

**CITY OF POLK CITY**

May 12, 2009

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

7:30 P.M.

**MINUTES**

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

Pastor Walter Lawlor gave the invocation.

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

**ROLL CALL**

Mayor Donald Penton, Vice Mayor Nancy Adorno, Councilor Dan Ames, Councilor Chris Denico-excused, Councilor Kristi Eilertsen, City Manager Cory Carrier, City Attorney Jeff Sullivan and City Clerk Patricia Jackson. Also present were Assistant City Manager Pam Peterson and City Planner Gene Kniffin.

A quorum was established, and Mayor Penton turned the meeting over to City Manager Carrier.

**APPROVE CONSENT AGENDA**

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

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

4-eyes

0-nays

**PRESENTATIONS AND/OR RECOGNITIONS**

**Proclamation – Relay for Life Days**

Mayor Penton read a Proclamation proclaiming May 15-16, 2009, as Relay for Life and presented it to Pastor Lawlor. City Manager Carrier advised the Proclamation would be read at the Opening Ceremony on Friday night.

Before going into the Public Hearings, City Manager Carrier advised the Assessment Study has been put on hold until after the Stimulus Hearing. We have submitted an application for those funds, and the City scored 460 out of a possible 500 points. It looks like the City will be funded through the stimulus program; however, she will let Council know what takes place. City Manager Carrier then proceeded with the Public Hearings.

## **PUBLIC HEARINGS**

### **Ordinance 1251, an Ordinance of the City of Polk City, Florida, Amending Ordinance 1244, by Adopting a Revised Exhibit Thereto; Said Exhibit Specifically Amending the Adopted Capital Improvements Element and Update to the 5-Year Capital Improvements Plan; Providing for Severability; and Providing for an Effective Date.**

City Manager Carrier read Ordinance 1251 in short title; Mayor Penton opened the Public Hearing. Shannon Brett, who is with the Central Florida Regional Planning Council, addressed the Council; this Ordinance is amending Polk City's Comprehensive Plan, adopting the Capital Improvement Element which includes the 5-Year Capital Improvement Plan. The City adopted the CIE/CIP in November 2008; however, the only change to this Ordinance is the 5-Year Capital Improvement Plan. DCA requires that Projects in years one through three have funding in place, and some of Polk City's Projects during that time period did not meet those requirements; therefore, they were put into years four and five.

Mr. Mike Blethen addressed the Council and asked about the Fiscal Year 2008/09 funding – where was some of the funding coming from. Mr. Blethen was advised in the first two columns - \$4.1 Million and \$2.3 Million for the WWTP Construction are budgeted funds already in the possession of the City for that project, which comes from SRF Loans and CIBR Grants (still receiving). Shannon also advised some of the funds are coming from Sewer Impact Fees and Utility Assessments; however, City Manager Carrier advised the utility Assessment Fees are on hold and not in there. He asked how much has to be matched locally, and City Manager Carrier advised it depends on the type of grant that is received; Polk City is an Economically Disadvantaged City whereby if most grants require a 50% match, our portion would be 25% or less. Mr. Blethen said the City Council needs to vote correctly; he assumes they understand what is on the spreadsheet; he feels it should go back to the Planning Commission and it should be downsized until the economy grows.

Mr. Fuller addressed the Council; he feels it is not manageable and should not be done at this time. Other members from the audience spoke regarding the 5-Year Plan and had questions about the Wastewater Treatment Plant and the cost of tying into the City's system.

Mayor Penton advised the City is only approving the Capital Improvement Plan; if the money is not there, it will not be built. At this time Councilor Adorno advised the City is obligated to have a Five-Year Plan; it is required of the City to have one, and the City has to comply. She then discussed planning and being proactive. The City needs to plan, but that doesn't mean if it is written the City has to abide by it. She advised Council is listening to the people. Councilor Eilertsen advised in order to obtain funding, you have to go out years in advance; it doesn't happen overnight. There are times when applications have to be done years in advance; we have to be prepared.

