



City of Palm Coast

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Meeting Minutes City Council Workshop

Mayor Jon Netts
Vice Mayor Bill McGuire
Council Member Jason DeLorenzo
Council Member Steven Nobile
Council Member Heidi Shipley

Tuesday, December 9, 2014

9:00 AM

Council Conference Room

>Public Participation shall be in accordance with Section 286.0114 Florida Statutes.

>Other matters of concern may be discussed as determined by City Council.

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A. Call to Order

Mayor Netts called the meeting to order at 9:00 a.m.

B. Pledge of Allegiance to the Flag

C. Roll Call

Present: 5 - Mayor Netts, Vice Mayor McGuire, Council Member DeLorenzo, Council Member Nobile, and Council Member Shipley

D. PRESENTATIONS

1 [14-418](#) PRESENTATION OF THE VOLUNTEER FIREFIGHTERS' PENSION SHARE PLAN PROJECT

Mr. Landon gave a brief overview of this item. Mr. Chris Quinn, Finance Director, gave a PowerPoint presentation (attached to these minutes).

VM McGuire - Does that reserve draw interest? Mr. Quinn - Yes, it is all invested.

CM DeLorenzo - Does State Statute allow us to reduce the rate (from 1.85%)? Mr. Quinn - He believes that rate is set by the State in that amount, but he will double check.

VM McGuire - What if the City had to kick into this fund where would the money come

from? Mr. Quinn - It would have to come out of general revenues.

VM McGuire - Ad valorem tax? Mr. Quinn - Any one of our general revenues.

CM Shipley - Is it that they won't let us hold more money in the reserve, we have to spend it? Mr. Quinn - Right, the State is basically keeps asking us what are you going to do with this money, because we can't just hold it; it is specifically for pension benefits.

Mayor Netts - If there is no reserve, and the revenues decrease then we either cut the benefits or discontinue the benefits. Mr. Quinn - There will be an amount set aside for additional cushion above and beyond that.

Mayor Netts - What is the actuarial suggestion for an appropriate reserve? Mr. Quinn - The actuary has been taking 20% and setting it aside which would be somewhere around the \$300,000 range and that is their recommendation.

Mayor Netts - In that one year when we had the 32% decrease, what was the dollar amount of the decrease? Mr. Quinn - It was about \$100,000+. In that year 2009-2010 was about \$150,000-\$160,000 decrease there; you have to remember that of the 339 only 144 would go towards the \$65 per year of service; the difference would still increase the reserve.

Mayor Netts just wanted to be sure we are well protected and to the extent we can provide the benefit, we ought to do it. The only caveat is the question CM DeLorenzo raised is this 1.85% set by State Statute or is this something we could reduce. Mr. Quinn will double check that number.

VM McGuire - How many participants are receiving benefits at this time? Mr. Quinn - About 10.

VM McGuire - What is your forecast for the next 10 years; how many more people do you expect to be participating in this pension plan? Mr. Quinn - On active participants, you have to stay in at least 5 years of service; you can be a volunteer firefighter and only occasionally participate and you will never get to a year (worth) of service; you actually have to put in the time; it depends on the volunteer.

VM McGuire - What if over the next 10 years the number of participants doubled, are we covered? Mr. Quinn - If the number of participants doubled, that mix between 144,000 and the reserve, the State would allow us to move some money over because it would be needed to pay current benefits, so it gets really complicated.

CM Nobile - As far as the reserve is concerned, it has to go to individual benefits not part of the organization or anything like that? Mr. Quinn - Right, it has to be paid out as some type of benefit.

The Presentation was Received and Filed.

2 [14-444](#)

PRESENTATION OF THE COMMUNITY CENTER RENOVATION AND EXPANSION DESIGN UPDATE

Mr. Landon gave an overview of this item. Items 3 and 4 are also discussed under this item. Mr. Carl Cote, City Construction Manager, started the PowerPoint presentation (attached to these minutes).

VM McGuire - How did you determine how much parking you would need, because he doesn't see a lot of parking spaces on the diagram? Mr. Cote - There are some

calculations in the Land Development Code (LDC) based on specific uses; there is quite a bit of parking along this roadway on both sides; we exceeded the need; there is ability along the roadway to add more parking.

CM DeLorenzo - Of the six that did not qualify; were any of those local? Cote - He believes one was local and was going to be a subcontractor on the low bidder; he is more of an underground infrastructure subcontractor; he didn't have any experience in constructing parks himself; that is why he was not deemed qualified.

Project Budget - Holland Park Improvements slide:

VM McGuire - We had a project approved last year and we decided to go back to the drawing board; how do these bids compare to what we originally wanted to do with Holland Park? Mr. Landon - We went out to bid; we only had two bidders; the lower bidder made a huge mistake and said he couldn't honor the bid so then it went back out to bid. Mr. Cote - The other bid was \$4.6 mil. Mr. Landon - So, we are actually less than what that one (qualified) bid was.

