk Patricia Jackson. Also present were Assistant City Manager Pam Peterson, City Planner Gene Kniffen, and Finance Administrator Pamela Lawson.

A quorum was established.

At this time Mayor Penton went over the “Rules of the Meeting” for those in attendance. Mayor Penton turned the meeting over to City Manager Cory Carrier.

### **APPROVAL OF CONSENT AGENDA**

A motion was made by Vice Mayor Denico to approve the Consent Agenda; the motion was seconded by Councilor Adorno.

Roll Call: Vice Mayor Denico-aye, Councilor Adorno-aye, Councilor Ames-aye, Councilor Eilertsen-aye, Mayor Penton-aye.

5-ayes

0-nays

### **PRESENTATIONS AND/OR RECOGNITIONS**

There were none.

## **PUBLIC HEARINGS**

### **Resolution 2009-01, A Resolution of the City Council of the City of Polk City Declaring the Council's Intention to Utilize the Uniform Method of Imposing and Collecting Non-Ad Valorem Assessments Pursuant to Section 197.3632, Florida Statutes**

City Manger Carrier read Resolution 2009-01 in short title.

#### **1. Presentation by Consultants (made part of the minutes)**

Mr. Tom Friedrich, with Jones Edmunds, introduced Dinesh Kamath, Project Manager with Jones Edmunds and Andy Burnham, with Burton and Associates.

Mr. Friedrich gave background information and went over the power point as follows:

- Need for Project
- City's Goals
- Original 2004 Proposed Facility Locations & Outcome
- Water use Caution Areas Map
- Regulatory Agency Recommendations
- C.C. Calhoun – Byrd pits
- Project Vision – Water Resource Solution
- Plant and Park Site Location
- Alternatives Analysis Treatment
- Proposed WWTF
- Existing WWTFs
- Alternatives Analysis Collection System
- Selected Alternatives
- Developments within the City
- Phasing Plan
- Benefits to the Community

Mr. Burnham, Burton & Associates, then presented the remainder of the power point presentation as follows:

- Project Funding Agenda – this is preliminary, and the study still needs to be done. He reminded everyone that the proposed Resolution is a non-binding Resolution, prior studies had been done and changes need to be made.
- Prior Analysis & Results
- Changes Since Prior Rate Study
- Updated Results – two ways to fund project
- Comparison of Options

At this time Mayor Penton recognized a member of the audience who approached while Mr. Burnham was giving his presentation. Ms. Marlene Patten, Mount Olive Shores, addressed the Council and advised she doesn't think it was right or fair that no-one beyond the double doors could hear what was going on. She felt Council should have made provisions so everyone could hear. At this time Mayor Penton asked that the presentation continue; he advised if anyone causes disruption, they would be removed.

At this time Mr. Burnham continued with his presentation as follows:

- Basics of Assessment – discussed the Municipal Services Benefit Unit as provided for in Florida Statute, Section 197
- Assessment Issues
- Recommendations – the first thing the City did was adopt the new monthly utility rates. The Resolution being considered for tonight's meeting is a non-binding Resolution; the City still has to go through Public Hearing and the study has to be completed (late April it should be finished).

## **2. Questions by Council**

There were no questions asked by Council. At this point someone from the audience asked about getting copies of the presentation; Interim City Clerk Jackson advised copies would be available.

## **3. Mayor to open Public Hearing**

Mayor Penton opened the Public Hearing and used the sign-in sheet for those that requested to speak.

Dennis Bair, 5419 Golden Gate Blvd., addressed the Council and asked about the cost of the project, and if now is the proper time to do this project at all. He then read from the agreement between Polk County and City of Polk City when Mount Olive Shores was turned over to the City (page 7 Item I) regarding length of time for annexations, etc.

Betty Harper, 209 S Hydrangea Avenue, addressed the Council; she has lived here for 34 years. The water and sewer rates are being raised and now there is the possibility of another \$300 per year; she is on a fixed income. How many Council members will be here 20 years from now?

