

1
2 **Norb Thomas moved to accept the agenda as presented with changes submitted by the**
3 **City Administrator, seconded by Lori Pfister. The motion carried unanimously, 4-0.**
4

5 **4) APPROVAL OF MINUTES**
6

7 **MOTION**
8

9 **Lori Pfister moved for approval of the minutes of the July 16, 2008 Regular City**
10 **Council Meeting, seconded by Norb Thomas. The motion carried unanimously 4-0.**
11

12 **5) PROCLAMATIONS/PRESENTATIONS**
13

14 5A) Request to Remove Tree – 1202 Park Avenue
15

16 Mr. Frederick presented the following summary:
17

18 Linda Lawson has submitted a request for removal of a tree from the city right of way
19 adjacent to 1202 Park Avenue because of concern that it might damage the house if it fell
20 during a hurricane.
21

22 Staff has evaluated the tree and requested a letter from the Florida Department of
23 Agriculture regarding the health of the tree which is attached. The forester has stated that the
24 tree is healthy.
25

26 It has not been the practice for the City to remove healthy trees within the right of way.
27

28 Ms. Lawson stated she was representing her parents who had requested the tree removal. She
29 distributed photographs of the tree for Council. She said in addition to their concern about
30 hurricanes, that the root system of the tree was damaging the driveway and that it blocked the
31 view of the street when backing out of the driveway. She said they had requested to remove
32 the tree at their expense in the past but had been told they could not remove it. She said she
33 believed developers had been allowed to remove trees.
34

35 Discussion followed with the point made that developers are allowed to remove trees at their
36 expense but required to plant replacement trees. In addition, Council asked for information
37 on any other trees that had been removed recently from the city right of way and the
38 circumstances.
39

40 **MOTION**

1
2 **Lori Pfister moved to table this item until the next meeting, have staff review what trees**
3 **had been removed and bring back a report. The motion was seconded by Norb Thomas.**
4 **The motion carried 4-0 unanimously.**
5

6 **6) SWEARING IN BY CITY ATTORNEY AND DISCLOSURE OF EX-PARTE**
7 **CONTACTS**
8

9 Attorney Williams stated that the quasi-judicial matters on the agenda were 9E and 9F–
10 [Shanti Niketan, Rezoning and Annexation, and Small Scale Future Land Use Amendment].
11 He then gave the oath to those present who wished to give testimony.
12

13 Attorney Williams asked Council if they wished to make ex parte disclosures. Vice Mayor
14 Wolfe stated that he had spoken to Aaron Mercer, the applicant’s representative.
15

16 **7) READING OF ALL ORDINANCES/RESOLUTIONS INTO THE RECORD**
17

18 Ms. Barnett read the following ordinances and resolutions by title only:
19

20 **RESOLUTION 2008-24**
21

22 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**
23 **TAVARES, FLORIDA APPROVING A PERMIT ALLOWING THE**
24 **CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN WOOTON**
25 **PARK FOR CERTAIN SPECIFIED SPECIAL EVENTS; PROVIDING**
26 **FOR TERMS AND CONDITIONS OF THE PERMIT; PROVIDING AN**
27 **EFFECTIVE DATE.**
28

29 **RESOLUTION NO. 2008 - 25**
30

31 **A RESOLUTION OF THE CITY OF TAVARES, FLORIDA,**
32 **AMENDING THE FISCAL YEAR BUDGET OF THE GENERAL FUND**
33 **BUDGET BEGINNING OCTOBER 1, 2007 AND ENDING**
34 **SEPTEMBER 30, 2008, BY INCREASING BOTH THE REVENUE AND**
35 **EXPENDITURE BUDGET BY \$1,668,566, AND AMENDING THE**
36 **COMMUNITY REDEVELOPMENT (TIF) FUND BUDGET FOR THE**
37 **SAME FISCAL YEAR BY INCREASING BOTH THE REVENUE AND**
38 **EXPENDITURE BUDGET BY \$33,760, AND AMENDING THE**
39 **INFRASTRUCTURE SALES TAX FUND BUDGET FOR THE SAME**
40 **FISCAL YEAR BY INCREASING BOTH THE REVENUE AND**

