



City of Palm Coast

Palm Coast
Community Center
305 Palm Coast Pkwy., NE
Palm Coast, FL 32137
palmcoastgov.com

Minutes City Council

Mayor Jon Netts
Vice Mayor Jason DeLorenzo
Council Member David Ferguson
Council Member William Lewis
Council Member Bill McGuire

Tuesday, June 17, 2014

9:00 AM

Palm Coast Community Center

City Staff

Jim Landon, City Manager

William Reischmann, City Attorney

Virginia A. Smith, City Clerk

>Public comment on issues on the agenda or public participation shall be limited to 3 minutes.

>If any person decides to appeal a decision made by the City Council with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made.

>The City of Palm Coast is not responsible for any mechanical failure of recording equipment.

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

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>City Council Meetings are televised on Brighthouse Networks Channel 199.

>All pagers and cell phones are to remain OFF while City Council is in session.

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

City Clerk Virginia Smith called the roll. All members were present.

Present: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Approval of Minutes

- 1 [14-217](#) MINUTES OF THE CITY COUNCIL'S:
 A. June 3, 2014 City Council Business
 B. June 10, 2014 City Council Workshop

Attachments: [June 3, 2014 Business Meeting](#)
 [June 10, 2014 Workshop](#)

A motion was made by Council Member McGuire, and seconded by Council Member Lewis, that the Minutes be Approved as presented. This motion was approved by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

PRESENTATIONS

Proclamations and Presentations

- 2 [14-207](#) PROCLAMATION RECOGNIZING AMATEUR RADIO WEEK JUNE 22-29, 2014

Attachments: [Proclamation - Amateur Radio Week 2014](#)

CM Ferguson presented this Proclamation to representatives of the Flagler Emergency Communication Association.

The Proclamation was Received and Filed.

- 3 [14-209](#) RECOGNIZE THE PALM COAST PUBLIC WORKS/UTILITY DEPARTMENT TOP OPS TEAM ("WATER BUOYS") WHO WON BOTH THE STATE AND NATIONAL CHAMPIONSHIPS.

Cindi Lane presented the award to the "Water Buoys" from the City's water department. Mr. Roussell provided Council an overview of the competition process.

The Presentation was Received and Filed.

- 4 [14-149](#) PRESENTATION - UPDATE AND OVERVIEW OF REVENUE SOURCES

Mr. Landon provided a brief summary and Mr. Quinn provided a PowerPoint presentation, which is attached to these minutes.

The Presentation was Received and Filed.

- 5 [14-214](#) PRESENTATION ON WELCOME WAGON EMAIL

Mr. Landon provided an overview of this item. Ms. Lane presented a PowerPoint presentation, which is attached to these minutes.

The Presentation was Received and Filed.

ORDINANCES, RESOLUTIONS, AND PUBLIC HEARINGS

Order of Business for Public Hearings (Council may make inquiries at any stage):

Open Hearing

Staff Presentation

Applicant Presentation (if applicable)

Council Questions of Applicant (if applicable)

Public Comments/ Presentations

Rebuttal by Applicant (if applicable)

Close Hearing

Council Discussion

Council Action

Ordinances

Second Reading

- 6 [14-180](#) ORDINANCE 2014-XX ANNEXING APPROXIMATELY 3 ACRE PARCEL
ADJACENT TO SR100 AND SEMINOLE WOODS PARKWAY

Attachments: [Ordinance-Airport Property Annexation](#)
[Exhibit A- Annexation Area](#)
[Location Map](#)

City Attorney Reischmann read the title into the record. Mr. Landon gave a brief summary of the item.

Public Comment
There were no public comments.

CM Lewis-At 3.+ acres, can it be owned by a private developer? Ans: Mr. Landon-explained what is currently owned by a private developer and what is owned by the County and the transfer of the lands.

A motion was made by Vice Mayor DeLorenzo, and seconded by Council Member McGuire, that the Ordinance be Adopted on Second Reading. The motion was adopted by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Enactment No: O2014-12

- 7 [14-179](#) ORDINANCE 2014-XX FOR THE CONTRACTION OF APPROXIMATELY 13
ACRES OF PROPERTY ADJACENT TO THE FLAGLER COUNTY
AIRPORT

Attachments: [Ordinance-Airport Property-Contraction](#)
[Exhibit A-Contraction Area](#)
[Exhibit B Location Map-Contraction Area](#)
[Study of Feasibility of Proposed Contraction](#)

City Attorney Reischmann read the title into the record. Mr. Landon gave a brief summary of the item.

CM Ferguson-Do we have data on the net effect of tax rolls as a result of taking these two actions? Ans: Mr. Landon-it is definitely a net plus, but we will not know until a commercial structure is built and what the value is of the building.

