



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, March 10, 2015

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

Records Coordinator Barbara Redline called the roll.

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

D. PRESENTATIONS

1 [15-50](#) PRESENTATION ON THE NATIONAL CITIZEN SURVEY RESULTS FOR 2014

Mr. Landon gave a brief overview of this item. Ms. Denise Bevan, City Administration Coordinator, gave a PowerPoint presentation (attached to these minutes).

CM Nobile - We are targeting 1,200; we have no demographic that we send to? Ms. Bevan - It is random, to be sure we have a cross-section of the community. The National Research Center (NRC) conducts the survey, the demographics do come through if they choose to answer certain questions such as salary, age, etc.

VM McGuire - *The people that show interest in what Palm Coast government does isn't very big. These are people that care about what we do. Why don't we automatically include the people that went to the Citizen's Academy, because you know they are already interested in how the local government works. Mr. Landon - The few people that engage with us on a regular basis, they let you know their opinions on a regular basis. This is to reach out to the others, the general population that doesn't usually communicate with us.*

CM Shipley - *You couldn't send out 5,000 surveys if you wanted to? Mr. Landon -You could but they (NRC) will say you will probably get very similar results. The experts chose the number of surveys to send out based on our population. Mayor Netts suggested that next time we do the survey, we put out advance notice on the website so people know the surveys are coming and we may get more responses.*

VM McGuire - *If a question comes in, and a citizen is going to answer but didn't have a need for fire services or EMS (emergency medical services), would they still rate it? Ms. Bevan - If they wanted to, they do have an elective to not complete that question of the survey.*

VM McGuire asked about the spike in the chart (A Closer Look-Built Environment slide). Mr. Landon - *Sewer, stormwater drainage; all it takes is a wet year versus a dry year.*

VM McGuire - *How many people moved to the City of Palm Coast because they thought there are employment opportunities here (A Closer Look-Economy slide)? Mr. Landon - Some people move here because they like the quality of life and the neighborhoods.*

CM Nobile - *Are we satisfied with this? Mr. Landon - It is a fact of life in Palm Coast.*

CM DeLorenzo - *What is the benchmark number for employment opportunities? Ms. Bevan didn't have the number, but she will email it to Council.*

CM DeLorenzo - *Business and services, is that related to businesses and services available to the citizens? Ms. Bevan agrees with that.*

CM Nobile - *Do we have a breakdown of safety, what we are talking about (How important, if at all, do you think it is for the Palm Coast community . . . slide)? Ms. Bevan - It is overall, all inclusive.*

Mayor Netts - *Promptness, does that mean promptness in responding or promptness in solving the problem (Custom Questions slide)?*

The Presentation was Received and Filed.

2 [15-64](#)

PRESENTATION - UPDATE ON EMPLOYEE DEVELOPMENT AND TRAINING PROGRAM

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

VM McGuire - *When you talk about City employees and their skills and abilities, we hire for a specific job, etc., is this designed to enhance their ability to move upward or simply expand what they need to do in order to do their job even better? Mr. Falgout - Hopefully, it allows you to do your job better; we are a growing community and organization and possibility to improve and get promoted. Ms. Cullen - Any skills that*

you can expand, etc., the more skills you give them, the better service they are going to provide overall.

VM McGuire - How are we going to measure how affective this program is; how well it worked? Mr. Landon - First of all we measure how many people participate in the training (some are mandatory, some are not), we are also tracking more of what employees are doing, measurements like the citizens' survey, performance evaluations by supervisors; it is a variety of things.

CM Nobile would like to hear, because of this program, we have less turnover and more hiring from the lower end (from within), opportunity for us to keep them.

Mayor Netts - Is this training on the job or off the clock? Mr. Falgout - On the clock.

CM Nobile - Was this (survey) anonymous? Mr. Falgout - Yes, it was anonymous.

VM McGuire - How many people that you hire for an entry level position move on to a higher position? Ms. Cullen - Last year, at least 90 people were promoted or moved to an upgraded position and most of the positions were posted inside/internally only for at least a week and then posted outside.

VM McGuire - Gallup pole among public employees (Q16-Are you satisfied with your employee benefits . . . slide)? Mr. Falgout - All employees.

