

**MINUTES  
SEMINOLE CITY COUNCIL  
REGULAR MEETING – MAY 8, 2007**

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The Regular Meeting of the Seminole City Council was held on Tuesday, May 8, 2007, in the City Hall, City Council Chambers, 9199 113<sup>th</sup> Street North, Seminole, Florida.

James Johnson, Mayor, called the meeting to order at 7:00 p.m. The invocation was given by Vice Mayor Barnhorn followed by the Pledge of Allegiance.

**ROLL CALL:**

Present were: Councilors John Counts, Patricia Hartstein, Dan Hester, Peter Hofstra and Bob Matthews; Vice Mayor Thomas Barnhorn; Mayor James Johnson; City Attorney John Elias; City Manager Frank Edmunds and City Clerk Lesley DeMuth.

**INTRODUCTIONS AND PRESENTATIONS:**

Mayor Johnson presented a proclamation to Public Works Director Allen Godfrey proclaiming May 20 – 26, 2007, as National Public Works Week.

**1. PUBLIC COMMENT:**

None.

**2. APPROVAL OF MINUTES – REGULAR MEETING APRIL 24, 2007.**

Motion by Councilor Hofstra, second by Councilor Hartstein to approve the minutes of April 24, 2007.

UNANIMOUS APPROVAL BY ACCLAMATION

**3. CONDUCT A PUBLIC HEARING. CONSIDER A SECOND AND FINAL READING OF ORDINANCE NO. 03-2007 REGARDING THE REZONING OF PROPERTY LOCATED AT 10005 AND 10401 BAY PINES BOULEVARD FROM RESIDENTIAL LOW MEDIUM/MOBILE HOME (RLM/MH) TO RESIDENTIAL MEDIUM-15 (RM-15).**

Mayor Johnson announced this is a Quasi-Judicial proceeding.

Councilor Hofstra stated for the reason expressed at Council's last meeting, he must abstain from voting on this item. (Form 8B Memorandum of Voting Conflict is attached hereto, and made a part of this record)

City Attorney Elias swore in potential speakers.

The City Clerk read Ordinance No. 03-2007, by title only.

Mark Ely, Community Development Director, asked that his prior testimony, and his staff report of April 24, 2007, be brought forward and reincorporated as part of the record. Community Development Director Ely showed an aerial photograph of the subject property, giving a brief explanation of the rezoning request. Community Development Director Ely stated Staff has reviewed this request against the criteria of the Comprehensive Plan, as well as Levels of Service and Concurrency Impacts, and the six relative findings made in the prior Staff Report, at the prior Public Hearing, still stand and Staff is recommending approval.

Marilyn Healy, Ruden McClosky representing the applicant Bay Pines, LP, advised Council that present with her were Bill Oliver from Tyndall Oliver, and Neale Stralow and Ryan Horstman from Wilson Miller. They are requesting a rezoning to allow Residential/Medium-15. The Development Review Board unanimously approved this request and Council did, at the last hearing, concur with that as well. Ms. Healy stated she would like to adopt the staff presentation by Mr. Ely, and confirm that the evidence presented at the last hearing will be incorporated in the record. Ms. Healy introduced the transcript from the April 24, 2007, hearing into the record, which was provided to the City Clerk. Ms. Healy explained this is a simple rezoning request. It is not a Comprehensive Plan Amendment, or a site plan approval. This is the first of many levels of review they will need to go through as they move forward in trying to come up with a premier development for the community. Ms. Healy stated as they confirmed at the last hearing, the mobile home park is not operating, it is vacant and they are in the process of demolishing the homes that are there. As all mobile home parks are considered in Hurricane Evacuation Zone A, and per City Code Section 70-432(b), they would not be allowed to redevelop this property as a mobile home park. Therefore, any type of redevelopment related to a mobile home park will not be viable from either a legal or practical standpoint. Ms. Healy stated they are requesting this so they can have different types of residential uses that will be more suited to the City. At the last hearing Council did not have any competent, substantial evidence that refuted Mr. Ely's, the City's or their evidence related to the appropriateness, compatibility and consistency of their request. Ms. Healy respectfully asked for Council's approval on final hearing.

Mayor Johnson opened the Public Hearing.