VM McGuire - If we did the entire project, instead of breaking it into two sections, how much would it be? Mr. Cote - We have those other components; we don't have hard numbers on all of those elements, but the building improvements were about \$750,000-\$800,000; the expansion of the playground elements and the splash park are \$1.5 mil.+ and the sports lighting depending on baseball fields from \$300,000-\$800,000; it was always intended to be a phased project; we broke those other elements out specifically by discipline. The building improvements can be done by a building contractor; typically anytime; playground splash project is going to be separate, specialized project, etc.

Mayor Netts - Assuming this project goes forward, phase 1, what happens to the current usage of the park? Mr. Cote - For the most part, it is going to be shut down; he explained the entire park will be affected by this construction. As the areas are done they will open sections back up.

CM Shipley - Is it possible to leave the side that the dog park is on open while the other half of the park is being done? Mr. Cote - No; he expressed that due to the stormwater drainage work that needs to be done and building the roadway, it would not be feasible for the dog park to remain open.

CM Nobile - Which is 450 days? Mr. Cote - Yes, but contractors feel that it can be done in less time than that.

CM DeLorenzo - There is liquidated damages for going over the project (time) limit? Mr. Cote - Yes.

CM Shipley - She knows we need a lot of lighting for the tennis courts, but for the parking areas and the dog park area, is it possible to use solar lighting in those areas? Mr. Cote - We did look at various types of lighting back during the design years ago, the solar lighting is difficult at this park; we are using LED lighting; it was the final selection that was determined to be best fit for this park. Mr. Landon - We have tried solar lighting, but a lot of the lighting would be for safety reasons; when it is cloudy there is a chance that when 3:00 a.m. rolls around the lights would not be operating; not a good alternative for this type of setting.

Mayor Netts reminded all that with the surrounding residential area, we also need to be careful about light scattering; down lighting; light pollution. Mr. Landon - Yes; he added we also are conscious of the potential noise that comes from the basketball courts and buffering, etc.

(Community Center Background slides were presented by Ms. Luanne Santangelo, Parks & Recreation Director).

Community Center Master Plan slide:

VM McGuire - There was discussion about whether or not the Bridge Club would contribute to this construction; is that still on the table? Mr. Landon - They will not participate in the construction, but they have a long term (rental) lease agreement.

Community Center-Preferred Design Scheme slide:

VM McGuire - 20,870 sq. ft. (on diagram); how much sq. ft. does the current building have? Mr. Cote - 5,781 sq. ft. is the existing building.

Mayor Netts - So in that option, you are keeping the existing large room; that room has the largest, noisiest air handler of any building he has ever been in; he hope we are not keeping that air handler. Mr. Landon - We all agree with that; it needs to get fixed.

VM McGuire - Are you going to put a sound system in the other two key rooms? Mr. Cote - We didn't get into the specifics about what is going to be in each of those spaces but there will be the ability to have those elements in those spaces.

CM Nobile - If we delay a year, that would have City Hall built; what would the City still need as additional spaces beyond that? Mr. Landon - The current plan right now, the only thing that was funded, was the office portion; the Council chambers, the meeting rooms, etc., were not actually approved as part of that; staying within budget; almost all of our projects we phase. The idea was that the community wing, which is being funded by CRA (Community Redevelopment Agency) dollars would be constructed in the future, but we are suggesting to delay the community center, during that time we can build the community wing so now those functions have a place, etc.

Projected CIP with Single Phase Project slide (presented by Mr. Quinn):

CM DeLorenzo - What are current CRA collections? Mr. Quinn - In total, about \$1.5 million.

CM DeLorenzo - That is about half-million a year; what else is encumbered in that \$1.5 million? Mr. Quinn - Debt payments; about \$900,000.

Central Park Community Wing Floor Plan slide:

CM Nobile - Is the capacity full on that room? Mr. Cote will have to check. Mr. Landon - It's larger than the Council room now at the Community Center and more functional because of the partitions, etc.

Mayor Netts - So, the seating in the main room will not be theatre style seating but would be movable chairs? Mr. Landon - Absolutely, that is the way most people do it today because of the flexibility it gives you and the variety of uses you can use that space for.

CM Nobile - If we go ahead with this, the capacity gain or loss for the current reservations and projections, where are we on that? Ms. Santangelo - Most of our ongoing reservations, which is a lot of the clubs, meet monthly and the space would accommodate them. Where we might have some concerns would be when we have both rooms being reserved at the same time by different groups; not sure how that would work; it would depend on how large the group; could be accommodated in one of the partitioned areas; space is functional. We can have our ongoing reservations

and even our programs in this location during that closing time and the other functions would fill in as they request them.

CM Nobile - At what point would the Community Center be complete to the point where we can increase reservations; when would it be done? Mr. Landon - End of 2018.

Guaranteed Maximum Price At-Risk slide:

VM McGuire - Is there any danger that in order to get a cost savings that a construction company might substitute inferior materials or cut corners in construction in order to claim a savings how are we protected against that? Mr. Cote - We still have the design team on board; there is a thorough review process; a lot of shop drawings with various products that have to get approved before they can put them in; inspections on site; that is the construction manager's job too to make sure they are following the approved plans and specs.