VM McGuire - No one was extremely dissatisfied? Mr. Falgout - About 2-3%. Mr. Landon - There may be 5 disgruntled employees that do not like anything.

CM Nobile - It isn't that those 5 people are from one department of 10 is it? Mr. Falgout - We are able to provide further analysis to take a look at trainings, etc.; our goal was to make this survey anonymous and safe that they can respond to the survey. Ms. Cullen expressed, depending on the department, there is potential to figure out if the department is small, etc.

VM McGuire - In 2014 it cost twice as much to train only 1 more person than 2013? Mr. Falgout - It is really related to the number of courses, and of course tuition rates. Ms. Cullen - We had quite a few people get their master's degree last year through the program which is a higher reimbursement rate than associates or bachelors degrees.

VM McGuire - If someone is in a position that requires a bachelors degree and subsequently they get a master's degree, does their take home pay change? Ms. Cullen - It does not.

VM McGuire - Can you even sign up to take courses to get a master's degree? Ms. Cullen - Yes.

The Presentation was Received and Filed.

3 [15-83](#)

PRESENTATION ON POTENTIAL CODE AMENDMENTS FOR FENCES, WALLS, AND DRINKING ESTABLISHMENTS

Mr. Landon gave a brief overview of this item. Mr. Bill Hoover, Senior Planner, gave a PowerPoint presentation (attached to these minutes). Ms. Barbara Grossman, Code Enforcement Manager, and Mr. Ray Tyner, Planning Manager, were present for questions.

VM McGuire - So the definition of a variance is any deviation from the code or an

ordinance policy? Attorney Reischmann - Yes, but as far as variances from deed restrictions the analysis for that is most likely different than the legal standards for entitlements through variance in a local government situation. Now entitlement to a variance, you have to show a hardship. It can't be a self-created or imposed hardship. You buy the property; you have to be able to say because of the uniqueness of this lot this code shouldn't apply to me strictly; there should be entitlement to get an exception/variance so you have the same rights as every similarly situated lot; that is the theory behind it.

VM McGuire - How often does this happen? Mr. Tyner - Rarely for us; a handful (were granted) since we adopted the Land Development Code (LDC) in 2008.

Mayor Netts and CM Shipley asked about the meaning of open fences. Mr. Landon - You can see through them, not solid material.

VM McGuire - 3 ft. from the property line (rear property lines along golf courses, right-of-ways and canals - setback for fencing)? Mr. Hoover - Yes.

VM McGuire - Front yard fence, what would the requirement be for our Public Works crews and swale work, etc.? Mr. Landon - That is public right-of-way, the fencing would have to stay on their property. If you allow them, we would have to address them. Mr. Nobile - If we can't work within the easements, that is another problem.

CM Nobile - What do you mean when you say short fences (in front yards), 3 ft.? Mr. Hoover - Generally communities go 3, 3.5 or 4 ft. in the front yard. Mr. Landon - We would probably do 3 ft. if you want this, but if you don't want this there is no reason to put this together.

CM DeLorenzo asked about ditches, would the fences run along the ditches, (currently not required)? Mr. Tyner - Right.

CM Shipley brought up fencing and saltwater canals; she would like to see step-down or open fencing so people won't lose their view of the canals or Intracoastal.

CM DeLorenzo is not in agreement; private property; your view is your view. Ms. Grossman - Correct, that was case law that happened in the 90's and the judge indicated the view that you get is the view in front of you; if you want the view 4 lots down, you buy the lot 4 lots down. Property separation was number one, then security of children and pets, privacy in pools and spas, screening of your sheds and pool equipment and of course for dangerous dog purposes.

Mayor Netts would not like carte blanche on color of metal and vinyl. Attorney Reischmann stated in one city the community wall deteriorated (that was built on private property and not an easement) and property owners replaced the wall with whatever they wanted so there was a mix of all different fences along the roadway. He suggested if you went with fences in front yards, you may want to select certain standards.

CM DeLorenzo would like to see more color options available to make it a little easier for residents to select what they really want; front yards he has to think about.

