

**EDGEWOOD CITY COUNCIL
REGULAR MEETING– NOVEMBER 15, 2011**

On Tuesday, November 15, 2011, the Edgewood City Council held a regular meeting at Edgewood City Hall, 405 Larue Avenue, Edgewood, Florida. Council President Beardslee called the meeting to order at 6:30 p.m. Council Member Powell gave the invocation followed by the Pledge of Allegiance.

Council President Beardslee referred Council to an email she received from Council Member Jim Bozeman, who resigned.

Motion by Council Member Powell to accept Council Member Bozeman's resignation, with Second by Council Member Dowless; the Motion was approved unanimously (3/0).

City Attorney Smith said that the Charter allows thirty days to make a decision for a replacement. City Clerk Meeks noted that she provided information at each Dias seat regarding the Charter requirements for council vacancies.

Attendees:

Mayor Bagshaw
Council President Beardslee
Council Member Powell
Council Member Dowless

Absent

Council Member Bozeman
Council Member Henley (Excused)

Staff:

Bea L. Meeks, City Clerk
Pete Marcus, Police Chief
Drew Smith, City Attorney

CONSENT AGENDA

Approval of:

1. Approval of:

October 18, 2011 Minutes - City Council Meeting

2012 Vote Processing Equipment Use Agreement and Elections Services
Contract for Municipal Elections

Audit Services: Review and Recommendation of audit services

*Motion by Council Member Dowless to approve the Consent Agenda items, with
Second by Council Member Powell; the Motion was approved unanimously (3/0).*

A. PRESENTATIONS

None.

B. ORDINANCES – FIRST READING

1. **ORDINANCE NO. 2011-01:** AN ORDINANCE OF THE CITY OF EDGEWOOD, ORANGE COUNTY, FLORIDA, AMENDING THE CITY'S ADOPTED PERSONNEL POLICIES, PROCEDURES, AND RULES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Smith read Ordinance 2011-01 in title only.

Motion by Council Member Powell to approve the first reading of Ordinance No. 2011-01, with Second by Council Member Dowless.

Council Member Powell noted that the Personnel Policy has been written and re-written for the past few of months. He said that he had no documents for comparison and asked how Council handles that. City Attorney Smith explained that everything agreed to by consensus was moved forward and that the current document has not changed since the last conversation that City Attorney Smith had with Council Member Powell. Council President Beardslee said that at the last meeting she was not comfortable with some of the changes and asked to table so that there could be a comparison of like municipalities, as it relates to benefits. She noted that the sick and vacation leave would be reduced 35% if approved with the current document. Council Member Powell said that he hates to

delay again however; he would like to compare his notes to the current document, along with the comparison information provided by Council Member Dowless.

Council Member Powell withdrew his original Motion and offered a substitute Motion to table to December 20, 2011, with Second by Council President Beardslee. Passed unanimously.

2. **ORDINANCE NO. 2011-07: AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA, AMENDING CHAPTER 30, HEALTH AND SANITATION, OF THE CODE OF ORDINANCES, TO CREATE ARTICLE IV, BEGGING, PANHANDLING AND SOLICITING ON SIDEWALKS AND STREETS, TO PROHIBIT PANHANDLING IN CERTAIN AREAS OF THE CITY AND AGGRESSIVE PANHANDLING THROUGHOUT THE CITY; PROVIDING LEGISLATIVE FINDINGS, PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND EFFECTIVE DATE.**

City Attorney Smith read Ordinance No. 2011-07 in title only.

Motion by Council Member Powell to approve the first reading of Ordinance No. 2011-07, with Second by Council Member Dowless.