Mayor Johnson asked if there were proponents who wished to speak; there were none, or opponents who wished to speak; there were none.

Mayor Johnson asked if there were other citizens wishing to speak. Speaking, after being sworn in by City Attorney Elias:

Nancy J. Edwards, 6491 62<sup>nd</sup> Street, Pinellas Park

In response to a question by Ms. Edwards, Mr. Ely stated sewer is available to the property but, he is not aware that there is a reclaimed water line in the area.

In response to a question by Ms. Edwards, Bill Oliver, Tyndall Oliver, stated they did take into consideration the seasonal variation of traffic because the Statutes require that they address what is known as the 100<sup>th</sup> highest hour of traffic. In terms of addressing other background traffic growth in the area, there was no information available to them regarding any plans at the VA Hospital. However, they

did incorporate some background traffic growth factors based on the historical trends that are available to project traffic volumes into the future.

In response to question from Ms. Edwards on the appraisal method used for the mobile homes, Ms. Healy stated she had to object to this question because the appraisal is not relevant to the rezoning request.

Mayor Johnson asked if there was a rebuttal by Staff or the Applicant.

Mr. Ely stated he had none, and stands by the previous testimony at the April 24, 2007, meeting and tonight's meeting.

Ms. Healy stated they had no rebuttal but, did request approval.

Mayor Johnson closed the Public Hearing.

Mayor Johnson asked for a final response from Staff and the Applicant.

Community Development Director Ely stated he had nothing further to add to the testimony, and looked forward to any questions Council may have.

Ms. Healy had no additional comments.

Motion by Councilor Matthews, second by Councilor Hartstein to adopt Ordinance No. 03-2007, on Second and Final Reading.

City Attorney Elias reminded Council the evidence and the testimony that was presented at the last meeting has been duly incorporated into the record, and as he indicated to Council at the last meeting their decision should be based upon competent, substantial evidence that has been presented at the hearings.

ROLL CALL:	COUNCILOR COUNTS	AYE
	VICE MAYOR BARNHORN	AYE
	COUNCILOR HARTSTEIN	AYE
	COUNCILOR HESTER	AYE
	COUNCILOR MATTHEWS	AYE
	MAYOR JOHNSON	AYE
	COUNCILOR HOFSTRA	ABSTAINED

MOTION CARRIED UNANIMOUSLY

**4. CONDUCT A PUBLIC HEARING: CONSIDER A SECOND AND FINAL READING OF ORDINANCE NO. 05-2007 AUTHORIZING A BUDGET AMENDMENT TO RECOGNIZE UNANTICIPATED REVENUE FROM SUMMER CAMP REGISTRATIONS AND ALLOCATE FUNDS WITHIN THE RECREATION DIVISION.**

The City Clerk read Ordinance No. 05-2007, by title only.

Motion by Vice Mayor Barnhorn, second by Councilor Hartstein to adopt Ordinance No. 05-2007 on Second and Final Reading.

ROLL CALL:	COUNCILOR COUNTS	AYE
	VICE MAYOR BARNHORN	AYE
	COUNCILOR HARTSTEIN	AYE
	COUNCILOR HESTER	AYE
	COUNCILOR HOFSTRA	AYE
	COUNCILOR MATTHEWS	AYE
	MAYOR JOHNSON	AYE

MOTION CARRIED UNANIMOUSLY

**5. CONDUCT A PUBLIC HEARING: CONSIDER AUTHORIZATION TO EXECUTE A DEVELOPMENT AGREEMENT REGARDING PROPERTY LOCATED AT 10005 10301, AND 10401 BAY PINES BOULEVARD.**

Attorney Robert Lincoln advised Council this is a Development Agreement that covers not only the Bay Pines Mobile Home Park but, the Bahama Winds property that is owned by the Developer. The Development Agreement invests the project for concurrency for 10 years, it guarantees the impact fee credits that they would be entitled to under the existing City and County ordinances, there are provisions regarding open space, and it proves the ability to have private streets. In return, the developer is offering to provide 40 affordable housing units, and to provide space for a potential fire station. There has been an amendment to reflect the discussion that occurred at the last meeting regarding the reverter clause for the fire station and this has been removed from the Agreement. In reviewing the Development Agreement the total impact that could be generated by the development in terms of zoning permitted, affordable housing units, affordable housing bonus units, and a fire station were all reviewed for their total impacts and concurrency. The studies demonstrated that concurrency could be met by the project. Attorney Lincoln asked Ms. Healy to come forward and put on the record the developers' agreement with the terms of the Development Agreement as it currently stands.