Mayor Netts - What array of colors? CM Nobile would like people to pick what the colors they want; maybe to coordinate with their house color; he would like to see a broader collection of colors for fencing; he is against infringing upon someone else's rights. Attorney Reischmann - We have all sorts of limitations in our LDC, setbacks, zoning and height restrictions, etc. This is to have a balancing between an individual's

rights to have reasonable use of their property and the impacts on their neighbors and the community in general; he also stated that from a legal standpoint, U.S. Supreme Court said aesthetics is a valid public purpose for purposes of regulation.

Mayor Netts - Black, white or bronze metal. CM DeLorenzo - White or bronze (black is already permitted) metal and manufactured woodgrain vinyl in natural wood colors (white or tan is already permitted). VM McGuire - If we decide we want to change these, we can? Mr. Landon - You don't want to change that very often. CM Nobile asked about the other metal colors that were the trend. Mr. Hoover stated there is a wide variety of greens, some are liked and some are hated.

VM McGuire - How much feedback do you get from the citizenry about fences? Ms. Grossman - Some do complain, it depends on the circumstances; she can't give a figure of how many.

VM McGuire - Is there a significant problem? Ms. Grossman believes there needs to be some changes.

CM Shipley - Why can't you have a 6 ft. fence in your front yard? Attorney Reischmann - Typically a 6 ft. fence is called a privacy fence; that is why you find them in backyards; he would refer to police and fire, there may be some issues. Mr. Hoover stated he never saw a community that allowed 6 ft. fences in the front.

-Fence colors:

Mayor Netts is hearing for metal fences we should allow: black, white, bronze; for vinyl: white, woodgrain, tan. CM Nobile would like to see the other colors mentioned. Mr. Hoover stated there is a wide variety of greens that some like or some hate. Mr. Landon - Staff is recommending to stay with bronze instead of getting into the green colors.

-Short fences in front yards:

Mayor Netts doesn't like it. CM DeLorenzo is not sure, CM Nobile is good with it, VM McGuire is alright with it, CM Shipley said there is one on Farmington that looks nice. Attorney Reischmann reminded all to think of maintenance on these; unintended consequences.

-Step down or open fencing on saltwater canals/Intracoastal:

Mayor Netts likes it and stated historically this is what was, the step-down; that is what ITT put in place originally to maintain the character of the community. CM Shipley likes it; all others do not like it and want to leave it alone.

CM DeLorenzo - Is there a significant cost difference in installing that way (step-down fencing) as opposed to installing it down the slope? Ms. Grossman - No. She passed around a few pictures of step-down fencing (attached to these minutes).

Mayor Netts mentioned he has no problem with open fencing all around (in the back yard).

-Precast fences:

Council had no problem with them. Mr. Landon - We will put together something with same colors as vinyl (same height up to 6 ft.).

-Shrubs along fences:

CM DeLorenzo is ready to get rid of the requirement. Mr. Tyner stated it is a problem for maintenance, impractical. CM Nobile get rid of it.

Mayor Netts - If you want to put a fence on the side yard what is the requirement for setback? Ms. Grossman - You can go right to your property line. There was discussion that it used to be you had to have a 1 ft. setback that caused a space in between two fences that was impossible to maintain.

All Council Members are fine with getting rid of the planting requirement. Attorney Reischmann - These are City ordinances; it has nothing to do with covenants and restrictions if you live in a neighborhood with a homeowners' association with additional covenants and restrictions.

-Drinking establishments:

VM McGuire - How would you enforce that (the current code of 51% of sales from food services)? Mr. Hoover - That is going to be on the liquor license that is covered by the State. Mr. Landon - The State tells us if it is going to be a restaurant with a bar or just a bar and our zoning deals with them differently based on the category of the liquor license.

VM McGuire - This only pertains to public places as opposed to private clubs? Mr. Landon - Not totally, it is a zoning category. We are not addressing restaurants or clubs with bars. We are dealing with standalone bars.

VM McGuire - Is this live entertainment where people will pay for the entertainment? Mayor Netts - Not necessarily. Mr. Landon - It is not uncommon for someone to play the guitar in a corner, etc.