1 **9) ORDINANCES ON SECOND READING**
2

3 **Ordinance #2008-15 – Rezoning to Planned Development & Annexation – West Side of**
4 **David Walker Road & South of Dora Avenue – 7 Acres – Second Reading**
5

6 Mr. Skutt gave the following summary:
7

8 The subject property is located on the west side of David Walker Drive, adjacent and south
9 of the YMCA. The property is approximately 6.82 acres in size. Lands to the west and south
10 are within the County and are presently planted with orange groves. The Chelsea Oaks
11 residential subdivision is located to the east across David Walker Drive. The property is
12 currently an active orange grove. The applicant is requesting to annex the property into the
13 city and to rezone the property from Lake County Urban Residential to City of Tavares
14 Planned Development (PD).
15

16 The proposed Planned Development would include 68 senior, age-restricted, apartment or
17 condominium dwelling units. The conceptual plan shows a single residential building,
18 approximately 100,000 square feet in size, comprising of 6 wings that converge onto a
19 central indoor amenity area. Each dwelling unit will have an individual, attached garage.
20 Additional open air parking is provided for guests and staff. Supplied parking equates to
21 1.35 spaces per dwelling unit which is the amount suggested for Senior Apartments under
22 the ITE Manual. No commercial uses will be allowed within this development. The
23 community will be gated and surrounded with a 6' high, wrought iron perimeter fence with
24 brick columns and continuous hedging. The development will be connecting to city water
25 and sewer. The proposed plan complies with the city's land development regulations and
26 the applicant shall obtain all necessary permits from applicable local, regional, state and
27 federal agencies as well as city site plan approval prior to any construction.
28

29 An environmental assessment has been completed and no concerns were noted. A traffic
30 study has been submitted with a determination that the demand on transportation facilities
31 imposed by this development does not exceed available capacity. The study has been
32 submitted to the MPO as provided for in our interlocal agreement with this agency. The
33 applicant has elected to defer concurrency determination until the issuance of a final
34 development order (site plan).
35

36 The applicant has supplied architectural renderings of the proposed development and the
37 ordinance requires the Developer to construct the buildings to substantially conform to the
38 appearance and architectural form suggested by the rendering.
39

1 Mr. Skutt noted that the Planning & Zoning Board had recommended denial 3-0 based on the
2 density. Staff supports the application because of the nature of the project and its proximity to
3 several services and facilities such as the YMCA, Florida Hospital, and medical offices.
4

5 **Vice Mayor Wolfe asked for comment from the audience.**

6
7 Aaron Mercer, BESH Engineering, stood to speak representing the applicant. He noted that the
8 applicant had requested a 30 day postponement of the case in order to address architectural
9 concerns which he believed now met the standards of the city. He discussed some of the features
10 of the project and proposed land use.
11

12 Iggy Ignatius, manager of the project, stood to speak. Mr. Ignatius said that the project will cater
13 to a niche market and will be a food based retirement community. He said the developers plan to
14 live in the project and that the size of the homes is geared to retirees who do not want to maintain
15 large homes or lots.
16

17 Councilmember Pfister asked about the landscaping. Mr. Skutt said the project will meet the
18 landscaping requirements.
19

20 Councilmember Pfister asked about the plans for a traffic light at Old US 441. Mr. Mercer said
21 that he believed Lake County had planned for a lot at that intersection but it was dependent on
22 FDOT and would be tied to increased traffic from new development.
23

24 Tom Breck, YMCA Executive Director, spoke in favor of the project.
25

26 Denise Laratta, Royal Harbor Subdivision, spoke in opposition to the proposed density, noting
27 her concern for water resources and traffic. She stated she believed that retirees would still
28 generate a lot of traffic in that project despite their proximity to the neighboring facilities.
29

30 Mr. Mercer reiterated that the traffic study had been submitted and approved.
31

32 **MOTION**

33
34 **Norb Thomas moved for approval of Ordinance #2008-15, seconded by Sandy Gamble.**
35 **The motion carried unanimously 4-0.**
36