City Manager Edmunds stated as mentioned by Attorney Lincoln the proposed Agreement has been modified to remove the reverter clause on the parcel of land to be deeded to the City for a future fire station. Between now and the time a fire station may be built, the property will be used as a passive park and this is a requirement of the property transfer.

Marilyn Healy stated on behalf of Bay Pines they firmly do accept the Development Agreement and its terms, and they are looking forward to moving forward on a wonderful development for the area.

Mayor Johnson opened the Public Hearing. Receiving no public comment, the Public Hearing was closed.

Motion by Councilor Matthews, second By Councilor Hofstra to approve the Development Agreement.

Councilor Hester asked Attorney Lincoln if there is a delay in the development of the property, if it has any impact on the content that is currently in the Development Agreement.

Attorney Lincoln stated the Developers obligation under the Development Agreement will be present regardless of whether or not they develop. His interpretation is that they will not have to provide the affordable housing unless they actually proceeded to develop the residential units that are permitted by the Agreement. Other than that, the duration of the Development Agreement is ten years. Under the City Codes they have to come back and get site plan and other development approvals before proceeding. At the point they do go forward, it is anticipated there may be either an amendment or a new development agreement that might affect how any other rights or site plans that come forward later will be addressed, and the timing of those.

In response to a question by Councilor Hester, Attorney Lincoln stated if a Developer brought forward a site plan that for some reason did not comply with the Comprehensive Plan, the City Codes or the terms of a Development Agreement, those would be grounds for the City to deny approval of a site plan. If a developer came forward with a site plan that required a new development agreement because they wanted to modify some terms of the City Codes, Council would have to approve a new development agreement in order for them to proceed with the site plan.

In response to a question from Councilor Hester, City Manager Edmunds stated the City requires 25% of trees to be kept, and to impose something greater than that without negotiations would probably not be a possibility. City Manager Edmunds stated the City has development regulations that apply to all projects. If a developer proposes a project which satisfies all the requirements, there will not be a need for a development agreement, and they will be issued a permit to proceed in compliance with the City's requirements for development. City Manager Edmunds stated it is when a developer cannot satisfy any one of the City's requirements and chooses not to go before the Developmental Review Board, that they would be required to meet with the City Administration to then negotiate a development agreement which then will ultimately come before Council for consideration.

Vice Mayor Barnhorn stated as he understand it, the City has rules and if all of the rules are met, the City is out of the picture as far as requesting changes. The only time the City can request those changes, is if the developer wanted to change the agreement that is before them and not comply with the rules on the table.

Councilor Hester asked City Manager Edmunds, if it would be fair to say, that a project this size is unlikely to proceed without having to come before Council. City Manager Edmunds stated is was possible but, it is unlikely.

ROLL CALL:	COUNCILOR COUNTS	AYE
	VICE MAYOR BARNHORN	AYE
	COUNCILOR HARTSTEIN	AYE
	COUNCILOR HESTER	AYE
	COUNCILOR HOFSTRA	AYE
	COUNCILOR MATTHEWS	AYE
	MAYOR JOHNSON	AYE

MOTION CARRIED UNANIMOUSLY

**6. CONSIDER AUTHORIZATION TO EXECUTE POLLING PLACE AGREEMENTS WITH THE PINELLAS COUNTY SUPERVISOR OF ELECTIONS OFFICE FOR THE 2008 ELECTIONS.**

Motion by Councilor Hartstein, second by Councilor Matthews to authorize the City Manager to execute the 2008 Polling Place Agreements with the Pinellas County Supervisor of Elections.

In response to a question from Mayor Johnson as to whether the change in the date of the Primary Election to January 29, will affect the Municipal Election, City Manager Edmunds stated the City Clerks will meet with the Supervisor of Elections later on this year to discuss Municipal Elections, and we will know at that time.