VM McGuire - Are the payments to the construction management team done in increments? Mr. Cote - On a monthly basis.

VM McGuire - So, the construction management team submits a bill, your team goes out and verifies that the construction was done according to established parameters that were accepted by both parties and then say we are happy they did it right and then we pay them? Mr. Cote - Right.

Mayor Netts - If we proceed with this modification, the community room will cost \$2,537,000+; if we go back to the other concept what would it cost us? Mr. Cote - \$429,000 above that (almost \$3 mil.).

VM McGuire - Is this a turnkey price, furniture, etc.? Mr. Landon - Absolutely.

CM Nobile - When would it start? Mr. Landon - It already started; this would just be a continuation, etc. Mr. Cote - The timing is very critical, because the subcontractors are on site for City Hall.

CM Nobile - So, the whole thing would be complete at once; the wing and City Hall? Mr. Landon - Correct.

CM Shipley - Do we have an overall price for what City Hall is costing us now? Mr. Quinn - Just over \$6 mil. Mr. Cote believes it is \$6.4 mil. Mr. Landon - So with \$6.5 mil. and \$2.5 mil.; we are at \$9 mil.; from day one we said both would be \$9.6 mil.; this is within the budget.

Mayor Netts - The net result is some cash savings, overall about \$1 mil. and perhaps a more workable sequencing? Mr. Landon - Yes, a more workable sequencing both from a community facilities standpoint and from the CIP (Capital Improvement Plan) standpoint; not raising taxes and staying within our current funding source.

CM DeLorenzo - The Community Center - keeping the roof architecture of the existing meeting room is important to him; retains the original Palm Coast character. Mr. Cote - Yes, keeping that; possibly mansard down slowly but adding a metal roof onto this facility is what we are looking at doing.

CM DeLorenzo - If possible, accelerating the repayment from the CRA because the longer that goes out the harder he finds those things come back in. He doesn't want to see that get lost in the wash in the future. He wants to see it paid back quicker, etc. Mr. Quinn - He agrees, we can make some special discussion about that as we are

looking at the CIP in the budget each year to make sure it doesn't get lost in the shuffle.

CM DeLorenzo - For the public, the \$2.5 mil. is not just for an extra 7,000 sq. ft.; there is a lot of infrastructure there, etc.

CM Nobile - He can see the emails that are coming after this meeting on the fact that there was opposition to City Hall and now we are adding to it; he wants to know that we did do everything we can to phase this the way it was originally set up, because right now it is all contingent on the fact that we went with City Hall. What would have done if that (City Hall) didn't pass? Mayor Netts - You would still be displacing people out of Holland Park and still trying to have people and construction at the Community Center at the same time. Mr. Landon - We put together a multi-year plan; one thing happens and then people think we are done. He explained, then we proceed with the plan and people think something new is happening and don't realize it is all part of the phased plan.

VM McGuire - His concern is having too many projects going on at the same time that would disrupt the citizens' ability to do what they are doing; having to shut down the Community Center concerns him and he would like to see a well thought out contingency plan. Mayor Netts - That is the advantage of delaying the Community Center (modifications).

The Presentation was Received and Filed.

3 [14-443](#)

RESOLUTION 2014-XX APPROVING A CONTRACT WITH TUMBLESON WHITE CONSTRUCTION, INC., FOR THE CONSTRUCTION OF THE FIRST PHASE OF THE HOLLAND PARK IMPROVEMENTS PROJECT

Attachments: [Resolution-Construction of Holland Park Improvements](#)
 [Contract Summary - Tumbleson](#)
 [Bid Opening Tab - Holland Park](#)

This item was discussed under item 2.

The Resolution was Continued.

4 [14-442](#)

RESOLUTION 2014-XX APPROVING AN EXTENSION OF EXISTING CONTRACTS WITH ARCADIS U.S., INC., AND LITTLEJOHN ENGINEERING ASSOCIATES, INC., FOR ADDITIONAL SERVICES DURING THE CONSTRUCTION PHASE OF THE HOLLAND PARK IMPROVEMENTS PROJECT

Attachments: [Resolution-Holland Park Renovation Project](#)
 [Contract Summary - ARCADIS](#)
 [Contract Summary - Littlejohn Engineering](#)

This item was discussed under item 2.

The Resolution was Continued.

5 [14-432](#)

RESOLUTION 2014-XX APPROVING PIGGYBACKING THE FDOT

CONTRACT WITH URETEK HOLDINGS, INC., FOR MAINTENANCE
REPAIRS TO THE OLD KINGS ROAD BRIDGE #734073
ABUTMENT

Attachments: [Resolution URETECK Holdings Inc.](#)
 [Engagement Letter for URETEK](#)
 [Bridge Location Map](#)

Mr. Landon gave a brief overview of this item. Mr. Michael Brennan, Stormwater Manager, gave a PowerPoint presentation (attached to these minutes).