Council President Beardslee noted that she ask City Attorney Smith to draft an Ordinance based on her experience of being approached by a panhandler at Orange Avenue and Gatlin Avenue. She noted a second incident where she observed a panhandler on Orange Avenue holding a sign. She stated she does not have a problem with people panhandling however, she feels it should be restricted to areas for safety reasons. Council Member Dowless said he has mixed emotions in particular Section 4 that indicates" those people giving money will be in violation". City Attorney Smith clarified that they are not making restricted areas, they are creating prohibitive areas. He confirmed for Council Member Dowless that activity cannot be done in the roadway; it can be done on the sidewalk however pedestrians cannot be blocked or harassed. Mayor Bagshaw said he likes the way the Ordinance is written because it is determining prohibitive areas. City Attorney Smith confirmed for Council Member Dowless that the City of Casselberry has a similar Ordinance and there are similar model Ordinances in other Cities. Council Member Dowless said he has a problem with the restrictions on the driver. ***Council Member Powell called to question.***

Motion by Council President Beardslee to continue the discussion, with Second by Council Member Powell. Passed unanimously.

City Attorney Smith said he is not tied into the provisions of Sections 4 and 5 as it relates to violations on drivers.

Resident Lee Chotas asked Chief Marcus about drivers who stop to give money, causing obstruction to traffic. Mr. Chotas asked if there's a current law that allows officers to approach the driver. Chief Marcus said obstructing traffic would be the most used without doing further research. Mr. Chotas said he commends Council's sensitivity to the situation. Chief Marcus said what he wants to see is the prohibition of aggressive panhandling, even in the street. Council President Beardslee deferred Council to Section C-4; Council Member Dowless said he would prefer to strike this paragraph. City Attorney Smith says Section B-3 defines the Act and Section C-3 prohibits the act, and aggressive panhandling is also addressed in definitions. In response to Council Member Powell, City Attorney Smith said the Ordinance would prohibit firefighters, veterans etc. from being in the roadway seeking contributions. City Attorney Smith confirmed for resident JT Blanton that the Ordinance would also include parking lots. Council President Beardslee said she would like to see a permitting process. Mayor Bagshaw noted that the gated communities have added protection as it relates to solicitors.

Motion by Council Member Powell to approve the first reading of Ordinance No. 2011-07, with Second by Council Member Dowless. The Motion failed after 1 to 2 vote (1 yes/ Powell- 2 No/Dowless and Beardslee)

Council consensus to bring back as first reading in December with modifications per Council discussion. City Attorney Smith summarized the modifications; strike Section C-4 and create a permitting regulatory system for solicitation on the roads.

C. PUBLIC HEARINGS (ORDINANCES – SECOND READINGS & RELATED ACTION)

- 1. ORDINANCE 2011-05: AN ORDINANCE OF THE CITY OF EDGEWOOD, ORANGE COUNTY, FLORIDA AMENDING SECTION 62-57 (REGULATION STANDARDS OF DISABLED VEHICLES) OF THE CITY OF EDGEWOOD CODE OF ORDINANCES TO INCREASE THE TIME ALLOWED TO PARK DISABLED AND UNREGISTERED VEHICLES ON SPECIFIC PROPERTIES; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

City Attorney Smith read Ordinance No. 2011-05 in title only.

Motion by Council Member Powell to approve the second reading of Ordinance No. 2011-05, with Second by Council Member Dowless.

Mayor Bagshaw said that he still has concerns as it relates to the number of vehicles allowed, which is five. He said that some businesses are larger with more bays, and he feels 180 days is excessive time to allow for repairs to be made. Mayor Bagshaw noted that in a short period of time, there were fifty cars removed from the City. He said it is not always the business' fault, there are owners who do not have the money to pay and the car is left with the business. Mayor Bagshaw said that the City should be able to look at their land regulations and come up with the formula for the number of cars that can sit on a property.

Council President Beardslee opened to Public Hearing.

Dan Fulford, 4822 S. Orange Avenue, stated he has a business at this location. He said one of the problems he has with the Ordinance is that his property has no rear property therefore; he would like to see something in the Ordinance that allows vehicles in the side yard.

Attorney Lee Chotas noted that there have been two ordinances continued and hoped to get this one right. Attorney Chotas said he is okay with the Ordinance with the change to delete "five or fewer disabled vehicles". Attorney Chotas said that if you can't see them, it doesn't matter how many vehicles there are. Attorney Chotas said the 180 days was for the "kit" cars. He suggested language stating "parked in the side yard more than 100 ft" (first line in "C" and "A" of proposed Ordinance) from public road. He said by doing this you still require the screening so that you can't see the cars from a public road.