Donna Nichols asked why she has to have sewer when her septic tank works fine. Discussion followed about amenities. Councilor Eilertsen advised the City has to have a plan; the system is aging and the City has to come up with solutions to solve problems. Ms. Nichols then discussed the fees associated with hooking up to the system.

Joe LaCascia asked about the time-frame of getting the answers from the February meeting. City Manager advised the funding hearing is tomorrow with DEP and the City's Representatives will be present. We have submitted an application and should receive funding; however, that will also determine what the funding mechanism will be. If the City receives \$30,000,000 it will be \$10,000,000 per year from the stimulus (each City can only receive \$10,000,000 a year) and if that happens, the assessment would probably go by the wayside because it would be funded through the DEP Stimulus dollars. Joe LaCascia again asked about getting answers back from the Consultants regarding the questions that were asked. City Manager Carrier advised she has been contact with Andy every week; they are still waiting on information from the Property Appraiser's Office in order for some of the questions to be answered.

Sue Olsen asked about the money already spent on the Wastewater Treatment Plant; City Manager advised the City received CIBR money in the amount of \$1,250,000 the first year and \$200,000 in the second year, which was spent toward the Engineering of the plant and distribution system. That is what the money was approved for and was received from the Legislature. She also advised if this project does not go forward, the City would probably have to pay that money back.

Clifford Byrd, 619 Smith Road, asked about the odor from the plant; that is the only thing he is worried about. Mayor Penton advised the City was told there would be no smell. Mrs. Fuller hopes the Mayor is right. Someone from the audience asked about septic tanks. Ms. Shaw advised she attends the Church next to the property; she is concerned about cost to connect to the sewer. City Manager Carrier advised there were grant monies available for low income and minority neighborhoods to cover this expense; the City of Polk City is an economically disadvantaged city, but not all of Polk City would qualify for this funding. When asked if the Church would qualify to receive some of that funding; City Manager Carrier advised she will need to check into this. City Manager Carrier then discussed the areas that would be covered. Ms. Shaw advised she was also concerned about the smell. She then asked what would happen to the large hole if it doesn't move forward; Mayor Penton advised it would stay there. After other discussion Mayor Penton closed the Public Hearing.

A motion was made by Vice Mayor Adorno to accept Ordinance 1251; the motion was seconded by Councilor Eilertsen.

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

4-ayes

0-nays

**Ordinance 1252, An Ordinance of the City of Polk City, Florida, Establishing Illicit Discharge and Connection Stormwater Regulations; Establishing Section 1, Purpose and Intent; Section 2, Definitions; Section 3, Applicability; Section 4, Responsibility for Administration; Section 5, Severability; Section 6, Ultimate Responsibility; Section 7, Discharge Prohibitions; Section 8, Suspension of MS4 Access; Section 9, Industrial or Construction Activity Discharges; Section 10, Monitoring of Discharges; Section 11, Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices; Section 12, Watercourse Protection; Section 13, Notification of Spills; Section 14, Enforcement; Section 15, Appeal of Notice of Violation; Section 16,**

**Enforcement Measures After Appeal; Section 17, Cost of Abatement of the Violation; Section 18, Injunctive Relief; Section 19, Compensatory Action; Section 20, Violations Deemed a Public Nuisance; Section 21, Criminal Prosecution; Section 22, Remedies Not Exclusive; and Section 23, Adoption of Ordinance**

City Manager Carrier read Ordinance 1252 in short title; Mayor Penton opened the Public Hearing. At this time City Manager Carrier gave a brief explanation of Ordinance 1252 – the City currently has a MS4 Permit (stormwater), and needed an enforcement mechanism for Illicit Discharge; we received notification from Southwest Florida Water Management District to do so within 30 days, or produce a schedule as to when it would be adopted.

Mr. Harper, from the audience addressed the Council about his wife washing her school bus on the public road, and wanted to know if the new Ordinance would affect that. City Manager Carrier advised that it would, and the bus would need to be washed on School Board Property; Gene Kniffin, City Planner, advised the concern is the grease and oil. It was brought out that there was no other place to wash the bus without going to Bartow; City Manager Carrier advised she would call the School Board and get back in touch with Mr. or Mrs. Harper.