ROLL CALL:	COUNCILOR COUNTS	AYE
	VICE MAYOR BARNHORN	AYE
	COUNCILOR HARTSTEIN	AYE
	COUNCILOR HESTER	AYE
	COUNCILOR HOFSTRA	AYE
	COUNCILOR MATTHEWS	AYE
	MAYOR JOHNSON	AYE

MOTION CARRIED UNANIMOUSLY

**7. CITY COUNCIL REPORTS:**

Vice Mayor Barnhorn reported he attended the Tribute to Teachers Breakfast, the Gulf Coast Jewish Family Services Celebration, Progress Energy’s Storm and Safety Expo, and the Pinellas County Mayors Council Meeting.

Mayor Johnson reported he attended Progress Energy’s Storm Expo, the Teachers Appreciation Breakfast and the welcome ceremony for the new Tourist Development Director.

**8. CITY MANAGER REPORTS:**

Deputy Beverly Ireland spoke on the different patrols being conducted, and stated she and Deputy DiSano will attend and participate in Kids Appreciation Day.

**9. OLD BUSINESS:**

None.

**10. NEW BUSINESS:**

Vice Mayor Barnhorn stated it was discussed at the Mayors Council Meeting that several cities are sending letters to certain charities and organizations they donate funds to, advising them that they may

no longer be able to make contributions due to proposed budget cuts. Vice Mayor Barnhorn stated he felt the City should send out this type of letter. Councilor Counts, Councilor Hester and Mayor Johnson expressed their feelings that it is too early to send this type of letter. The City needs to wait to receive more information from Tallahassee.

Vice Mayor Barnhorn distributed a Resolution from the Suncoast League of Cities opposing two County Ordinances regarding the Brooker Creek Preserve. Vice Mayor Barnhorn stated he would like to see the City pass a similar Resolution.

Councilor Matthews stated he would not have a problem sending a reminder to the County on this issue.

In response to a question from Councilor Hester, Vice Mayor Barnhorn stated he and Councilor Hartstein received this email from the League as Board Members. He will provide a copy of this correspondence.

Councilor Hartstein stated she felt the email was more to let her know that the Suncoast League took a stand against this, since the League represents all the cities.

City Manager Edmunds stated he will follow-up, and report back to Council at the next meeting.

Mayor Johnson announced State Representative Janet Long and Senator Dennis Jones will hold an Open Forum on May 17, in the Digitorium at St. Petersburg College from 5:00 pm to 8:00 pm on Property Tax Reform.

**11. CONSIDER A MOTION FOR ADJOURNMENT.**

Motion by Councilor Hester, second by Councilor Hartstein to adjourn.

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Lesley DeMuth, City Clerk

\_\_\_\_\_  
James Johnson, Mayor

## FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME  HOFSTRA, PETER T.	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE  CITY COUNCIL
MAILING ADDRESS  10380 TODD CIRCLE  CITY COUNTY	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: X CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
SEMINOLE PINELLAS	NAME OF POLITICAL SUBDIVISION: CITY OF SEMINOLE
DATE ON WHICH VOTE OCCURRED  MAY 8, 2007	MY POSITION IS: X ELECTIVE <input type="checkbox"/> APPOINTIVE

### WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

### INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officers father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

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#### **ELECTED OFFICERS:**

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes. \*

#### **APPOINTED OFFICERS:**

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

You must disclose orally the nature of your conflict in the measure before participating.

You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, PETER T. HOFSTRA, hereby disclose that on April 24, 2007

(a) A measure came or will come before my agency which (check one)

inured to my special private gain or loss;

inured to the special gain or loss of my business associate, \_\_\_\_\_

inured to the special gain or loss of my relative, \_\_\_\_\_

inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or

inured to the special gain or loss of \_\_\_\_\_ which

is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

BAY PINES, L.P., WAS APPLYING TO THE CITY COUNCIL FOR A ZONING CHANGE. MY LAW PARTNER AND I, ACTING AS TRUSTEES, HAD SOLD THE SUBJECT PROPERTY TO THE APPLICANT.

Date Filed May 16, 2007

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

RECEIVED

MAY 16, 2007

City of Seminole