VM McGuire - Is that what we did in the weir that is right up the waterway from there where you found a big void underneath, etc., and had to drill holes in the top and pump material in there. Mr. Brennan - We used a cement-type grout in that instance, this is a chemical grout. They drill tiny holes in the face of the abutment and drive steel probes in there and inject foam that expands and forces the water out and kind of glues it all together.

VM McGuire - Is it eco-friendly? Mr. Brennan - Yes, as soon as it cures; it is a polyurethane product.

CM DeLorenzo - There have been several changes to that waterway over the years, the Royal Palms bridge and weir(s) that were repaired. Any of those contributing factors to this erosion or is it just the age; is the bridge constricting and speeding up the water. Mr. Brennan - He would have to say yes as to the canal itself under I-95, not the (Royal Palms) bridge upstream; he explained some other possible contributing factors.

VM McGuire - Of the \$39,000 to URETEK, how much of that is labor? Mr. Brennan - They have a very small crew; they probably do it in half a day.

VM McGuire - So it is mainly the cost of material? Mr. Brennan - Yes.

VM McGuire - We couldn't do that? Mr. Brennan - No, it is specialized training; using chemicals; two-part material pumped to a certain PSI and it is set up with measuring equipment all over it so nothing moves; very technical procedure.

VM McGuire - How permanent is this fix; life expectancy? Mr. Brennan - If you don't disturb it, he could imagine 100 years.

Mayor Netts - Since we are spending \$39,000 on this bridge, what is it preventing us from what we anticipated doing this year? Mr. Brennan - We have a Secretary Trail bridge south of the City that has been brought to our attention that FDOT (Florida Department of Transportation) is on scour analysis and that is what they call a scour critical bridge even though it has a creek under it that you can step across; which means it gets inspected every year. We had intended to do that bridge this year, but we are doing this bridge instead this year. Next year we will probably do the Secretary Trail bridge.

VM McGuire - If the ground is saturated, this process blows the water out and seals the remaining soil? Mr. Brennan - Yes, it starts sealing from the outside in.

The Resolution was Continued.

AMENDMENTS BASED ON THE EVALUATION AND APPRAISAL
LETTER SENT TO THE DEPARTMENT OF ECONOMIC
OPPORTUNITY

Attachments: [Ordinance-EAL Amendments](#)
 [Exhibit 1 - Proposed Text Amendments](#)
 [Exhibit 2 - FLUM with updated Coastal High Hazard Area](#)

Mr. Landon gave a brief overview of this item. Mr. Jose Papa, Senior Planner, gave a PowerPoint presentation (attached to these minutes).

CM DeLorenzo - Is there developable property in the coastal high hazard or is it just the waterway? Mr. Papa - Certainly, where you have the seawalls it doesn't take into account; might have some of the more natural shorelines, the line might creep a little closer, etc. Mr. Landon doesn't see anything that goes out of a typical canal or Intracoastal.

CM DeLorenzo - Who does this slosh (seas lakes and overland surges from hurricanes) modeling? Mr. Papa - The slosh model was done by the Northeast Florida Regional Council (NEFRC) and they do it as part of the emergency evacuation study that we are contracted to do by the State.

CM DeLorenzo - The coastal high hazard can have affects on construction as well as construction costs, right? Mr. Cote - For purposes of coastal high hazard, what the State uses this for is evacuation; if you were to increase the density within an area deemed to be a coastal high hazard area, you need to provide some ways of mitigating for that increase in potential population for that area, but in terms of additional growth management regulations outside the Florida Building Code, it's not the intent, etc.; doesn't affect the FEMA (Federal Emergency Management Agency) maps. Mr. Landon - From the building code standpoint, the wind factor; you have to have different type windows in certain areas. Mayor Netts - If you look at a slab of a home on a saltwater canal compared to the top of the seawall you are looking at 6-7 ft., so even if the water comes up over the seawall you still have 6-7 ft. before it gets to the house; that is why where the house sits is not considered coastal high hazard.

CM DeLorenzo - He is guessing it could affect some setback depending on exactly where the line is, etc. Mr. Papa - Our setbacks are measured from property lines.

CM DeLorenzo - Objective 1.1.2. (pg. 32 of packet/pg. 2 of report), that has to do with the conservation FLUM (Future Land Use Map) designation for MPDs (Master Planned Developments), how does this change it; what are the mechanics of it? Mr. Papa - In practice, it doesn't really change anything; we have always said that the original policy was created so that where you had small conservation areas within an MPD, you would have to have a different zoning designation because MPD was not permitted in conservation but the overall affect is that even if was designated MPD and the underlying FLUM designation was conservation, you still couldn't develop it because the FLUM would control the MPD zoning (conservation, FLUM and you have MPD over it) you cannot build a home on it because the conservation FLUM would override the MPD zoning. It was meant to clarify.

CM DeLorenzo - Policy - constrained streets; he knows what it is trying to do, but there wasn't a definition so how would it work in practice and where is the policy (is there one)? Mr. Papa - The policy is it highlights the street(s) and it alerts us that there are qualities and conditions with this street(s).

