

**MINUTES
SEMINOLE CITY COUNCIL
TUESDAY, AUGUST 14, 2007**

The Regular Meeting of the Seminole City Council was held on Tuesday, August 14, 2007, in the City Hall, City Council Chambers, 9199 113th Street North, Seminole, Florida.

James Johnson, Mayor, called the meeting to order at 7:00 p.m. The invocation was given by Councilor Patricia Hartstein 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:

None

1. PUBLIC COMMENT:

Mike Cheer, 5923 Blossom Lake Drive, presented a petition from property owners surrounding Blossom Lake and Lake Kersey requesting Council reconsideration of submerged land leases or consideration of any other viable solution to permit docks.

The following individuals spoke on their concerns with speeders on Ridge Road and 75th Avenue: Michael McKean, 7571 Ridge Road, and Brenda Barnes Lovy, 7547 Ridge Road.

2. APPROVAL OF MINUTES – REGULAR MEETING JUNE 26, 2007.

Motion by Councilor Hartstein, second by Councilor Matthews to approve the minutes of June 26, 2007.

UNANIMOUS APPROVAL BY ACCLAMATION

3. CONDUCT A PUBLIC HEARING. CONSIDER A SECOND AND FINAL READING OF ORDINANCE NO. 06-2007 AMENDING THE MUNICIPAL FIREFIGHTERS' PENSION TRUST FUND.

The City Clerk read Ordinance No. 06-2007 by title only. Mayor Johnson opened the Public Hearing. Receiving no public comment, the Public Hearing was closed.

Motion by Councilor Matthews, second by Councilor Hofstra to adopted Ordinance No. 06-2007 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

4. CONDUCT A PUBLIC HEARING. CONSIDER A SECOND AND FINAL READING OF ORDINANCE NO. 07-2007 AMENDING THE SPECIAL MAGISTRATE HEARINGS TO ALLOW FOR CODE ENFORCEMENT CASES TO BE BROUGHT TO HEARING IN TEN DAYS.

The City Clerk read Ordinance No. 07-2007 by title only. Mayor Johnson opened the Public Hearing. Receiving no public comment, the Public Hearing was closed.

Motion by Councilor Hester, second by Councilor Hofstra to adopt Ordinance No. 07-2007 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 A SECOND READING OF ORDINANCE NO. 08-2007 REGARDING ALCOHOLIC BEVERAGE ESTABLISHMENTS.

The City Clerk read Ordinance No. 08-2007 by title only. Mayor Johnson opened the Public Hearing.

Speaking in opposition to the Ordinance:

Ed Mlotkowski, owner of Boomers - 6990 Seminole Boulevard; John Gaskill, 8584 111th Street North; Joran Oppelt, 1925 2nd Avenue North, President of Southeast Music Alliance, and head of the Tampa Bay based Mekka Records, an independent records label; and Margaret McGarrity, 6075 Park Boulevard, Attorney representing Randy Russell.

Speaking in support of the Ordinance:

Wanda Stuart, 6655 66th Street North, LiveFree - Substance Abuse Prevention Coalition of Pinellas County; Nancy Davis, 12344 82nd Avenue North; Donald Rasdall, 8950 Baywood Park Drive; and Jessica Rasdall, 8950 Baywood Park Drive.

There being no further speakers, Mayor Johnson closed the Public Hearing.

City Manager Edmunds stated a revised agenda memorandum regarding this issue was provided to Council. The memorandum suggests rather than Council action on the Ordinance this evening that an opportunity be given to consider and digest the information that has been provided as part of the Public Hearing and a second Public Hearing and Final Reading on the Ordinance be established for September 25, 2007.

Motion by Vice Mayor Barnhorn, second by Councilor Matthews to schedule a second Public Hearing and Final Reading of Ordinance 08-2007, on September 25, 2007, and that an additional workshop be held on this issue prior to September 25, 2007.

Councilor Matthews asked if appropriate, he would like some feedback as to what has been the activity at the establishments that are in discussion this evening. City Manager Edmunds stated he would be glad to provide that information either at the workshop or at the meeting of September 25.