37 **9F) Ordinance #2008-16 – Small Scale Future Land Use Amendment – Moderate Density –**
38 **Shanti Niketan – West Side of David Walker Drive**
39

1 Mr. Skutt stated this was a Small Scale Future Land Use Amendment associated with the Shanti
2 Niketan project which changes the designation to moderate density of 10 dwelling units per acre.
3 In addition to what has already been discussed, staff has reviewed transportation, wastewater,
4 potable water, solid waste, and storm water. Staff feels that the concurrency review of this
5 project will demonstrate that there are sufficient public facilities for the project. The amendment
6 is found to be consistent with the Comprehensive Plan goals. The Planning & Zoning Board
7 voted to recommend denial on the basis of the density. Staff is in disagreement with the
8 recommendation for the reasons discussed previously and recommends approval.
9

10 Councilmember Pfister asked what the name of the development meant. Mr. Ignatius answered
11 that “Shanti” is his wife’s and it means “peace.” He said “Niketan” means “house.”
12

13 Vice Mayor Wolfe asked if there was comment from the audience.
14

15 **MOTION**
16

17 **Norb Thomas moved for approval of Ordinance #2008-16, seconded by Sandy Gamble.**
18 **The motion carried unanimously 4-0.**
19

20 **Ordinance #2008-28 – Referendum on Ad Valorem Tax Exemption Program – Second**
21 **Reading**
22

23 Mr. Drury discussed the Ordinance as follows: The CRAAC has previously requested that
24 staff research available economic development incentives and bring them to the CRAAC for
25 consideration. Based on this request, staff brought the proposed implementation of an
26 Economic Development Ad Valorem Tax Exemption (EDATE) program for consideration by
27 the CRAAC at its meeting held July 7, 2008. After review, the CRAAC approved
28 recommending that the City Council approve the implementation of an EDATE program as
29 described below.
30

31 Section 196.1995, F.S. authorizes city and county governments to grant by ordinance
32 economic development ad valorem tax exemptions to new and existing businesses as defined
33 in Section 196.012 (15–16), F.S. The ability of the City Council to exercise this authority
34 must be approved by City voters in a referendum election.
35

36 If the authority to grant the EDATE exemptions is approved in a referendum, the City Council
37 at its sole discretion upon application may grant ad valorem tax exemptions for City property
38 taxes to new and existing businesses within the confines of Sections 196.1995 and 196.012,
39 F.S. Such EDATE exemptions can be up to 100% of City taxes for a period not to exceed 10

1 years. Any property tax exemption approved by the City Council would apply only to City
2 property taxes.

3
4 If an EDATE program is approved in a referendum, the City Council will have an additional
5 economic development incentive that it can use at its discretion to encourage the development
6 of new businesses and the expansion of existing businesses in Tavares.

7
8 Although the voter approval would authorize tax exemptions for “up to 10 years”, it is
9 anticipated staff will recommend to Council a “formula” driven plan that would be variable
10 and based on criteria such as the number of new jobs created, the salary levels for those jobs,
11 and the amount of new capital investment that would be made in the community.

12
13 The implementation of the program would be a two step process. First voters would have to
14 give City Council the authority to grant the exemptions at the sole option of the Council.
15 Secondly, if approved in a referendum, then Council would develop the program criteria for
16 the amount and duration of the incentives on a case by case basis using measurable objectives
17 such as the number and types of jobs created as well as the amount of capital investment.

18
19 Councilmember Thomas asked if this ordinance would only apply to the CRA district
20 downtown. Mr. Drury said that was correct.

21
22 Councilmember Gamble commented on the cost of impact fees that had prohibited businesses
23 from opening but also noted that it had the potential to cost the city revenue. He said if Council
24 was in consensus he would support it.

25
26 Vice Mayor Wolfe asked if the audience had comment.