Mr. Blethen asked what stormwater and stormwater discharge was; was it the water that goes into the Green Swamp and what runs down State Road 33. City Manager Carrier advised it is spelled out in the Ordinance, which is on-line. Mayor Penton advised any water that runs off is stormwater ( water that runs down the streets, off the lawns, off of vehicles, etc.). Mayor Penton closed the public hearing. City Manager Carrier advised this Ordinance would be sent for codification.

Councilor Ames made a motion to accept Ordinance 1252; the motion was seconded by Vice Mayor Adorno.

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

4-ayes  
0-nays

**UNFINISHED BUSINESS**

There was no unfinished business.

**NEW BUSINESS**

**Appointment to Central Florida Development Council**

City Clerk Jackson read a letter from Central Florida Development Council asking the City to appoint a representative to their Board. After discussion, Mr. Joe LaCascia advised he would like to serve as the City's representative. A motion was made by Councilor Eilertsen to appoint Joe LaCascia to the Central Florida Development Council; the motion was seconded by Mayor Penton.

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

4-eyes  
0-nays

### **Van Fleet Trail Extension Bids**

City Manager Carrier advised a memo was received from Pam; the City Manager is not recommending the low bidder because of pending litigation, but is recommending the next to low bidder. There will be some money left for additional things to be done with this project. Some discussion took place; City Manager Carrier advised the State will also look at the City's bids in hopes of doing their portion at the same time. The City has received a \$200,000 Grant from FRDAP, which is set aside for facilities; the City has no control over the State Trail System. The State could be petitioned for restrooms there; however, the trail people are not in favor of that due to vandalism. Some discussion took place about the possibility of losing the trail because of the railroad going through Lakeland; the City Manager has been working on that. Councilor Eilertsen asked if references were checked; City Manager advised a background check was done, as well as reference checks. City Manager Carrier advised the Engineers and Staff recommends Goodwin Brothers. Discussion then took place regarding the possibility of doing some crossings; Gene advised it would have to be engineered due to it being part of a drainage system. Additional funding will be looked into for the crossings; you are allowed to have three open grants at one time (FRDAP). After further discussion, Councilor Eilertsen made a motion to accept the bid of Goodwin Brothers; the motion was seconded by Mayor Penton.

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

4-eyes  
0-nays

### **Ordinance 1253, an Ordinance of the City of Polk City, Florida, amending Ordinance 2003-36, Chapter 2 Administration, Section 2-131, Fixed Assets; inclusive of the City of Polk City Code of Ordinances; providing severability and providing an effective date**

City Manager Carrier read Ordinance 1253 in short title; City Clerk Jackson advised we are asking the Fixed Asset amount to be changed from \$500 to \$1,000 with everything else staying the same.

Councilor Ames made a motion to accept Ordinance 1253; the motion was seconded by Councilor Eilertsen.

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

4-eyes  
0-nays

**Resolution 2009-02, a Resolution of the City Council of the City of Polk City, Florida, authorizing the Mayor to enter into an Interlocal Agreement with the Polk County Commission for E9-1-1 Addressing Services and providing an effective date**

City Manager Carrier read Resolution 2009-02 in short title; Mayor Penton then explained the Resolution and Agreement with Polk County E9-1-1; the 9-1-1 Center is in Bartow. Ms. Shaw asked if there was an expense; Mayor Penton advised it is currently being charged on your phone for 9-1-1 services. Someone asked if it covered cell phones, and were advised they didn't think so. City Manager Carrier advised this Agreement is updating the current Agreement we have.

Councilor Ames made a motion to accept Resolution 2009-03; the motion was seconded by Vice Mayor Adorno.

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

4-ayes  
0-nays

**Brandes Settlement**

Attorney Sullivan advised in Executive Session during the litigation with Brandes, the Council had agreed to settle for \$45,000; Brandes has come back with an offer to settle for \$50,000; Attorney Sullivan then went over the numbers with the Council, and asked Council to accept the Settlement. Councilor Eilertsen made a motion to accept the Attorney's recommendation; the motion was seconded by Vice Mayor Adorno.