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. CONDUCT A PUBLIC HEARING. CONSIDER A SECOND AND FINAL READING OF ORDINANCE NO. 09-2007 PROHIBITING PARKING ON LANDSCAPE/DRAINAGE AREAS FOR PROPERTIES DEVELOPED IN ACCORDANCE WITH THE SITE PLAN.

The City Clerk read Ordinance No. 9-2007 by title only. Mayor Johnson opened the public hearing.

Randy Russell, 8055 12th Avenue South, stated he is the owner of the building being run as Page II. Once or twice a week they run into a situation where their parking lot is full and they do park on the median strip on their property. Mr. Russell stated the Ordinance will impact them but, felt it will also impact different businesses. He gave examples of schools on Starkey Road where parents park on the grass temporarily, and at the veterinarian office next to him. Mr. Russell stated he did not know why the Ordinance is being considered at this point, and suggested it is not needed. Mr. Russell stated if there is issues other than parking on the grass that need to be addressed, he thought they should call one another.

There being no further speakers, Mayor Johnson closed the Public Hearing.

Motion by Councilor Hester, second by Councilor Hofstra to adopted Ordinance No. 09-2007 on Second and Final Reading.

In response to Councilor Matthews, City Manager Edmunds explained the intent of the Ordinance is to enforce site plans that have been reviewed and approved. Most businesses are required to submit a site plan in order to receive their Certificate of Occupancy. What has happened over time is those site plans have been ignored and it has created not only issues with emergency vehicle access into commercial properties but, also the aesthetics of the community.

Councilor Hofstra asked if an aggrieved property owner would be able to petition the Developmental Review Board for a variance from the effect of this Ordinance.

Community Development Director Ely stated any property owner is allowed to petition for relief from the Land Development Regulations and Code through the variance process. The petitioner would have to prove hardship or the uniqueness of their property as to why they should not have to comply with a site plan that they submitted. Community Development Director Ely felt a better approach would be an application to the City for a modification of their development permit, and submittal of a revised site plan.

City Attorney Elias stated he agreed that the proper procedure, opposed to a variance, would be to submit a request to the Developmental Review Board or Staff for a modification of the site plan.

Vice Mayor Barnhorn asked when the Ordinance is in force, what is the penalty if it is not complied with. Community Development Director Ely stated there will be a violation of a deviation from an approved site plan. A violator can be cited with a Notice to Comply, and ultimately sent to the Special Master for a Code Enforcement Hearing.

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. CONDUCT A PUBLIC HEARING. CONSIDER A SECOND AND FINAL READING OF ORDINANCE NO. 10-2007 REQUIRING PROPERTIES DEVELOPED UNDER A SITE PLAN TO MAINTAIN LANDSCAPING IN ACCORDANCE WITH THE APPROVE SITE PLAN.

The City Clerk read Ordinance No. 10-2007 by title only. Mayor Johnson opened the Public Hearing.

Randy Russell, 8055 12th Avenue South, stated he bought the property at 8680 Park Boulevard in late 2005, and in all his due diligence he did not go to the County to determine what the original site plan landscaping was. He had no idea to do that, and imagined that most businesses do not have a clue to

what was originally filed. Mr. Russell felt the issue is if what was in place 25 years ago is different than what is in place today, how does the City reconcile the two; is it to revert it back to the way it was 25 years ago even though possibly what is there today is better. Mr. Russell stated he understands what the City's intent is in terms of keeping up property but, it makes him nervous as to how this is going to happen.

There being no further speakers, Mayor Johnson closed the Public Hearing.

Motion by Councilor Hartstein, second by Councilor Hofstra to adopt Ordinance No. 10-2007 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

8. CONDUCT A PUBLIC HEARING. CONSIDER A SECOND AND FINAL READING OF ORDINANCE NO. 11-2007 REQUIRING A NON-CONFORMING USE, IF DESTROYED IN EXCESS OF 51% OF ITS VALUE, TO COMPLY WITH THE CURRENT CODE REQUIREMENTS FOR REDEVELOPMENT.