27
28 **MOTION**

29
30 **Sandy Gamble moved to approve Ordinance #2008-28, seconded by Lori Pfister. The**
31 **motion carried unanimously 4-0.**

32
33 **10) GENERAL GOVERNMENT**

34
35 **A) Niagara Bottling Plant Application**

36
37 Mr. Drury gave the following summary of this issue: Niagara is a water bottling company that
38 is in the process of setting up a plant in the County’s Commerce Park near Clermont and
39 Groveland. They have made an application to St. John’s River Water Management District
40 (SJRWMD) to withdraw approximately 484,000 gallons of water per day from the aquifer (by

1 comparison Royal Harbor Sub-division uses approximately 600,000 gallons per day).
2 SJRWMD staff is recommending approval of the application because it “would have little to
3 no effect on local wetlands, lakes, and private wells.”
4

5 The County Commission is challenging/opposing the SJRWMD staff’s recommendation to
6 approve the withdrawal. The estimated cost to oppose the recommendation is \$500,000. The
7 County has asked the Lake County Cities to possibly join them in the opposition. Leesburg
8 voted not to join Lake County and Mt. Dora has voted to support Lake County but has not
9 taken a position on any financial support.
10

11 The City of Tavares has not budgeted any funds to assist the County in its legal fees
12 associated with its opposition. The City does not have the expertise on staff to opine on what
13 affect if any the Niagara water withdrawal permit would have on the city of Tavares and the
14 County has not provided any quantitative nor scientific information on what effect the
15 Niagara water withdrawal permit would have on the City of Tavares, therefore at this point in
16 time, the city looks to the SJRWMD staff and the Lake County Water Alliance for
17 information on what effect the Niagara water withdrawal might have on the city of Tavares.
18

19 **OPTIONS:**
20

- 21 1) To support the County financially with its legal fees associated with opposing the
22 Niagara Water Bottling Plant Consumptive Use Permit.
- 23 2) To support the County’s endeavors to oppose the Niagara Water Bottling Plant
24 Consumptive Use Permit with no commitment to funding.
- 25 3) To neither support nor oppose the County’s endeavors to oppose the Niagara Water
26 Bottling Plant Consumptive Use Permit.
- 27 4) To request that the Water Alliance weigh in on what effect the Niagara request has on
28 the city of Tavares
29

30 Mr. Drury stated that the staff recommendation is to have the Water Alliance weigh in on
31 what effect it has through its Technical Committee. Another option is for Council to discuss
32 the level of support it wishes to give to the County. He noted he had provided two resolutions
33 for Council’s consideration. One supports Lake County’s position to object to the Niagara
34 Water Bottling plant and was prepared by the County. The other is a resolution that the City
35 Attorney has reviewed that supports the County but does not obligate any funding for legal
36 fees. He said that he did not think the City was in a position to fund this issue that is focused
37 on the City of Groveland during these difficult economic times.
38

39 Mr. Drury read into the record the resolution that was developed by staff and the City
40 Attorney:

Resolution #2008-26

WHEREAS, the Lake County Board of County Commissioners has denied the economic incentive package proposed for Niagara Bottling, LLC; and

WHEREAS, the Lake County Board of County Commissioners has expressed its desire to oppose the consumptive use permit application proposed for issuance to Niagara Bottling, LLC by the Saint Johns River Water Management District (SJRWMD); and

WHEREAS, Lake County has asked the City of Tavares to express support for Lake County’s opposition to the consumptive use permit application proposed for issuance to Niagara Bottling, LLC by the Saint Johns River Water Management District (SJRWMD); and

WHEREAS, the City of Tavares cannot make a funding commitment to the County’s opposition

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Tavares that: the City Council supports the County’s endeavors to oppose the issuance of CUP #114010 to the Niagara Bottling, LLC.

Mr. Drury said that the resolution that the County had sent out had gone further, in terms of referencing the Water Alliance, mentioning the Consumptive Use Permit, etc. He said the resolution states that Niagara’s withdrawal of water is “counter to the best interests of Lake County.” He said he had not been provided the data or done the research to inform Council as to whether that is a completely true and accurate statement and therefore had had not included that in the City’s resolution. He said the other issue in the County’s resolution that goes further, is the continuous effort to reduce water consumption.

He said the first issue is to whether to support the County and the second is whether to support it financially or just the concept.