VM McGuire - A free standing bar is a place where you can buy liquor by the drink? Mr. Landon - Yes, or bottle club, it is a place where you sit and buy drinks; there may be food but it's not a restaurant.

Mayor Netts - Are there any requirements that the bars can't be closer than so many feet away from churches, residences, etc.? Mr. Landon - You cannot get a liquor license within so many feet of a school, church; it's under the liquor law.

CM Nobile - If we made this change what affect would it have on the landowners, is there a financial hardship to them? Attorney Reischmann - Any current uses would be grandfathered. If it is vacant land it reduces the allowable types of usage, kind of a down zoning but clearly not a taking or to the level of meeting the standards for a Bert Harris Act claim.

CM Nobile - In this case, how in comparison to the land use of the gas station in Wynnfield, would that have been different; why couldn't we have done that then for that piece of property, that you can't put a gas station there? Mr. Landon - You would have had to take commercial and say you can't have retail. You can't distinguish between what you can sell in an establishment except for a few exceptions and alcohol is one of them. You could probably go with the gas station concept but the convenience store is retail. Mayor Netts - CM Nobile is saying no gasoline retail in commercial districts.

CM Nobile - Why would that affect all commercial districts? Mr. Landon - You could do that for all COM-1 in neighborhood commercial districts - change to no gas pumps; we could do that.

-Bars with outdoor entertainment:

Mayor Netts - Just because it is indoor does not mean the noise level will not be objectionable, but noise level code? Ms. Grossman - Yes, and we have decibel noise level machines.

VM McGuire asked is outdoor entertainment only music and then there was discussion for the need for proper definitions of outdoor entertainment.

CM Shipley - It won't impact the ones that are already there or it will? Mr. Tyner couldn't think of any and it would not affect European Village because, it is a master planned development and they have their own development agreement and the center was to have the entertainment.

Mayor Netts said he is concerned about bottle clubs because one was proposed several years ago and their intent was they are exempt from all regulations because they weren't selling booze. Mr. Hoover - They will be in our terminology so they fall in both of these classifications (bar, lounge, etc.)

Mr. Landon - We will put together some more stuff on fences and bring it back to Council; both also have to go to Planning and Land Development Regulation Board (PLDRB) because it is LDC but he is not comfortable with going to the PLDRB yet until we get a little more direction on the fences.

Lunch break 11:55 a.m.-12:10 p.m.

The Presentation was Received and Filed.

4 [15-80](#)

PRESENTATION ON FLEET MANAGEMENT PLAN FOR FIRE SUPPRESSION EQUIPMENT

Council consensus to hear Item 7 before this item.

Mr. Landon gave a brief overview of this item.

Mayor Netts - How many fire suppression vehicles do we have currently? Fire Chief Mike Beadle - 9 engines.

Mayor Netts - You are giving these vehicles about a 20 year life span, is that correct? Chief Beadle - Yes.

VM McGuire - Is that years or miles? Chief Beadle - Years.

Chief Beadle gave a PowerPoint presentation (attached to these minutes).

VM McGuire - What is an ISO rating? Chief Beadle - The Insurance Service Organization. We are on our 4th rating; they will be here in 2 weeks. ISO comes in and goes over training and response records and go over every piece of equipment that we have; one of their issues is backup equipment. They go over dispatch and communications, etc. It has the potential to reduce your personal homeowners' insurance premiums.

VM McGuire - What are the ISO ratings for surrounding areas or the County? Chief Beadle - He believes the County sits at a 4 or 3 (1 being the best).

VM McGuire - Can the backup truck do everything the frontline one can do? Chief Beadle - In theory, yes; some of the older trucks can't carry the some of the equipment.

VM McGuire - When you decide a unit needs to be replaced, is it the transmission or engine? Chief Beadle - It is usually the engine motor, we can rebuild the pumps.

VM McGuire - Can't you replace the engine? Chief Beadle - You can, but the problem we are finding due to manufacturers over the years, is that you can't get an engine today and put it in a truck you bought 8 years ago, but yes the goal would be to refurbish the truck.

VM McGuire - When you bought the Rosenbauer and specified what you wanted in it, did you do it with the idea that you wanted to standardize it with what you have in your fleet so it would be easier to maintain? Chief Beadle - Correct, there are only a couple of motors/engines that you can put in these things.