CM DeLorenzo - Is the policy as ambiguous as it sounds here; criteria? Mr. Papa -

The criteria comes with our LDC (scenic roads, etc.). CM DeLorenzo summarized - calling those areas out as high priorities and because of that they fall under a different set of criteria.

CM DeLorenzo - Why are we working with County on that (Colbert Lane) besides because it is a County road? Mr. Papa - That is the reason. Mr. Landon - You have some residents that requested this; to make sure it is protected; especially by the college.

CM DeLorenzo - So, when working with the County we will establish a different terminus, not all the way to SR100? Mr. Papa - It could be; we will work with them on an appropriate ending based on other maybe future development areas that are closer to SR100, etc.

CM DeLorenzo - In Policy 2.1.2.1., which has to do with the DRIs (Developments of Regional Impact), that is all updated State language? Mr. Papa - Yes.

CM DeLorenzo - Change in park land; is there a change in acreage? Mr. Papa - Change in acreage, refined some of the acreage within those parks and the other thing was a breakdown of how we listed the parks. CM DeLorenzo liked the revision and the breakout of what is not guaranteed. There was discussion about a discrepancy of 80 acres gained. Mr. Papa will go back and look at it; probably relates to some DRIs that were not included in the original list (Neoga Lakes and Old Brick Township).

The Ordinance was Continued.

7 [14-438](#)

RESOLUTION 2014-XX APPROVING CHANGES TO THE CITY'S HEALTH INSURANCE PROGRAM RELATING TO THE STOP-LOSS INSURANCE CARRIER AND THE ANCILLARY INSURANCE PROVIDER

Attachments: [Resolution Stop loss and Ancillary Services](#)
[Contract Summary - Sunlife](#)
[Contract Summary - Mutual of Omaha](#)

Mr. Landon gave a brief overview of this item. Ms. Wendy Cullen, Human Resources Manager, gave a PowerPoint presentation (attached to these minutes).

>Medical Plan Costs slide:

VM McGuire - Do actual costs include administrative fees? Mr. Landon - It is all in. Ms. Cullen added that no City staff salaries; all other fees are included in these figures.

VM McGuire - Does the red column include the costs of what you paid an outside carrier to administer this plan? Mr. Landon - Right, real savings, hard dollars.

CM Nobile - What is the difference in the deductible from the third party plan versus the in-house plan? Ms. Cullen - How we arrived at the figures of the \$3.9 mil. is the national trend per year; if we had stayed at our final year fully insured, where we would be. Now even now as we are self-insured or fully insured we would still be able to go out and pick a plan based on various deductibles and that would cause the cost to fluctuate up and down. When we took the national average, we didn't look to see if it what the deductible was; we took basic national averages across the board, etc.

CM Nobile - What is the deductible? Ms. Cullen - For an individual it is \$1,500 for and

for employee and dependents \$3,000; regardless of the number of dependents.

VM McGuire - What is the difference in head count between 2011 and 2014? Ms. Cullen - We were high in 2011, etc., our high was about 425; our lower was about 368-372.

VM McGuire - Do part time employees have healthcare benefits? Ms. Cullen - No, they do not. She express there are only a couple (2-3) of part time people. Mr. Quinn - We have a very limited number of permanent part time employees.

>Stop-Loss Insurance Quotes slide:

Mayor Netts - Is that a bate and switch (regarding SunLife proposal)? Ms. Cullen - It may be; we don't know for sure. Mr. Landon - We will go out next year again for price proposals; this doesn't affect the doctors that employees use, etc. So, changing it every year (if needed) doesn't have a major impact on us, so we may as well stick with the low price as long as its the same coverage.

VM McGuire - Is Sunlife a Florida company? Ms. Cullen - International company; very large company.

>Ancillary Coverage Quotes slide:

CM DeLorenzo - Is it \$17,000 better? Ms. Cullen - She believes it is. She express that one of our employees left us due to a non-work related disability and Mutual of Omaha was very helpful to him in numerous ways. If Council approved switching to SunLife for stop-loss and switching ancillary coverage carriers, the City would still have a net savings of \$57,248.

VM McGuire - Is that out of the general fund? Mr. Quinn - That comes out of every fund that has employees (Utility, Stormwater, etc.); spread over each department based on the number of employees in each department.

>Ancillary Coverages slide:

CM Shipley - Are they going to have to change their doctors too? Ms. Cullen - It is only for dental which allows for both in-network and out-of-network coverage and cover almost at the same rates; so they wouldn't have to change their dentists unless their dentist wasn't in the current network. We had Mutual of Omaha before Lincoln for at least 5 or 7 years before we switched.

CM DeLorenzo - Are the employees having difficulty getting their claims processed, are they not receiving the benefit or is it customer service? Ms. Cullen - It is a little of both. We have dentists' offices that are having problems getting their claims processed, because when we made the switch to Lincoln, they said they were going to match what Mutual of Omaha paid; what Mutual of Omaha considered routine, Lincoln did not necessarily consider routine, etc. So the dentists are getting paid a little less and the employees are getting bills for things they did not have to pay for before, etc.