CM Lewis-What impacts the other, impacts this? Ans: Mr. Landon-Yes.

Public Comment

There were no public comments.

A motion was made by Council Member McGuire, and seconded by Council Member Lewis, that the Ordinance be Adopted on Second Reading. The motion was adopted by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Enactment No: O2014-13

8 [14-198](#)

ORDINANCE 2014-XX AMENDING THE OFFICIAL ZONING MAP, 4.781+/- ACRES FROM GENERAL OFFICE TO GENERAL COMMERCIAL, 2 MCCORMICK DRIVE

Attachments: [Ordinance-2 McCormick Drive Rezoning App 2704](#)
[Zoning Map 2704](#)
[Staff Report 2704](#)
[Neighborhood Meeting Results](#)

City Attorney Reischmann read the title into the record. Attorney Reischmann reminded Council this is a quasi-judicial item. Mayor Netts called for any ex-parte communication. There were none.

Mr. Landon gave a brief summary of the item.

Public Comment

Jack Carall-If you do not have a specific reason for what you are going to build on it, why change the zoning?

Responses to Public Comment

Zoning change-Ans: Mr. Landon-There is a variety of reasons, but zoning gives you the framework of how you can develop your property. There are many businesses interested in building on SR 100. For this vacant property to be marketable as commercial, they need to rezone. At the time of the site plan is when the specifics of the project will be brought forth. The last step to go through is platting.

A motion was made by Council Member McGuire, and seconded by Council Member Ferguson, that the Ordinance be Adopted on Second Reading. The motion was adopted by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Enactment No: O2014-14

Consent Agenda

In accordance with Section 286.0114 Florida Statutes, any member of the public interested in speaking on any item on the Consent Agenda, shall come to the podium, state their name and will have up to three (3) minutes to speak.

A motion was made by Council Member McGuire, and seconded by Vice Mayor DeLorenzo, to Approve the Consent Agenda. The motion was approved by the following vote: This motion passed unanimously

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

- 9 [14-189](#) RESOLUTION 2014-XX APPROVING FLORIDA INLAND NAVIGATION DISTRICT 2014 WATERWAY CLEANUP GRANT FUNDING AGREEMENT

Attachments: [Resolution 2014 FIND Grant for Waterway Cleanup](#)
 [Agreement with Exhibits](#)

The Resolution was Adopted on Consent.

Enactment No: R2014-60

- 10 [14-206](#) RESOLUTION 2014-XX APPROVING THE INTERLOCAL AGREEMENT CREATING RIVER TO SEA TRANSPORTATION PLANNING ORGANIZATION

Attachments: [Resolution TPO Agreement](#)
 [Interlocal Agreement-Creation of Metropolitan Planning Organization](#)

This item was pulled from the consent agenda. Mr. Landon gave a brief overview of this item.

Public Comments:

Do we have a representative that will have a full vote on these matters?

Response to Public Comments:

Representative-Ans: Mr. Landon-Yes, Council Member DeLorenzo appointed by Council is our voting member once this Agreement is fully executed.

A motion was made by Council Member McGuire, and seconded by Council Member Ferguson, that the Resolution be Adopted. This motion was approved by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Enactment No: R2014-64

- 11 [14-190](#) RESOLUTION 2014-XX AWARDING CONTINUING SERVICES CONTRACTS FOR GEOTECHNICAL AND LABORATORY SERVICES

Attachments: [Resolution](#)
 [Contract Summary - Geotechnical and Laboratory Services](#)
 [RFQ Evaluation-Geotechnical Lab Services](#)

The Resolution was Adopted on Consent.

Enactment No: R2014-61

12 [14-202](#)

RESOLUTION 2014-XX APPROVING PIGGYBACKING THE FLORIDA SHERIFFS ASSOCIATION CONTRACT WITH BOULEVARD TIRE CENTER TO PURCHASE TIRES FOR THE CITY'S FLEET

Attachments: [Resolution - Boulevard Tire Center](#)
 [Engagement Letter - Boulevard Tire](#)
 [Florida Sheriff Association Tires Contract](#)

This item was pulled from the consent agenda. Mr. Landon gave a brief overview of this item.

Public Comments:

John Erpelding-We should spend our money here with our local businesses.

Response to Public Comment:

Purchasing-Ans: Attorney Reischmann explained the purchasing policies for the City.