Wayne Harper, 209 S Hydrangea Avenue, did not address the Council

Bob Stambaugh, 99 Sixth Street in Winter Haven, addressed the Council. He advised he was an Attorney and represents Sharrett Land, LLC, the owner of 200 acres. He has a letter addressed to the Mayor that he would like to be introduced into record, and gave the letter to the Interim City Clerk (he read from the letter).

Estan Fuller, 904 Lakeshore Drive, addressed the Council. He has lived here 10 years; his house is currently outside of the City, but he has three rental properties inside the City. He had to lower rent on this property, and he lives on a fixed income. Mayor Penton advised the study is being done to see what direction the City should take. He then discussed the stimulus package, and Polk City's project is shovel-ready. Mr. Fuller asked that this be put on hold. Mayor Penton advised this has been on hold for 20 years; the City can't keep putting things on hold.

Richard McNally, 521 Homecoming Way, addressed the Council. He understands the need to improve the system, but asked how the City could afford to do anything with the cost at this point in time. He is on a fixed income, there are loss of jobs, vacant buildings and vacant lots that will not be built on if things keep going up.

B.J. Ford, 1021 Crossroads Drive, did not address the Council.

Marlene Patten, 4932 Shoreline Drive, addressed the Council (Mount Olive Shores, South). She advised when MOSS and MOSN are built out, there will be 1,000 homes, which is a lot of property taxes. She spends money inside the town every single week; she feels if you live here you should contribute to the town. She feels City is trying to put the "shaft" to them, and the economy is down the tubes. All of the retirees are on fixed income and can't afford any more money. Polk City is a beautiful town, and they (Council) should stop and think over why they are doing the study. She expressed it was wrong to have a meeting when no one beyond the door can hear.

Ray Schneider, Mt. Olive Shores, did not address Council.

Charles Bateman, Mt. Olive Shores, did not address Council.

Kyle & Billie Bailey, 122 Clearwater Avenue, did not address Council.

Tom & Laura Lambert, 552 Meandering Way, did not address Council.

Bob & Amy Conner, 525 Meandering Way, did not address Council.

Steve Mann, 5005 Mt. Olive Shores Drive, addressed the Council. He thinks it is a wonderful plan; however, in this economy he feels it is out of order to have a meeting where you can't hear, and because of the number of people, he is concerned about safety. He hopes in the future it will be held in a place where people can hear. It is unaffordable at this moment (the plan).

Linda Fuller, 904 Lakeshore Drive, addressed the Council. She and her husband own property within city limits, and people should be put before things. Mrs. Fuller discussed the commercial property they owned, annexation, water, etc.; she read from a prepared statement. The greatest growth has been the expansion of City Government.

Betty Hisaw, Mt. Olive Shores, addressed the Council. She asked Council if the City has considered tax-free municipal bonds, what kind of impact it would have on the City if MOS residents boycotted the city, what happened to excess monies received from previous years – was it used to build this building, or is that money somewhere else, or where has it gone, and would the common properties in MOS have to pay the fees.

She stated most of MOS are snowbirds, and the people leave; if the meeting is in April that is when most of them leave; could the meeting be in September or October when people come back. Mayor Penton advised there is a time frame as to when things have to be done. Mrs. Hisaw then asked if the meeting could be done in March before people leave.

John Schmiederer, 8937 Highland View Drive, addressed the Council; he has been listening to the presentation and understands some of the concerns and problems; however, there is a lot he hasn't heard, and asked the following: what is the capacity of the existing system, how close are we to that capacity, what kind of pressure are we really under from FDEP, DCA, SWFWMD, what is the time frame, why did Polk County give Polk City water and sewer if you can't handle it, does the \$300 cost and/or fees include the hook-up from the septic tank people, is the collection system in that price, or is that an additional cost the taxpayers are going to have to pay in addition to the rates and in addition to the proposed fee of \$300 per unit. He feels although we need to protect groundwater, we need to have a good sewerage system; in light of today's environment we better tread very carefully.