Councilmember Gamble said he did not mind supporting the resolution that Attorney Williams and Mr. Drury had developed but he could not support the County in a problem they brought on themselves. Councilmember Thomas said he agreed and he was a little concerned regarding re-chartering the Water Alliance in 2008 because he did not know what that meant.

1 Attorney Williams said that was up in the air. He said the Water Alliance had voted as a
2 body that they would like to keep on meeting even though their initial charge to do the
3 Water Supply Plan was complete. He said he believed there was an Interlocal agreement in
4 process to address keeping the Water Alliance. He said it would not actually extend the
5 Water Alliance and that neither resolution commits the City to any funding.

6
7 Councilmember Pfister asked for information on the opinion of St. Johns. Mr. Drury said
8 that he believed they were saying the application complies with their rules but that he did
9 not think St. Johns had looked into what effect it would have on the City of Tavares.

10
11 Attorney Williams gave a background on the issue. He said that water is a resource of the
12 state. The state has created five water management districts that are based on river drainage
13 basins of the state and passed a law that says that water consumption is authorized to be
14 regulated by the Water Management Districts and that water consumption of the state's
15 water is based on a very broad test—whether it will do any harm, whether it will hurt the
16 public's interests and whether there is adequate water, and then each District creates
17 somewhat similar but somewhat different rules on how that is interpreted and enforced. He
18 said the scientists at St. Johns have advised that they believe this project meets the standard
19 to get a permit and do not believe it has any adverse public harm for scientific reasons and
20 they have recommended to the Board to give the permit. He noted there was a decision last
21 week on a Marion County bottling water application. He said the court, on a split decision,
22 held that that was not a violation of the public interest.

23
24 Vice Mayor Wolfe asked for comment from the audience.

25
26 Norm Hope – Fox Run Subdivision

27
28 Mr. Hope noted that he had gotten involved in this issue because of the problems with the
29 lake levels. He said the persons on the St. Johns Water Management District Board do not
30 have a background in water management and rely on staff to make recommendations. He
31 said his concern was that Niagara Bottling Company wanted to withdraw water when the
32 citizens were being told to conserve water. He noted that, in addition, there is no Lake
33 County representative on the Board.

34
35 **MOTION**

36
37 **Norb Thomas moved to approve Resolution #2008-26 as presented by the City**
38 **Administrator and the City Attorney, seconded by Sandy Gamble. The motion carried**
39 **unanimously 4-0.**

1 **11) OLD BUSINESS**

2

3 None.

4

5 **12) NEW BUSINESS**

6

7 None.

8

9 **13) AUDIENCE TO BE HEARD**

10

11 Vice Mayor Wolfe asked if anyone in the audience wished to speak.

12

13 **14) REPORTS**

14

15 **City Attorney**

16

17 None.

18

19 **City Administrator**

20

21 Mr. Drury noted that the next Budget Workshop is August 18th and that he had provided a list
22 of the other upcoming meetings.

23

24 **Councilmember Pfister**

25

26 None.

27

28 **Councilmember Thomas**

29

30 Councilmember Thomas stated he would be out of town for the August 18th workshop.

31

32 **Councilmember Gamble**

33

34 Councilmember Gamble noted he would be late for the upcoming workshop. He asked about
35 the sprinkler that is in front of the jail, that the sprinkler head appeared to be broken, and that
36 they were watering at the wrong times.

37

38 **Vice Mayor Wolfe**

39

1 Vice Mayor Wolfe said he had received comments about homeless people living in the woods
2 past the Huffstetler property. Chief Lubins stated that area is in the County and the officers
3 have been working with the Sheriff.

4
5 Question from Audience Member

6
7 An audience member questioned why there had been no discussion of the Ordinances under
8 First Reading. Mr. Drury noted that it is the policy of Council to not discuss ordinances under
9 First Reading and that they will be brought up in two weeks for complete discussion.

10

11 Adjournment

12

13 There was no further business and the meeting was adjourned at 5:45 p.m.

14

15

16 Respectfully submitted,

17

18

19

20

21 _____
Nancy A. Barnett, C.M.C.

22 City Clerk