VM McGuire - When you spec out a new piece of equipment, you don't have a wide choice? Chief Beadle - No, we are very limited.

Mayor Netts - Stock truck versus custom truck? Chief Beadle - Stock truck long haul they pull a trailer but they are not designed for the wear and tear the Fire Department puts on it, the stop and go; the custom trucks are built from the ground up; 2 frame rails come in, they put the rear end and the front end in it and then build it from the ground up. He described the custom trucks are built from the ground up.

Mayor Netts - So no manufacturer creates a standard configuration with an upgraded fire department chassis but with stock cabinetry versus custom cabinetry? Chief Beadle - Not that he has seen, but he is sure there is something that would meet that out there. We are seeing that the custom trucks are holding up longer.

VM McGuire - The 3 units to be replaced, are you going to replace them with the same things? Chief Beadle - We will go out to bid.

VM McGuire - What are you doing with the ones after you replace them, do you sell them to somebody? Chief Beadle - We auction them; we only got \$5,000 for the last one.

VM McGuire - Do you scavenge parts off of the old one? Chief Beadle - Yes, everything we can.

Mr. Roger Lachance, Fleet Supervisor spoke about the conditions of the subject fire trucks.

VM McGuire - Solicit proposals for 1 or 2 temporary engines, what does that mean; what is a temporary engine? Chief Beadle - If we buy used equipment, we know they are not going to last forever as they are not right now; our hope would be that they would last no longer than about six year because then they would in that replace cycle and step-down program we are looking at.

VM McGuire - That is assuming that there are 2 engines out there for sale that are used that would meet your criteria? Chief Beadle - That would be a challenge because there are thousands of used pieces of equipment out there; we would need to narrow down what we are looking for and probably talk to some of the brokers that are out there and see what is available.

VM McGuire - If you lease it, are you responsible for the maintenance or is the lessee? Mr. Landon - No, we would be responsible for maintenance and then return it after 5 years and it's theirs, but the idea is that then we are back to our replacement plan; this is a stop gap or reduce the number of engines we have.

Mayor Netts - Reducing the number of engines, you indicated that could possibly reduce our ISO rating, what would that mean to our residents? Chief Beadle doesn't

know the monetary value but the ISO number would definitely go back up because we don't have the number that they are looking for.

Mayor Netts - Life saving, we have a mutual aid system, we are always backed up by our neighboring cities and the County; considering the relatively small number of structure fires that we have, what is your assessment of the risk? Chief Beadle - Out of the 61 structure fires last year, a minimum of 6 were confirmed structure fires (large losses).

CM Nobile - What is the life cycle on a lease, when would the truck be here? Chief Beadle - We will have to find out what is out there and what is available.

Mayor Netts - These are not mutually exclusive recommendations, these are combined; you want to buy one and lease two, but you are talking about in this year bringing 3 fire trucks into town? Mr. Landon - Potentially 2 in (fiscal year-FY) 2015 and 1 in FY2016. The problem getting 3 at the same time is that 3 die at the same time.

CM Nobile - If we didn't lease right away, he would prefer if we can hold that line and still maintain the safety, not that concerned about the ISO rating. We could then look at purchasing one sooner instead of putting that money into a lease. If we could get 1 that we want sooner, he would be more open to that than leasing and hold off, if we could. If we run short and then take that money and instead of a 2-year on the second truck we do 1 year.

Mayor Netts - We have a fleet replacement fund, what is the potential of the fund? Mr. Chris Quinn, Finance Director - Our fleet fund is great, very healthy; it is designed (for the Fire Department) for the every other year purchase.

Mayor Netts - Is the first of these two recommendations is that the other year or is this the year? Mr. Quinn - In 2015, we have a small amount budgeted just to get the process started; 2016 is where the money is for the actual bulk of the truck.

VM McGuire - If we decided we wanted to get into a lease program, you can't use capital funds for a lease can you; where would the money come from? Mr. Quinn - The lease program would have to come out of operating funds.