VM McGuire - How many companies are bidding for the City's coverages? Ms. Cullen reported 4-5 bid on just dental, and only Mutual of Omaha and Lincoln bid on the entire package.

CM DeLorenzo - What portion of this is paid by the City (Ancillary Coverage Quotes slide)? Ms. Cullen - (Life & AD&D) This is 100% paid by the City.

CM Nobile - And there is no change to the employee costs? Ms. Cullen - There is a slight increase over 2014 to dental (.92 cents for individual and for family about \$2.30

per paycheck) but both came back with a 2015 quote that was identical

CM DeLorenzo - If the problems with claims were with dental and vision and those are paid by the employee, where are we bearing the cost; why is the City paying more? Ms. Cullen - We are paying more for the City provided coverages which is the life insurance and long term disability. She explained that they matched on the employee paid coverages but differed on the City paid coverages. We like to have the same carrier for all (ancillary coverages).

Mayor Netts - So, the advantage of what the City is getting in exchange for that slightly higher premium is better service to our employees? Ms. Cullen - That is correct. She explained short term disability may tailor right into long term disability so we wouldn't have to refile the claim (if the companies are the same).

CM Nobile - Theoretically, we could take employee paid policy from Mutual of Omaha and the City paid with Lincoln? Ms. Cullen - Theoretically, yes we could pick and choose.

CM Shipley - Are a bunch of employees complaining or just a couple? Ms. Cullen - It is hard to answer that question, because we get the same type complaint about the dental insurance; they are not being reimbursed at the same level. She stated she has received a lot of positive feedback from employees regarding their experiences with Mutual of Omaha (although we have not had Lincoln that long to compare).

CM DeLorenzo - In the year with Lincoln, we did have people on short term disability. Ms. Cullen - Yes, we have one right now; people having a baby can be out on short term disability.

The Resolution was Continued.

E. WRITTEN ITEMS

- 8 [14-440](#) RESOLUTION 2014-XX APPROVING PRICE AGREEMENTS FOR VARIOUS UTILITY MATERIALS FOR THE PUBLIC WORKS DEPARTMENT

Attachments: [Resolution - Utility Supplies](#)
[Utility Supplies - Intent to Award](#)
[Bid Opening Tab](#)

Mr. Landon gave a brief overview of this item.

No Council comments.

The Resolution was Continued.

Public Participation shall be in accordance with Section 286.0114 Florida Statutes. Any member of the public interested in speaking on any proposition agendaed or that Council discusses or considers during this workshop, will be afforded the opportunity to speak during public participation at the next City Council Business Meeting. Contact the City Clerk's office for the meeting date, time, and location at 386-986-3713 or cityclerk@palmcoastgov.com.

F. DISCUSSION BY CITY COUNCIL OF MATTERS NOT ON THE AGENDA

VM McGuire - Little League parking issues at Indian Trails. He doesn't think there is sufficient parking; there is a viable alternative at Indian Trails Middle School if we can get Mr. Oliva to move his school buses somewhere else; there is a lot of park in there available. Mr. Landon stated Ms. Santangelo has already taken steps in that direction and will pursue that suggestion for major tournaments.

CM Nobile - What is feasibility of going up (with parking)? CM DeLorenzo - It would be a multi-million dollar project.

There was discussion about what more does the City need to do for the Little League; they need to seek other help, sponsors, provide shuttles if needed; maybe cars with younger kids can park closer, etc.

CM Shipley - Is there any empty/vacant land there? CM DeLorenzo - The park site in Palm Coast Park and the trail through the wetland is a possibility for moving people around on a real busy weekend with a shuttle, etc. Mr. Landon mentioned there are a lot of other closer places (near the church, etc.) where shuttles can be used.

CM Shipley asked about the T&R (trap & release of feral cats) and the Humane Society. Mr. Landon - He hasn't received anything specific from them. If they have a plan and it doesn't generate complaints from residents or businesses, we have indicated - yes. There has been a group this week that are planning a facility off of U.S.1 to try to accommodate feral cats and maybe also dog kennels and other things that may generate revenue for the operation in a commercial area; maybe that will come together. We view that one as a commercial venture. No, Humane Society hasn't come back with any specifics yet. CM Nobile mentioned he has asked them to come back to us after the holidays. He expressed displeasure with their release procedure (the return location). Mayor Netts added that with a T&R program the numbers are supposed to decrease over time, but we are experiencing just the opposite; needs to be better managed.

There was further discussion about the difficult issue of feral cats.

G. DISCUSSION BY CITY ATTORNEY OF MATTERS NOT ON THE AGENDA

City Attorney William Reischmann spoke about the new State legislature ethics requirement and the timeframe for 2015 for training which requires 2 hours on ethics, 1 hour on the Sunshine Law and 1 hour for public records.

Mayor Netts doesn't think the 4 hour (in one sitting) option is favorable. Attorney Reischmann will get with Council on the options to do it separately.