Mr. Fulford said that after meeting with the City's code enforcement officer and the Mayor last week, he learned that the Code allows a disabled vehicle to be covered with a "parka", and he views that as screening. City Attorney Smith pointed out that code enforcement cannot check the vehicle if it is covered, without a search warrant. City Attorney Smith said if code enforcement sees violations from the right-of-way they can come onto the property. Mayor Bagshaw said he is still concerned about the "180" days.

John Moccio (SMD Auto) said that his business doesn't just work with "kit" cars, they also restore old cars and it takes more than 180 days. Mayor Bagshaw said the Code allows one kit car; how many cars should the City allow. He stated that 180 days is a long time to accumulate a lot of cars. Excluding "kit" cars, remodeling and restoration, Mr. Moccio said it could take one month. Attorney Chotas said for purposes of passing the Ordinance tonight, he needs three votes with the theory that you cannot see from Orange Avenue, and you have good quality people where it has never been a problem. Council Member Powell said that we do have good citizens with good businesses, however, someone can come in later and there could be a problem because there was no

code. Council Member Powell said this is what the City is trying to get away from. Council President Beardslee said for 7 ½ years she believed that there were many occasions that Council made it very difficult to do business in Edgewood, she thinks that if Council wants the City to be viable in the future, they better make good decisions but thinks sometimes thinking is cloudy as it relates to the business owners who have been there for years. She wants to be fair to all business owners. She said if there isn't a negative impact on a residential property from a business, you can't see it (the violation) and it is not impacting others, she is on the fence. She asked the City Attorney how the Ordinance can be written to make it fair for all businesses and not impact the aesthetics. He said from her comments, she is agreeing with the recommendation of Attorney Chotas, as long as you can't see the cars.

Gary Layman, 4822 Orange Avenue stated that most of his code enforcement is a result of cars from the auto auction that have dealer tags on them. He is told these cannot be seen in the parking lot. City Attorney Smith said if the tag is lawful there is no problem.

Closed public comment.

Council Member Powell said that he concurs that he doesn't want to make a snap decision and proposes to table the matter. ***Council Member Powell made a Motion to table action on Ordinance No. 2011-05 however, it failed for lack of a Second.*** Council President Beardslee said that she thinks the concerns are 1(c) screening and side parking and number of days. Council Member Dowless said he agrees with Attorney Chotas, as it relates to "if you can't see it from Orange Avenue it's not a problem". Mr. Fulford asked about screening/fencing height, and City Attorney Smith said it has to six feet. Brian Leahy asked if City Attorney Smith could look into the legality of the transport tag. Council President asked about changing to 100 percent opaque. Council President Beardslee said she likes the 180 days. Attorney Chotas said it doesn't make sense to postpone but wants to make sure that there are no bad feelings. He said he appreciates the sensitivity and withdrew his request to approve tonight. Mayor Bagshaw said Chief Marcus will direct Code Enforcement to back away from the Ordinance until this is resolved. Council Member Powell withdrew his original Motion.

Council President Beardslee made a Motion table to until the December 20, 2011 Council meeting, at 6:30 pm or soon thereafter to be heard, with Second by Council Member Dowless. Passed unanimously.

Consensus to look at number of vehicles, days, side allowance and screening.

Attorney Chotas said based on Council comments with Council's permission, he is willing to work with City Attorney Smith to come up with some verbiage. Council Member Powell said can they use words that if Ordinance is contested, cases can be considered on a case-by-case basis. City Attorney Smith said there are special exceptions however, application would have to be made for a variance and there is certain criteria

that has to be met. Chief Marcus said he will have a moratorium on this particular issue for those matters not already in Code Enforcement.