VM McGuire - So you are really looking at a tax increase then? Mr. Quinn - It depends on how much we are talking about. It may not need a tax increase; we really don't know; for a stop gap option, the suggestion was let's at least go out there and see what is available, etc., in addition to looking for the next replacement.

VM McGuire - What is the book value of the 2 units we are considering replacing? Mr. Quinn - Negative \$10 mil.

VM McGuire - They are fully amortized then? Mr. Quinn - They are fully amortized.

VM McGuire - Do you have any feel for what kind of money you are talking about to lease a fire engine? Mr. Quinn - A lot of the lease programs are 7 years, so the leasing companies are leasing them for 7 years to the end users and they are recouping their costs over that 7-year life and then some; that is the unknown that we are really not sure about; we don't know until we actually solicit some proposals and find out.

VM McGuire - If we decided we wanted to buy 2 fire engines instead of 1, how would you get the funds into the capital budget? Mr. Quinn - We would use our existing

capital reserves in the fleet fund but then the Fire Department would start paying a much higher replacement cost.

CM DeLorenzo - Can you use fire impact fees? Mr. Quinn - Not to replace an existing service vehicle.

CM DeLorenzo - Mutual aid, does the County have any equipment that they could lend us as a stop gap? Chief Beadle - He would have to say no because he knows of 2 backups that they have and they use their backups; he would venture to say no, they wouldn't lend them to us.

CM DeLorenzo - Find out how much they use their backups. Do they have backups that they never use unless they absolutely have to? Chief Beadle - They are in the same building so it wouldn't do any good, but he will make the inquiry.

CM DeLorenzo - Is fire protection not a requirement of the County? The County changed the formula for infrastructure dollars that we could have used to buy a fire truck; they are keeping a higher percentage. If we need a fire truck, it seems to him that we should ask them for a fire truck. Mayor Netts - The County provides County-wide service. We pay additional for additional (services). He explained the history and that prior to incorporation Palm Coast residents were not happy with the level of service and that is part of the reason we incorporated as a City; we wanted a higher level of service.

Mayor Netts - Staff will come back with a variety of options for the two trucks.

The Presentation was Received and Filed.

5 [15-87](#)

UPDATE ON THE RED LIGHT CAMERA PROGRAM

Mr. Landon gave a brief overview of this item, and Mr. Falgout assisted with the PowerPoint presentation (attached to these minutes).

CM DeLorenzo - When in 2017? Mr. Landon - It doesn't change the month, September.

VM McGuire - How about the processing of the UTCs (Uniform Traffic Citations)? Mr. Landon - We would have to do all that.

CM Shipley - Didn't they say they would pay for our legal services? Mr. Landon - Yes

CM Shipley - If we reduce it to 2017, they will still pay legal fees? Mr. Landon - Yes.

CM Nobile - What class action lawsuits are we talking about here? Attorney Reischmann - There was one that was filed up in the Northern District; they took a dismissal because they had some issues about location. It has been refiled in the Southern District of the Federal Court. This is basically the same lawsuit that was against the City of Palm Coast but there is going to be argument about whether the Southern District is right for the City of Palm Coast and other cities that are located in the Middle District. As part of this arrangement, it's on the table right now; they (ATS-American Traffic Solutions) hired a law firm that will represent the City of Palm Coast as well as a lot of other cities and counties who were provided services by ATS.

Mayor Netts - What is the impact, if any, of the most recent cases - Polk County? Attorney Reischmann - The case of Meador, that was a county court case. The Fourth DCA (4th District Court of Appeal) Arem case went from county to circuit to

the 4th DCA. The 4th DCA decision said that the process that the City of Hollywood had in its contract, that it violated the Mark Wandall Act, because of that ruling is what caused this avalanche of claims saying that red light cameras are illegal; that is not what the Arem case says.

VM McGuire - Didn't it say the City of Hollywood did not have the right to subcontract to issue the UTCs? Attorney Reischmann - The 4th DCA said that based on the language in the contract, that violated part of the Mark Wandall Act as well as Chapter 316 (Florida Statutes); only a police officer or local government could issue UTCs. The county court decision is a little different on its facts because in that case the judge held a hearing and there was testimony that under the business procedures with ATS, was just ministerial and was not either de facto or de jure delegate. So, citing to the Arem case, that county judge said this is not an Arem situation so he was not going to dismiss that ticket.