There was discussion about two training sessions of 2 hours each following short City Council workshops; invite the County and local cities also. Attorney Reischmann mentioned the Florida League of Cities is also prepared to do this training, as well as others.

VM McGuire - Do you have a prepared presentation? Attorney Reischmann - We will have a prepared presentation.

Council consensus.

Red light camera update - Attorney Reischmann gave the history.

What is prompting this discussion is the decision of the 4th District Courts of Appeal (DCA) regarding the City of Hollywood and an alleged violator (Arem) and the gist of that decision was that arguably based on an incomplete record before the court; therefore the 4th DCA, which by reversing itself on these same issues from about half a year earlier, concluded that it was inappropriate for the City of Hollywood to have ATS issue the Uniform Traffic Citations (UTCs). That decision is being appealed; there is existing a motion for rehearing.

Mayor Netts - Unlike the conflict between the 3rd and 5th DCAs, is this being brought up in any other DCA? Attorney Reischmann - No.

VM McGuire - Will the verdict of this appeal render whether or not it is valid for ATS to issue UTCs or not? Attorney Reischmann - Right now it is the law; there is a motion for rehearing before the 4th DCA, so there is no other caselaw from any other DCA, etc. Depending upon what happens in that rehearing, there could likely be an appeal of the final decision.

Mayor Netts - Ultimately, unless this is heard in another DCA, the 4th DCA will be the law of the land, but if this comes up in another DCA that conflicts then it goes to the Supreme Court. Attorney Reischmann - Or it could come to the 5th and they agree with the 4th DCA; this is a moving target. This one is very different from the prior cases - pre Mark Wandall; this one is dealing with a narrow issue within what does the legislature mean with the processes of the Mark Wandall Act.

Mayor Netts - Is it the issue that ATS is generating the UTCs or stuffing them in envelopes and mailing them? Attorney Reischmann - Both, and he explained the process.

CM Nobile - So, we get every potential violation? Mayor Netts - No, ATS does. Attorney Reischmann explained the potential issue; there was an incomplete record that went to the 4th DCA, what didn't go to the court was the business rules of the contract (which the City of Palm Coast also has); the City of Hollywood provides specific parameters to ATS about that first threshold decision process that ATS has to follow, and that was not before the 4th DCA. They had concerns about the legality of what it had before it on the NOVs (notices of violation) and was that an illegal delegation of the decision whether to issue the NOVs from the City of Hollywood to ATS.

Attorney Reischmann continued with the process of NOV to UTC and different interpretations. We have a contract with ATS, and we felt the most prudent and conservative way to approach our dilemma, is to give direction to ATS that they are not to issue any more UTCs and that is where we are now. We are issuing NOVs but not UTCs. Another way to say that is we have suspended (which we are allowed to do under our contract) a portion of the process regarding the UTCs.

VM McGuire - At this time, the UTC program is suspended. Attorney Reischmann - Correct.

CM Nobile - Our question was, in line with other municipalities who have suspended the entire program; was that something we could do? Attorney Reischmann reported they had a substantial conference call with ATS representatives recently. ATS had stated, of their 70 clients in Florida, about 10% have taken some steps; either suspended a portion or contemplated suspending a portion and two have actually suspended their entire red light program pending whatever happens with Arem and the 4th DCA and the City of Hollywood. ATS indicated that they do not believe that

was the appropriate or necessary step to take. In fact, they submitted correspondence to the City previously and probably to their other clients, that the concerns raised by the Arem case can be addressed by clarifying the business rules; providing a short amendment to the contract; it would require two things - followup and be involved with all the potential NOV's and an expression that other cities are taking on the responsibility of issuing the UTCs; clarification of the business rules.

CM Nobile - Are the business rules part of the contract? Attorney Reischmann - They are incorporated by reference but a separate document. We feel that there are so many unknowns, we chose not to follow the recommendation of ATS regarding issuing the UTCs. ATS is concerned about the suspension because we have a contract until 2019.

CM Nobile - If we said we were going to suspend them, until all legal issues regarding red light cameras are settled.

CM Shipley - That kind of open ends it, doesn't it and it will probably go beyond 2019? Attorney Reischmann responded probably not, possibly mid-2016. We would have to suspend at a public meeting and ATS would present their argument.

VM McGuire - If issuance of UTCs are suspended; at some point in time it is determined that they can be issued, is this going to be retroactive from the time of suspension? Attorney Reischmann - No, because if we don't issue the UTCs within the specified time under the Mark Wandall Act, you lose the option to issue the UTCs.

VM McGuire - What is that timeframe? Attorney Reischmann - 60 days.

CM Nobile - Does the Statute say we have to issue the UTC? Attorney Reischman - "We shall."

CM Nobile - We can define the business rules as to how we receive the violations but that has to comply with Ch. 316 (Florida Statutes), so then why do we even need the business rules and our City ordinance has to comply with 316 also. What if in our ordinance we change the word from owner to operator? Attorney Reischmann - That does not solve the problem with Arem. He would have to research if that is possible under Ch. 316. Mr. Landon looked at Ch. 316 also and it says "operator."