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

4-ayes  
0-nays

**Resolution 2009-03, a Resolution of the City Council of the City of Polk City, Florida, authorizing the Mayor to execute a sublease application and/or agreement with the Board of Trustees of the internal Improvement Trust Fund of the State of Florida for the Skate park property and providing an effective date**

City Manager Carrier read Resolution 2009-03; she advised the funds have to be spent by September 2009. The Skate Park will be built by the Van Fleet Trail; the City will be leasing an area (100 x 60). This is being built with grant dollars -- \$29,000 and change.

A motion was made by Councilor Eilertsen to accept Resolution 2009-03; the motion was seconded by Vice Mayor Adorno.

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

4-eyes  
0-nays

### **CITY MANAGER ITEMS**

The City Manager had nothing to report.

### **CITY CLERK ITEMS**

The City Clerk had nothing to report.

### **CITY ATTORNEY ITEMS**

The City Attorney had nothing to report.

### **COUNCIL MEMBER ITEMS**

**Councilor Ames**-Councilor Ames had nothing at this time.

**Councilor Eilertsen**-Councilor Eilertsen thanked everyone for coming out; their concerns have been heard and she appreciates their input.

### **VICE MAYOR ITEMS**

Vice Mayor Adorno had nothing at this time.

### **MAYOR ITEMS**

He enjoyed the meeting that was held at the Macedonia Church; it was very interesting and a good meeting. He also advised if anyone wants to receive information regarding the CIP, please fill out the paperwork in the back of the room.

### **PUBLIC COMMENTS/REQUEST**

Sue Olsen, 912 Lakeshore Drive, addressed the Council and asked how much money is still owed on this building (Government Center); City Manager Carrier advised she would have to look at the financials; Mayor Penton advised if she had come a little earlier to ask for the information, it would have been available. City Manager Carrier advised the debt is not paid with taxpayers dollars if outside the city limits; this is State Funding. Ms. Olsen then commented about when she paid a deposit to Lakeland in 2001 for water they did not require them to fill out a voluntary annexation; she then read from a prepared statement. Ms. Olsen then asked if it was necessary to have 19 employees and is it necessary to have a City Manager. She also feels the Council Room could be converted into a Library, and she thanked Kristen and Nancy for making themselves heard.

Linda Fuller, 904 Lakeshore Drive, spoke about the meeting that took place at the Macedonia Church on May 7; the Mayor did attend. There is a concern that the Council is not hearing "us" and moving along without talking to them. She then read a Petition that is being circulated. Councilor Ames asked how many signatures were on the Petition; she doesn't know as she is

still getting signatures. City Clerk Jackson advised unless the Petition is turned in, it is not considered to be on record.

Betty Hisaw, 5207 Island View Circle, South, addressed the Council and advised she has 441 petitions from Mt. Olive Shores against being annexed. She gave the City Clerk the petitions for public record (a copy of one of the petitions is made part of the minutes for record).

Mr. Clifford Byrd, 619 Smith Road, addressed the Council concerning the New Plat Cemetery and stated it was annexed, right? City Manager Carrier advised it was annexed many years ago, in 2004, and that it was done with a group as a voluntary annexation. The cemetery is tax exempt. She has the signed paperwork and asked Mr. Byrd to come in during business hours. At this time Ms. Shaw asked about the old cemetery as well (you cannot make out what she is saying on tape – she was at her chair). City Manager Carrier asked them to come in and she will show them the maps of where the old cemetery is and the New Plat Cemetery; however, she did advise that Oscar Turlington was the owner of the old cemetery at that time and she has the paperwork with signatures. The hours at City Hall are from 9 a.m. to 6 p.m. When asked what the purpose was of annexing the cemetery, City Manager Carrier advised you cannot create an enclave when annexing. Mayor Penton gave some background on this property, as did Mr. Douthit (could not hear what he was saying on tape).

Someone from the audience asked how they find out which member of Council represents them; they were advised there are no Districts, the Council represents everyone.

Councilor Eilertsen made a motion to adjourn; the motion was seconded by Vice Mayor Adorno and unanimously carried.

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Patricia R. Jackson, City Clerk

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Donald L. Penton, Mayor