Council President Beardslee called for a break AT 8:09

2. **ORDINANCE 2011-06:** AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA, IMPOSING A TEMPORARY MORATORIUM FOR 180 DAYS ON THE ISSUANCE OF ANY BUSINESS TAX LICENSE, PERMIT, CONDITIONAL USE APPROVAL, SITE PLAN APPROVAL AND ANY OTHER OFFICIAL ACTION OF THE CITY OF EDGEWOOD HAVING THE EFFECT OF PERMITTING OR ALLOWING THE CONSTRUCTION AND/OR OPERATION OF THE FOLLOWING BUSINESSES USING SLOT MACHINES OR SLOT MACHINE LIKE EQUIPMENT OR SIMULATED GAMBLING DEVICES WITHIN THE CITY OF EDGEWOOD: GAME ROOMS, ARCADES, INTERNET CAFES, SWEEPSTAKES REDEMPTION CENTERS OR ESTABLISHMENTS, AS MORE SPECIFICALLY DESCRIBED IN THIS ORDINANCE, EXCLUDING APPROVALS AND PERMITS FOR THE CONTINUANCE OF ANY EXISTING BUSINESS; THE TEMPORARY MORATORIUM SHALL APPLY TO ALL REAL PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF EDGEWOOD; PROVIDING FOR DEFINITIONS; PROVIDING A PROCEDURE FOR EXTRAORDINARY HARDSHIPS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND SETTING AN EFFECTIVE DATE.

City Attorney Smith read Ordinance No. 2011-06 in title only.

Motion by Council Member Dowless to approve the second reading of Ordinance No. 2011-06, with Second by Council Member Powell.

Council President Beardslee opened for public comments.

Speaking in favor of the Ordinance, Resident Lee Chotas commended Council for the Ordinance and thanked Council. There being no further comments, the City Clerk was asked to take a roll call vote.

Mayor Bagshaw	Favor
Council President Beardslee	Favor
Council Member Dowless	Favor
Council Member Powell	Favor

Ordinance No. 2011-06 was unanimously approved for adoption.

D. UNFINISHED BUSINESS

E. NEW BUSINESS

F. GENERAL INFORMATION (No action required)

G. CITIZEN COMMENTS

No comments.

H. BOARDS & COMMITTEES

I. STAFF REPORTS

1. Police Chief

Chief Marcus reminded Council that the Annual Toys For Tots is scheduled for Saturday, December 10, 2011, and it will be publicized. Council Member Dowless said he will make contact with the media. Chief Marcus said that they are setting the venue for others to bring toys to the City. He confirmed there will be a banner. Toys will be collected through December 10th, and any donations after that are referred to the Marines.

Chief Marcus noted some recent thefts in the City with the stealing of copper and items left in unlocked vehicles. He said his officers came up with a "lock it or lose it" campaign to heighten the awareness to lock your car. He said there will be blanket calling (code red system), and officers are going door-to-door to talk to residents and if they are not at home, they are leaving an information sheet. He hopes to segue into the system this week. The City remains to be if not the safest, but one of the top safe cities in Orange County.

2. City Attorney

No report.

J. MAYOR & COUNCIL REPORTS

Mayor Bagshaw addressed Code Enforcement as it relates to when fines are imposed, and that the fines continue to run until paid. He wanted to know if Council had any objections to him sitting down with those with liens, and discuss resolving the liens. Council President Beardslee said she always wants to recover the raw costs, and that the same criteria are applied so there is consistency. City Attorney Smith pointed out that all code enforcement cases are a case by case basis. Resident Lee Chotas pointed out there are scofflaw laws, and suggested obtaining the guidelines from the City of Orlando. Don Fulford said he is one of those with a tenant who has not been in compliance and caused problems for him as the property owner. He has now received a \$2,200.00 fine, and asked forgiveness. Mr. Fulford said he did not know if his lien had been recorded yet. Council President Beardslee said Council is not prepared to make a decision on his request. City Attorney Smith said his thought is to bring it back to the next agenda. The City Clerk said she would check to see if Mr. Fulford's lien was recorded.

Council Member Dowless reported on Legacy's HOA engineering requirement. Council Member Dowless asked if the City could amend their Ordinance. City Attorney Smith said that legally the City does not have to change the Ordinance. City Attorney Smith noted similar circumstances in other cities where the residents have ask the respective city to take over the road. City Attorney Smith said there may be consideration for changing the length of time.