A motion was made by Vice Mayor DeLorenzo, and seconded by Council Member McGuire, that the Resolution be Adopted. This motion was approved by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Enactment No: R2014-65

13 [14-203](#)

RESOLUTION 2014-XX APPROVING PIGGYBACKING THE NATIONAL JOINT POWERS ALLIANCE CONTRACT RFP#031212 WITH BUNNELL AUTO SUPPLY COMPANY TO PURCHASE FLEET PARTS AND SERVICES FOR THE CITY'S FLEET

Attachments: [Resolution - National Joint Powers - Fleet Parts](#)
 [NJPA - Contract](#)

The Resolution was Adopted on Consent.

Enactment No: R2014-62

14 [14-205](#)

RESOLUTION 2014-XX APPROVING PIGGYBACKING THE CONTRACT BETWEEN PORT CONSOLIDATED, INC., AND LAKE COUNTY, FLORIDA, TO PURCHASE OFF-ROAD FUEL

Attachments: [Resolution-Piggyback Fuel Contract](#)
 [Lake County Contract #14-0618 for Fuel](#)
 [Engagement Letter-Port Consolidated](#)

The Resolution was Adopted on Consent.

Enactment No: R2014-63

D. Public Participation

In accordance with Section 286.0114 Florida Statutes, after the Mayor calls for Public Participation, each member of the audience interested in speaking on any topic or proposition not on the agenda or which was discussed or agendaed at the previous City Council Workshop, shall come to the podium, state their name and will have up to three (3) minutes to speak. The Mayor will advise when the three (3) minutes are up and the speaker will be asked to take a seat and wait until all public comments are finished to hear answers to all questions. Once all members of the audience have spoken, the Mayor will close public participation and no other questions/comments shall be heard. Council and staff will then respond to questions posed by members of the audience. Should you wish to provide Council with any material, all items shall be given to the City Clerk and made part of the record. If anyone is interested in discussing an issue further or ask additional questions, individual Council Members and staff will be available after the meeting to discuss the matter and answer questions.

John Erpelding-Thanked all those that were out this weekend picking up the trash in our neighborhoods. Would like to see an ordinance with a penalty for those who litter.

Ron Hertel, Esq.-Red Light Camera Supreme Court decision.

Gretchen Smith, Chamber representative-Mr. Landon will be speaking 6/26 Eggs & Issues meeting at 8:00 am. The Flagler Votes Forum-For the Primary August 4, 2014 from 6pm to 9pm at the Hilton Garden Inn and for the General Election-Oct 14 from 6 to 9 pm at the Hilton Garden Inn. All candidates will receive an invitation.

CarlMichael McMillan-Red Light Cameras-residents would like to know-How do they get their money back, what procedures are in place, will they receive interest in their money?

Will the City subject itself to the same punitive measures, if this matter goes to Court and you lose do they get triple the money?

Responses to Public Participation

Anti-litter-Answer: Mayor Netts-Thanked resident for the recognition of our residents who are picking up the trash. We do have an ordinance on the books. The difficulty is enforcing.

Red Light Camera-Ans: Attorney Reischmann-Last week there was a decision issued and rendered by the Florida Supreme Court. This decision was percolated up to the Supreme Court by two conflicting opinions or competing decisions from two courts of appeals, District Courts of Appeals, City of Orlando and the City of Aventura. Those two district courts came down on opposite sides of the question. The procedures that were used and enacted by local governments before 2010, the pre Mark Wandall Act, included the City of Palm Coast, were those procedures preempted by State law? The 3rd DCA said absolutely not, that Home Rule allowed local governments to enforce traffic on their own roads, the 5th DCA went the other way and so it went to the Supreme Court. The main opinion and in the dissent, 5-2 opinion, agreed with the 5th DCA. This was purely a legal issue, this was a narrow issue, that had to do with preemption. They found that with Chapter 316 and Chapter 318 that these processes that were used prior to 2010 were preempted, did conflict with the process or regulation red light running violations that were already contained in Florida Statutes and therefore found there was expressed preemption. One of the key parts to that

decision and these appeals for that matter involve this language, which has been a part of the rationale for all of these various cities that enacted the red light camera process before the Mark Wandall Act. Chapter 316 states that the local government is entitled to regulate, restrict and monitor traffic by security devices and it goes on. You read that very clear language and it appears that it gives the local government authority to place red light cameras at intersections and regulate and impose citations and fines when people run red lights, which is a violation of Florida State Law (even without these Ordinances). What the majority held, was that may be true but they made a distinction that there is nothing specific in that statute that creates or gives power to the local governments the power to impose different penalties than those penalties for running red lights that are contained in another section, Chapter 318. So, they read Chapter 316 and 318 together and said while the cities/counties may be able to put in red light cameras, they couldn't create a separate system for enforcement. That was the rationale, the basis for the courts' decision. How does this affect us, the City of Orlando, the City of Aventura? It creates precedence. It creates binding law on one defendant.