Pete & Barbara Putnam, Mt. Olive Shores, did not address Council.

George & Julia Brower, Mt. Olive Shores, North, did not address Council.

Garnet Given, 427 Edgewater Drive, declined to address Council.

Kermit Weeks, 509 Edgewater Drive, addressed the Council. He spoke to the audience and stated at the last meeting the Fantasy of Flight offered to host the meeting. Mayor Penton advised the law doesn't require the City to have a meeting outside of the city limits of Polk City; the City cannot have a meeting in another city. Mr. Weeks discussed the area outlined on the map in the newspaper; it appears the area covers 32 square miles and goes to Dean Still Road down into areas that already have been basically-part of that is covered by Auburndale. Mr. Weeks asked if it was the intent of the City to assess Auburndale a fee. Mayor responded the city wasn't going that way. City Manager Carrier advised the law allows the service area to be five miles outside of the city all the way around, and that is how it was drawn by the Engineer at the time. Mr. Weeks advised he owns property east of the City, and has no interest to develop for the next decade; why should he be assessed for something he has no intention of using for a decade. He asked how undeveloped tracks of land would be assessed that's fair to him. The Consultants are writing all of the questions down and will answer at the end. Mr. Weeks supports the other feelings here; in this economic environment is it something we really need to be doing. When the study was done it was a completely different environment; the next six months is going to make it an even more obvious reason why we shouldn't be pursuing it at this point.

Mike Gallaher, an Attorney with Peterson & Myers, addressed the Council. He represents a number of property owners inside and outside the city; he doesn't have enough information tonight, and based on what he is has been able to obtain from the City, the information does not exist yet. He went over some population growth projections that were in a report from Jones Edmunds in 2006. The questions he asked

were: how many residential and commercial permits were issued in 2007 and 2008 since that report was issued; is this the proper time to do the assessment; reading from a portion of the proposal from Burton & Associates he also asked: how do we define the benefit received; what is a demand unit; how do you deal with the fact that someone has been paying for 300 units when in fact they have only received 100 (talking about methodology and how to charge); what is a demand unit; how have you come up with methodology for coming up with that number; how are you taxing outside of the city limits (there shall be no taxation without representation), and if you (Council) impose this assessment successfully outside of the city limits, how are they (citizens) to be heard at the ballot box; he questions whether or not it is appropriate to tax outside of the city limits. Mayor Penton advised his three minutes were up. He assured the Council he would be watching this very closely; he would like to see questions answered. He can certainly envision a scenario where the answers may very well mean that his clients will not have any real concerns, but at this time he has grave concerns. Mayor Penton advised the questions would be answered.

Jesse Douthit, 100 W Stuart Ave-Lakeland, did not address the Council.

David Beman, 445 Travelers Drive, did not address the Council.

Ruben Fred, 392 Bayberry Drive, did not address the Council.

John Gimms (not sure of last name), 118 Meandering Way, did not address the Council.

Patricia Kloss, 1011 Crossroads Drive, did not address the Council.

Robert Kloss, 1011 Crossroads Drive, did not address the Council.

Mike Blethen, 320 Crepe Myrtle Lane, addressed the Council. The cost of the project keeps escalating tremendously for what we are going to get. It looks like a great picture, but that is not going to help put water back into the ground; it is not going to help us irrigate the lawns. He doesn't feel this Resolution should go any further; it should stop until all of these matters have been addressed – the cost of the project, the projections of growth (the growth is definitely not happening), and we need to see something else happen along the lines of developing Polk City, such as some Industry to help pay for this instead of sticking it on the taxpayers. He also discussed taxes going up, and then adding the \$300 a year, plus the four percent increase and how the ones on a fixed income will not be able to afford it.