The City Clerk read Ordinance No. 11-2007 by title only. Mayor Johnson opened the Public Hearing. Receiving no public comment, the Public Hearing was closed.

Motion by Councilor Hofstra, second by Councilor Hester to adopt Ordinance No. 11-2007 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

9. CONDUCT A PUBLIC HEARING. CONSIDER A SECOND AND FINAL READING OF ORDINANCE NO. 16-2007 ESTABLISHING AN EMERGENCY PREPAREDNESS DESIGNATION.

The City Clerk read Ordinance No. 16-2007 by title only. Mayor Johnson opened the Public Hearing. Receiving no public comment, the Public Hearing was closed.

Motion by Councilor Hofstra, second by Vice Mayor Barnhorn to adopt Ordinance No. 16-2007 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

10. CONSIDER AUTHORIZATION TO EXECUTE A LEASE AGREEMENT FOR THE USE OF A POSTAGE METER SYSTEM FROM HASLER FINANCIAL SERVICES, LLC/MODULAR MAILING SYSTEMS.

Motion by Councilor Counts, second by Councilor Hartstein to authorize the City Manager to execute a Lease Agreement for the use of a postage meter system from Hasler Financial Services, LLC/Modular Mailing Systems for 48 months at a cost of \$166.79 per month for the first year and \$211.79 per month for the next three years.

In response to a question from Councilor Hester on the need for a postage meter, City Manager Edmunds stated the City has a fairly significant amount of mail which comes from all City departments to City Hall to be mailed. He asked Administrative Services Director Kyne if he knew the exact number of pieces.

Administrative Services Director Kyne stated he did not but, could provide an exact number of pieces on a monthly basis to Council.

Councilor Hartstein asked if this is used for the mailing of the newsletter, and Administrative Services Director Kyne stated it is not, the newsletter is sent out bulk rate mail.

UNANIMOUS APPROVAL BY ACCLAMATION

11. CONSIDER APPROVAL OF THE PLAT FOR THE PARK STREET RETAIL CENTER SUBDIVISION AND AUTHORIZATION TO EXECUTE.

Motion by Councilor Counts, second by Vice Mayor Barnhorn to approve the plat for the Park Street Retail Center Subdivision and authorize the Mayor to sign the plat for recording.

Councilor Hofstra stated in reviewing the proposed plat it appears there is a dearth of easements. He asked if there are sufficient easements for the City's needs.

Community Development Director Ely stated the answer is yes. A lot of the cross-access and other issues are part of covenants and restrictions that run with the property that are internal to the property which allows the out parcels to have cross-access. This was part of the Development Agreement requirements that there is cross-access and cross-parking, and those are recorded as part of the declarations and covenants.

Councilor Hofstra asked if the Development Agreement ran in perpetuity, and Mr. Ely stated the Development Agreement runs for 20 years but, as a function of implementing the Development Agreement, the developer had to record declarations and covenants that run with the property in perpetuity to implement those provisions for cross-access, parking, etc.

In response to a question from Councilor Hester, Community Development Director Ely stated Kohl's will be opening October 3, and he believed the rest of the project which will be attaching to Kohl's will start in late August, early September. Community Development Director Ely stated attached to Kohl's will be a Ross Dress for Less, Total Wine and Famous Footwear. He has also received a site plan for one of the out parcels that has in it a Starbucks, and a Kinko's.

UNANIMOUS APPROVAL BY ACCLAMATION

12. CITY COUNCIL REPORTS.

Councilor Hartstein reminded everyone that school starts next Tuesday.

Vice Mayor Barnhorn reported he attended a Town Hall Meeting held by Senator Bill Nelson.

Mayor Johnson reported he attended two Mayors Council Meetings, the Senior Services/Emergency Operations Center Meeting and two Lealman Fire District Meetings.