Council Member Powell noted a new business in one of the City's local shopping plaza and he suggested to the Mayor that the City send flowers/dish gardens. He asked the Council's thoughts. Council President Beardslee said that she thinks it is good to welcome the new business. He noted that he visited the new business, as did the Mayor and he thinks it would be a good policy to set a standard to receive word of the new businesses. Resident Lee Chotas asked Council Member Powell how the "tax payers" would benefit from the City spending their tax dollars to send flowers. Council Member Powell said that new businesses do pay to the City in the form of the business tax that is levied. Council President Beardslee said that it is also good to acknowledge the new businesses in the Newsletter. Council Member Dowless said he doesn't know if he is prepared to make a policy. Mayor Bagshaw said that he would like to have a business directory of businesses in the City and place it on-line for all the residents and businesses to see; all preliminary now. Mayor Bagshaw said there will be further review and see where the funds will come from.

Council Member Powell reported on roads and streets and noted Harbor Island Road/Windsong is in need of repair at the island. He said CSX did some more mowing. He said there is a tree that needs to be cut-up and hauled off. He said he can ask CSX to haul it off since it is on their property. He said that DOT is taking over CSX property but it is unknown to him who the contact person is when repairs are needed.

He reported that there is sidewalk damage on the right-of-way and it was repaired. Said there is damage on the north side of Gatlin but was told it is the City's responsibility.

Council President Beardslee asked the City Clerk for her report, which was provided as follows:

- City Clerk Meeks acknowledged that a lien was recorded against Don Fulford Properties.
- Provided Council with a status memo (Informational Only)
- Reported on Business Tax Receipts as it relates to business owners had not been paying the business tax in accordance with the City's Ordinance. She reported that the Ordinance allows the City to levy against the business (legal entity) and

the profession. In response to discussion proposing changes, City Clerk Meeks stated that the current budget for Business Tax Receipt revenues is based on the current Ordinance. After brief discussion to reimburse the businesses that paid both assessments, *it was the consensus of the Council to not do the reimbursement.*

Motion by Council President Beardslee to not levy for both the legal entity and the profession, with Second by Council Member Dowless. Passed unanimously.

In response to Council Member Dowless, who said the Code was not clear to him, City Attorney Smith read from the Code. *It was the consensus of the council to amend the Code to levy only the business entity.* Mayor Bagshaw reminded Council that it may affect the budget.

- City Clerk Meeks reported on AMI Staffing's application for a Business Tax Receipt. Mayor Bagshaw said there is on-site job testing. Council President Beardslee said that this issue came up before when Attorney Cassidy was the City Attorney and said City Attorney Smith should talk to Attorney Cassidy and follow-up with the City Clerk.
- City Clerk Meeks reported on Secondary Metals Recycler's application for a Business Tax Receipt. Council President Beardslee stated her concerns about it being a gold buying business. Chief Marcus said there are a lot of laws specific to pawnshops. City Attorney Smith said it is not the statutory definition of a pawnshop. Resident Lee Chotas said if the City was challenged, if the application was denied, the City would lose if the City tried to characterize the business as a pawnshop. *It was the consensus of Council to allow the business.*
- City Clerk Meeks said she was contacted by a business owner, who is considering having a farmer's market. Mayor Bagshaw said he would talk with business owners who want to have the farmer's market, and learn the scope of what they want to do.
- City Clerk Meeks reported on the status of qualifying for the municipal election.

Council President Beardslee said that she wants to get a reminder notice to owners about the monument ordinance. She noted that there will be some budget amendments in December.

K. ADJOURNMENT

There being no further discussion,

***Motion by Council Member Powell to adjourn, with Second by Council Member Dowless;
the meeting adjourned at 9:53 p.m.***



Judy Beardslee, Council President



Bea L. Meeks, MMC, CPM
City Clerk

CITY COUNCIL APPROVED: December 20, 2011 (Regular Council Meeting)