Cathy Gabany, 102 Bayberry Drive, addressed the Council. She thinks it is a good thing, but is it what is needed now with the economy. She received a ten percent cut in pay from Fed-Ex, and cannot afford to pay the \$300 assessment, plus whatever the cost is to hook into sewer, plus the four percent increase in water and sewer, and asked that this be put on hold. Mayor Penton advised get out in the open and to get the study done to see what the cost is; once we get the cost doesn't mean the Council will do it.

Pam Cooper, 7130 Berkley Road, addressed the Council. One minute she was in the County and now she is in the City; her septic tanks works just fine. The economy is bad and we are in a depression and won't get out of it any time soon. She can't afford to live here any more.

Mr. Joe LaCascia, 609 Meandering Way, addressed the Council. He doesn't think any other five people in this room setting in your (Council) seats that would have come to any different conclusion given the data from 2003 that the Council came up with. He then discussed the taxable values from 2003 and how much they increased to Fiscal Year 2008. At the time and looking at the data, the Council has come to all of the right conclusions that something needed to be done to handle the growth; however, something happened that no one had control over, the economy dropped off. The projections for property values next year will go from \$85 million to \$65 million; he asked if the City Manager could speculate as to what the millage rate would be for 2009/2010. He advised the Deputy Property Appraiser for Polk County projects a 30% decrease in Polk City's taxable values as of February 4, 2009. He thinks looking at this Council would have drawn all of the right conclusions, but going forward with short term economic growth and future development, it cannot support this project at this time. It should be placed on hold until economic and development conditions improve.

At this time the Consultants gave some responses. Andy Burnham, with Burton and Associates:

- Why now and can it be delayed – one of the things they will look at options; if did we did nothing—what would we have to do, what do we do with the grant monies for existing system.
- In the short term more total cost, but lower cost now until economic conditions in the city improved. Would have to go forward with some form of the project.
- Time frame/timing of project – current schedule has hearing at the end of April, allow time for any delays, resolve grant funding availability; and consideration of the economic stimulus. As long as approved by September 1<sup>st</sup> and certified by September 15<sup>th</sup> will still have some leeway for some things to resolve themselves (assuming you were to move forward with the project as an assessment).
- Other concerns were specific properties being assessed and how they would be assessed – a lot of that is yet to be determined. They will need to look at the specific facilities themselves and identify the benefiting properties; it may no be all of the properties in the service area as some people noted, but may be a subset of those. We will also need to identify the different classes of property—some may receive a different benefit multiplier because of the type of property they are versus another because they're developed or not developed. Have to go through that type of apportionment study to calculate a valid assessment; at this point in time not having that study he doesn't have definitive answers on how that is going to turn out. It is unfortunate he cannot provide that today, but need to move forward with the study to be able to address a lot of those cost apportionment and rate study type of issues.

Tom Friedrich, with Jones Edmunds:

- Timing – when this project started things were a lot different then than they are today; they are trying to produce a great plan to the community. Need to look at if you do nothing, or do something else, what would the time frame be and how

could we phase it. The big part is look at funding, if we can get more grants. This has been a two year project.

- The numbers brought up earlier by Mr. Gallaher is population numbers, which is quite a bit different now. You have to have something for DCA and DEP; if no plan is in place for growth with DEP once you are at 50% capacity you have to start looking at planning, and when you are at 70% you have to be into the design phase of a new plant; looking at the assessment has to tie into looking at what is the capacity of our existing system – what does that mean for the community because you can't just bring in Industrial (Industrial has a significant wastewater flow, and if you don't have the capacity you can't just put it in there; it all ties together). Part of the planning process and tying it back to assessments; how assessments get apportioned.

Andy Burnham, with Burton & Associates, advised they are contracting with Terry Lewis for legal opinions every step of the assessment process, determination of eligible cost, the cost apportionment, methodology to be employed as well as determination of which property should pay. They do offer that as part of the analysis, as well as try to be very thorough and comprehensive on that, and cover that aspect as well.