Mayor Netts - Was there a substantial contract language difference between the City of Hollywood and here? Attorney Reischmann - The major difference is that in the City of Hollywood's practices were not part of the record that went up to the 4th DCA. In other words, in the Hollywood case you didn't have the county judge actually look at what happened in the business procedures. The county judge in the Hollywood case was just looking at the contract and that is what ATS' position has been, etc. If we were going to do this (amend the contract), we would make sure that our business procedures met the strict guidelines, a conservative interpretation, of the Arem case.

CM Nobile - If we were to attempt to terminate the contract, we are pretty sure that ATS is then going to stop that, get it over ruled; what kind of costs are we looking at? Attorney Reischmann - There is suspension and there is termination. Our current contract allows for suspension but does not allow for termination for convenience. It allows for termination of the contract if there is decisions by the legislature or a court that said red light camera systems are illegal; we don't have that.

CM Nobile - The ruling that is in place right now (Arem vs. Hollywood) is not at the level of language in our contract to terminate the contract? Attorney Reischmann - Absolutely not.

There was discussion about suspension of the ATS contract and possible outcomes and costs. Attorney Reischmann stated ATS has said they will treat a suspension as termination, a breach of contract.

CM Shipley - The \$21,000 we would lose if we did the 2017 (contract term reduction), where does that money come from? Mayor Netts - ATS. VM McGuire - That is the money they pay us for each camera. Mr. Landon - Right, all the revenue we get for red light cameras from ATS goes into the streets improvement fund; annually \$360,000 now, so that is going to be cut down to \$42,000 or \$21,000 (depending on what Council decides).

VM McGuire - If the City reduces the camera count from 43 to 5 and a class action suit goes to litigation, would the plaintiff have a strong position in that you, Palm Coast, knew you did something wrong because you reduced your cameras from 43 to 5? Attorney Reischmann - No, that would not be relevant, etc.

CM Nobile asked for the location of the 5 cameras. Mr. Landon presented the Top 5 locations on Option 2-Amend the ATS Contract slide from the 2/24/15 City Council workshop (attached to these minutes). There was discussion about why ATS chose those 5 cameras over others.

Mr. Landon stated that he and Attorney Reischmann will work hard to finalize an amendment to put on the agenda for the next business meeting (3/17/15) with these two options A and B.

CM DeLorenzo - Will you look at the suspension and termination language that was included in the first contract compared to the second contract? Attorney Reischmann - He already has; that is because it went to a larger number of cameras so the decision was because of that capital investment they (ATS) could not allow the City to simply change its mind unless there was cause.

The Presentation was Received and Filed.

E. WRITTEN ITEMS

6 [15-84](#) RESOLUTION 2015-XX AMENDING THE CITY OF PALM COAST FUND BALANCE POLICY

Mr. Landon gave a brief overview of this item.

CM Nobile questioned whether we will still be able to monitor the costs of the tennis club and golf club (since the funds will be no longer). Mr. Landon confirmed the costs will still be monitored every month.

The Resolution was Continued.

Enactment No: R2015-24

7 [15-82](#) RESOLUTION 2015-XX APPROVING THE RESTRICTIVE COVENANT RELATED TO THE PALM COAST ARTS FOUNDATION LEASE

This item was heard after Item 3 to accommodate the Arts Foundation representatives.

Mr. Landon gave a brief overview of this item.

VM McGuire - Is there a downside to approving this? Mr. Landon - If there was something else you wanted to do with this property in the next 10 years than you couldn't; he doesn't think there is a downside. Mr. Falgout - It is also consistent with the current deed restrictions on the property from Palm Coast Holdings to the City when the property was deeded over that it would be used for cultural arts; consistent with the lease agreement with the Arts Foundation. Attorney Reischmann spoke about the penalty clause is not really against the City of Palm Coast but against the Arts Foundation that if they don't comply with the requirement to build and keep this facility they have to pay the grant.

CM DeLorenzo - Congratulations to the Arts Foundation!

The Resolution was Continued.