13. CITY MANAGER REPORTS:

Deputy Ireland gave a Community Policing Report speaking to the recent traffic detail at Seminole and Park Boulevards. She stated this is the first time she was made aware of a problem at Ridge Road and 75th Avenue, and they will increase patrols in that area in response to that concern. Next week, they will be assisting the Crossing Guards at school zones and crosswalks throughout the City and the County.

City Manager Edmunds stated Ridge Road is a joint jurisdiction but, would involve the City's traffic units to try to address this issue, and might deploy the traffic trailer to get some information on the conditions of travel on that particular roadway.

City Manager Edmunds reported:

- A request by the Seminole Kiwanis Club to use a portion of City property located on 113th Street for their Christmas tree sales was received, and he is inclined to approve the request. There were no objections from Council.

- The Supervisor of Elections has an open invitation to any community, if one has an interest, to be a “test site” in the upcoming municipal elections for the optical scan voting procedure, and he is inclined to indicate the City would offer our municipal election. There were no objections from Council.
- A letter was received from Brighthouse Networks announcing they are going to rearrange the channel lineup. The government channels will be moving to their low end digital offering later this year and that he is told, he has not received notice, will be fee based. This is in keeping with what he has previously briefed the Council on regarding the impacts of the Consumer Choice Act as adopted by the Florida Legislature. City Manager Edmunds advised Council he continues to have discussions with Brighthouse Networks regarding the provision of the government channel to the east side of Seminole.

14. OLD BUSINESS:

Councilor Hester felt the City needed to get a handle on the televising of the Council Meetings. The City Council probably had the most important meeting they have as a Council last Tuesday on the budget and the first hour of it did not get to broadcast. Councilor Hester stated he has brought this up numerous times before, and whatever the issues are they have got to get fixed.

Councilor Hester stated he was disappointed to hear this is the first the Deputy has heard about the issue of speeding by City Park. His recollection is there have been several correspondences to City Hall with regard to this issue, and there have been articles in the St. Pete Times from some of the residents there. This has been an ongoing problem.

15. NEW BUSINESS:

Councilor Matthews stated in light of the information that Mr. Cheer presented tonight, he moved that the City Council schedule a workshop to revisit the issues of docks on City waters. Councilor Counts seconded the motion.

Councilor Hester asked City Attorney Elias to go over the opinion he gave to the City Manager. He did not think, if he read it correctly, that this can be brought back up since it has been acted upon.

City Attorney Elias stated the issue in the memo was a motion to reconsider. A motion to reconsider according to Roberts Rules of Order can only be brought in the same meeting in which the matter was passed. In addition, if that motion is made during the same meeting it must be made by a party who voted on the prevailing side. No motion to reconsider was made at the Council meeting; therefore the avenue for a motion to reconsider is lost. City Attorney Elias stated the question presented to him was could a motion for a reconsideration be made, and the answer to that question is no. This however does not preclude the matter from being discussed. Just because action was taken by Council whether it be in the negative or whether it be in the adoption of a motion does not foreclose Council ever discussing that matter again. The only other avenue which an item that has been dealt with, by Council, can be brought back up is the way Councilor Matthews has done tonight. This is simply to ask Council based upon information that was presented at the meeting by Mr. Cheer, if there is a consensus of Council to consider the new information at a workshop.

Councilor Barnhorn asked Councilor Matthews if he is merely requesting a Workshop to discuss this.

Councilor Matthews stated he is based upon the reasons of the presentation and that Council was setting policy for the City in the absence of three Council Members whose input was not received by our citizens.

Councilor Hester stated the City Government does not stop because Council Members are not here, and for Councilor Matthews to say because those missing Council Members were not here he would like to hear their opinion, is irresponsible. Council Hester stated the City Council voted, there was a majority vote on the issue, and he saw no reason to bring this back again as a discussion item when it has already failed unanimously.

Councilor Matthews called for the question. Mayor Johnson asked City Attorney Elias if the question is in order, and City Attorney Elias stated it is.

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

MOTION CARRIED 4 to 3.

16. CONSIDER A MOTION FOR ADJOURNMENT.

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

Date Approved: _____

Lesley DeMuth, City Clerk

James Johnson, Mayor