Tom Friedrich, with Jones Edmunds, advised he doesn't have a feel right now with SWFWMD on private wells. He does know that water for this community and Central Florida is limited to whatever the projections are for the 2013 demand was; he does not have that number, but can follow up on that. Any withdrawal of groundwater is limited to what you projected for 2013; since growth has slowed may have some capacity. There is still the matter of whether you can get water use permit from Water Management Districts. We may still be able to get money for septic tanks, if they qualify, as well as the Green Swamp area. This is part of what is being looked at with the assessment. Also, with lower taxable values, what does that mean.

Mayor advised once again that this is a study; nothing is binding. If a meeting can be held when the "snowbirds" are here, we will do so. We will attempt to get the school for the next meeting.

Someone from the audience asked how much was the study going to cost the taxpayers; it is approximately \$20,000. Someone else asked what the cost to date was; the Consultants responded nothing at this time.

At this time Mike Burton, President of Burton & Associates, addressed the Council. He wanted to make clear that when they come back to the next meeting, it is not just to answer the questions in regard to the assessment; they will also be giving factual answer on what the consequences and implications would be if you were to do nothing, and what the information and vision of what the two decisions are.

#### **4. Mayor to close Public Hearing**

Mayor Penton closed the Public Hearing.



## **5. Review, discuss and take action**

Mayor Penton read Resolution 2009-01 in short title. City Manager Carrier reminded the Council this Resolution is non-binding.

At this time Councilor Ames made a motion to move forward, and the motion was seconded by Councilor Adorno. Before roll call vote, Interim City Clerk Jackson asked for clarification that the motion was approval of Resolution 2009-01; Mayor Penton advised it was.

Roll Call: Mayor Penton-aye, Councilor Adorno-aye, Councilor Eilertsen-aye, Vice Mayor Denico-aye, Councilor Ames-aye.

5-ayes  
0-nays

### **UNFINISHED BUSINESS**

There was none.

### **NEW BUSINESS**

There was none.

### **CITY MANAGER ITEMS**

City Manager Carrier would like to schedule an additional meeting this month to take care of some other business, if the Council has no objections. There were no objections from the Council to hold an additional meeting.

### **CITY CLERK ITEMS**

Interim City Clerk reminded those attending of the Ridge League of Cities meeting on Thursday evening.

### **CITY ATTORNEY ITEMS**

The City Attorney had nothing.

### **COUNCIL MEMBER ITEMS**

**Councilor Adorno**—Thanked everyone for coming.

**Councilor Ames**—Thanked everyone for their input.

**Councilor Eilertsen**—Regarding issues and concerns her thoughts are with the future and thoughts of others. She is very grateful for the input that was given, and asked those in attendance to come to other meetings and have more input. She thanked staff and Council for the support of her family during this difficult time.

### **VICE MAYOR ITEMS**

Vice Mayor Denico thanked everyone; she knows this is a difficult time. Water is critical and this is not going to be easy; unfortunately, it is not going to be inexpensive and we will work within our means. She also thanked those for coming; not to wait until there is a critical issue to come to the meeting, but to come under normal conditions as well.

### **MAYOR ITEMS**

Mayor Penton thanked everyone for coming. He apologized if he hurt anyone's feelings and we will accommodate as much as we can. This has been recorded; the Consultants answers will be part of the minutes.

At this time City Manager Carrier advised all questions will be extracted out of the tape recordings.

### **PUBLIC COMMENTS/REQUEST**

### **ANNOUNCEMENTS**

There were none.

### **ADJOURNMENT**

A motion was made by Councilor Eilertsen to adjourn the meeting; the motion was seconded by Councilor Adorno and unanimously carried.

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Patricia R. Jackson, Interim City Clerk

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Mayor Donald L. Penton, Sr.