Enactment No: R2015-27

8 [15-86](#) RESOLUTION 2015-XX APPROVING THE PURCHASE OF A DOOSAN DX190W-2 EXCAVATOR, HEAVY DUTY EQUIPMENT AS APPROVED IN THE FISCAL YEAR 2015 BUDGET

Mr. Landon gave a brief overview of this item.

VM McGuire - If this is already in the budget, why do you need our approval?

Attorney Reischmann - This is a different one. Mr. Landon - It is over \$30,000.

VM McGuire - Where does it come from? Mr. Nestor Abreu, Public Works Director - The retailer is local, but he didn't know where it was manufactured.

The Resolution was Continued.

Enactment No: R2015-25

9 [15-76](#)

RESOLUTION 2015-XX APPROVING PIGGYBACKING THE OSCEOLA COUNTY AGREEMENT #SG-15-04003-AP WITH URETEK HOLDINGS, INC., FOR MAINTENANCE REPAIRS TO THE OLD KINGS ROAD BRIDGE #734073 ABUTMENT

Mr. Landon gave a brief overview of this item.

No Council comments.

The Resolution was Continued.

Enactment No: R2015-26

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

CM Nobile - Can he get on the next workshop agenda, Ralph Carter Park and people on Richardson Dr.? He is getting inundated with emails and he went out to the park himself to check it out. The fence is torn down and it's a mess. The people using the walk through are not respecting people's property. Mayor Netts asked Sr. Commander Mark Carman, Flagler County Sheriff's Office, to take a look, and maybe we can put an impediment on the damn and fix the fence. Sr. Commander Carman said they are asking area residents to not confront the people coming through to the park; they will address the issues. Sr. Commander Carman reported they put a lot of resources to the park but the odds of patrolling by when the kids are coming through is hard to coordinate. He stated he will set up a neighborhood watch meeting and address these issues.

VM McGuire is asking for a presentation to be made by our new golf course manager, now that he has had about a month, as to what his plans are to take us out of the red on the golf course. Mr. Landon - Yes, it has been scheduled.

Mayor Netts - Cape Coral and 4 other similarly structured cities that refer to themselves as replatted communities. He described the history/background regarding Flagler Estates in the northwest part of the County where lots were sold without infrastructure. Since then, when large developers decided to create cities, they were required to put in all of the infrastructure all at once and it ages all at once as opposed to other communities that as expansion occurs, you add more infrastructure. The City of Cape Coral has initiated a coalition of 6 communities that share the same problem that they are facing; special needs because all infrastructure was put in years ago and is deteriorating in their replatted communities. They have

asked us to join them to convey to the legislature the special circumstances that surround these 6 communities. They are proposing ways to solve these problems, they want an 8% set aside from all Amendment 1 funds (environmentally sensitive lands). Mayor Netts feels many other cities will also say they have special needs for varying reasons. Mayor Netts had a conference call with the City Manager and the City Manager of the City of Cape Coral, and they asked if he would bring this coalition proposal to City Council. It is a two-piece thing; 6 communities have unique and special needs, which Mayor Netts doesn't have a problem with, but Mayor Netts does have a problem with asking for 8% of Amendment 1, to the exclusion of the rest of our municipal colleagues in Florida. Mr. Falgout has drafted a resolution that would enable us to become part of the coalition, but it does not go as far as to say we want special treatment, etc., for Council consideration. Mr. Falgout - It's just a resolution in support that is significant to preplatted communities. Attorney Reischmann stated common interest; then this group can get together with the legislature.

CM DeLorenzo mentioned that maybe for a competitive bid if you were part of the coalition and there was a point scoring system that these types of communities get a little bit of extra help so these communities get an extra 2 points, etc.; if something like that came along maybe that would be helpful but otherwise we would be that anyway, we would fit that definition.

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

Attorney Reischmann had nothing further to report.

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

Mr. Landon had nothing further to report.

I. ADJOURNMENT

The meeting was adjourned at 1:59 p.m.

*Respectfully submitted,
Barbara Redline*

ATTACHMENT TO MINIUTES

[15-88](#) MEETINGS CALENDAR AND AGENDA WORKSHEET

[15-95](#) ATTACHMENTS TO MINUTES