Creates binding law that the City of Orlando relied upon, precedence and legal impact for the City of Aventura but it does not dispose of those cases, nor dispositive of the lawsuit pending against the City of Palm Coast. Orlando and other cities still maintain that there are still valid defenses, such as class certifications. There is no class certification in Orlando or Aventura. There is no class certification here in Palm Coast either. Yes, there is precedence coming from the Supreme Court but it would only impact that one case, that one ticket. But these are the two main cases that the cities are talking about. That other case is a doctrine of defense based on an older valid case, that when someone makes a voluntary payment and does not appeal (against local governments) and then later on there is a decision to undo the wrong doing then that person that did not appeal does not have the right to come back to get their money back. So what the City of Orlando is doing, has announced is that they are contemplating going through the process of looking at the people that did get tickets, did not make voluntary payments, and will be looking at making refunds for these people. (Remember there is no class in the City of Orlando). That is what those cities are doing, I cannot speak to what the City of Palm Coast intends to do. I can tell you what the Supreme Court ruled and what defenses are available and remain available to the City of Palm Coast. I can tell you what the other cities have done and how they have prevailed in some of these other defenses. Looking forward, I can tell you we will need to take our time and see what happens with some of these other cases. We have not been contacted whatsoever by the lawyer that is representing the one individual who brought the lawsuit against the City of Palm Coast.

Mayor Netts-I would assume as this plays out in the other jurisdictions, the other courts will outline the procedures.

E. Discussion by CITY COUNCIL OF MATTERS NOT ON THE AGENDA

VM DeLorenzo-Schools out, please be careful and pay attention on the roads.

F. Discussion by CITY ATTORNEY OF MATTERS NOT ON THE AGENDA

Nothing at this time.

G. Discussion by CITY MANAGER OF MATTERS NOT ON THE AGENDA

Red Light Camera-We used to show videos of the program. Here is a video from the Sheriff's office as to why we do this program. Spoke about the rumors regarding the

Supreme Court decision and how that decision will affect the City. Those dollars have no impact on our operations, they have all gone into our street improvement funds. We have been able to expedite our street improvements from this program. We are ahead of schedule (in our 5 year plan). If we have to reimburse, those funds would come out of the street improvement fund. We have tried to do a bridge rehab every year. Right now we are on Palm Harbor-almost completed. We have one in the plan for next year but if we have to refund, then we will have to adjust our schedule.

This past weekend we had a great Lacrosse Tournament, there were over 250 teams. The School District helped. The restaurants were full. Approximately 10,000 visitors to the City. This weekend is another tournament. Because of all these tournaments, we received confirmation there will be a women's rugby collegiate tournament. The ladies soccer coach at the University of Florida told them about us.

Last night the County approved the TDC grant we requested regarding the fields expansion.

We are receiving State and National recognition with our Strategic Action Plan. Denise Bevan had the opportunity to give a presentation to the FCCMA (City Manager's Association). Also, has been asked to give a webinar to the Alliance of Innovations and asked to speak at the International City Managers Association in North Carolina this year.

City offices-moving twice? Pleased to announce we will present a tentative agreement with our current landlord. A 10% increase versus the 57% increase originally proposed.

Projects-Palm Coast Parkway-pleased with the lack of complaints, they are doing a good job keeping the traffic flowing, it is a two year project. Bulldog Drive-good news/bad news-we were behind schedule because of issues with underground utilities but are now back on schedule. The engineers (Stantec) did discover quantity mistakes and we are working with the contractor to reduce the costs, such as landscaping, etc. Our crews are on site to help keep the costs down. We are working on holding the engineer on record accountable. At this point we do not anticipate it having an impact on the critical path of keeping it on schedule.

Weir project in the B section is complete. That project went very well and on time. Bridge rehab on Palm Harbor is moving along and is almost done. Long Creek Nature Preserve-a lot done but a ways to go still, making good progress. Royal Palms widening shoulder between Rymfire and Belle Terre is still in the mill and coming your way soon.

H. Adjournment

The meeting was adjourned at 10:45 a.m.

*Respectfully submitted,
Virginia Smith, City Clerk*

Calendar and Worksheet

[14-218](#)

MEETINGS CALENDAR AND AGENDA WORKSHEET

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

[14-224](#)

ATTACHMENTS TO MINUTES

Attachments: [Item 4 2015 Budget Presentation - Revenues](#)
 [Item 5 Welcome Wagon Email](#)
 [Item 6 and 7 Airport Commerce Ctr Annexation & Contraction](#)
 [Item 8 McCormick Drive Rezoning 2704](#)