Mr. Landon - There are three options: 1. To keep the program the way it is, bring them into compliance with the court ruling by having all of the violations that are not paid within 60 days come back to the City and then we decide whether or not to issue UTCs (average of 200 NOV's a month). The advantage is we are confident we are in compliance with the court ruling as it stands right now; the downside is the staff time involved and when it gets to UTCs we get zero dollars, so it will not cover the costs. 2. Continue to send out NOV's but not send out UTCs; benefit - we are in compliance with court ruling but at risk of being sued because we are complying with the State law process. 3. Telling ATS that we are invoking that section of the contract that allows us to suspend the program totally; positive side is once the court makes its decision - we are going to stop the program in its tracks now; downside is ATS would evaluate their options and take appropriate actions from their standpoint.

Mayor Netts gave a scenario regarding option 2 and expressed we are not terribly at risk with that option.

CM Nobile - Is the 4th DCA's decision law, right now? Attorney Reischmann - It is stayed because of the motion for rehearing; temporary.

CM Nobile - Technically, we suspended the UTCs because we don't want backlash if it is upheld. Mr. Landon - If it is upheld, if it is determined that the City has to issue UTCs, that decision goes back to the original decision and, therefore, any UTCs issued in the meantime were done in violation of that ruling. Mayor Netts - The 60-day factor, by the time the 4th DCA has either upheld or overturned you will only have 60-days' worth of violations; not a huge accumulation.

CM Nobile - Are we currently, with the suspension of the UTC, failing to meet the State Statute that they "shall" be issued? Attorney Reischmann - Sure, it would be someone that received a NOV that would bring up the issue.

Attorney Reischmann - The safest thing legally is that we start issuing UTCs as the law stands today; the downside is that it is going to cost the City money. Mayor Netts - ATS will be doing less under the contract and receiving the same compensation. CM Nobile - So, they would be breaching their contract. Attorney Reischmann - We could certainly make the argument that they would have to amend the contract to reduce the compensation.

CM DeLorenzo - Any contract amendment, he is looking for an ending date of the contract; significantly shorter.

CM Nobile asked if we could bring everything to a judge and get advice regarding this; we can't be in compliance and follow the current contract right now. Mr. Landon is in agreement but doesn't think a judge would advise until the Hollywood case is finalized.

CM Nobile - There is a simple calculation that can be made for the \$2 mil. leaving the local economy.

Mayor Netts - To what judge would we take our issue to? Attorney Reischmann - Circuit Court Flagler County; filing a complaint seeking a declaratory decree as to the validity of our contract given the changes in the law and as it applies to what our current contract says.

Mayor Netts - The downside of doing that, is what? Attorney Reischmann - You are going to spend some money to pay lawyers to bring that and the judge could say it is not time because of the 4th DCA (rehearing); the bad things could still happen; the person could still challenge the NOV, etc.

CM DeLorenzo - If someone says, your whole system is broken; they are not paying this (NOV); if the hearing officer says right and then it is dismissed, there is no court case. It is only if the hearing officer says, no you are wrong; system is working fine then they have a court case. Mr. Landon - That is what we did other than taking on the UTC process ourselves, etc.

Attorney Reischmann - The cleanest is suspend entirely, and see what falls out of the tree; he explained the different scenarios.

CM Nobile would like us to stay in a place where we are not vulnerable to any big loss, and if that is here until this case is finalized he is okay with it, but he would like to get a shot at saying this contract is void. Mr. Landon - If the Hollywood case was finalized, that may be possible. Attorney Reischmann will look at that - seeking declaratory judgment on the contract while decision is pending.

VM DeLorenzo - Is there a time savings by doing it now? Attorney Reischmann said it

would give a little more clarity as to, then what is the better option, etc.; he will come back after talking with the appellate lawyers.

H. DISCUSSION BY CITY MANAGER OF MATTERS NOT ON THE AGENDA

Mr. Landon reported on the collegiate rugby challenge last weekend - full contact, running, serious tackling, no pads, impressive, etc. They were happy with us hosting the event.

Starlight Parade and festival is Saturday, December 13, the festivities start at 2:00 p.m. and the parade is scheduled to kick off at 6:00 p.m. (Council will be there at 4:30 p.m. for the judging).

City Council Business Meeting on December 16, and that will be the last meeting for this year (2014).

I. ADJOURNMENT

The meeting was adjourned at 12:57 p.m.

*Respectfully submitted,
Barbara Redline*

ATTACHMENT TO MINIUTES

[14-445](#)

MEETINGS CALENDAR AND AGENDA WORKSHEET

Attachments: [City Calendar](#)
 [Agenda Worksheet](#)

[14-449](#)

ATTACHMENTS TO MINUTES

Attachments: [1-Volunteer Firefighter Pension Plan Update 120914](#)
 [2-4-Holland Park, Community Center, and Community Wing 12-9-14](#)
 [5-OKR Bridge Presentation](#)
 [6-Comprehensive Plan Amendments](#)
 [7-2015 presentation change in stop-loss](#)