



City of Palm Coast

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

Meeting Minutes

City Council

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

Tuesday, March 17, 2015

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 for each speaker.

>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 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.

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

Approval of Minutes

- 1 [15-97](#) MINUTES OF THE CITY COUNCIL'S:
 A. March 3, 2015 City Council Business
 B. March 10, 2015 City Council Workshop

Attachments: [March 3, 2015 Business Meeting](#)
 [March 10, 2015 Workshop](#)

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

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

PRESENTATIONS

Proclamations and Presentations

- 2 [15-91](#) PROCLAMATION RECOGNIZING MARCH AS PURCHASING MONTH

Attachments: [Proclamation Purchasing Month](#)

CM Nobile presented this proclamation.

The Proclamation was Received and Filed.

- 3 [15-92](#) PROCLAMATION RECOGNIZING MARCH 15, 2015 THROUGH MARCH 21, 2015 AS "FLOOD SAFETY AWARENESS WEEK"

Attachments: [Proclamation Floodplain](#)

VM McGuire presented this proclamation.

The Proclamation was Received and Filed.

- 4 [15-93](#) PROCLAMATION RECOGNIZING APRIL AS WATER CONSERVATION MONTH

Attachments: [Proclamation April Water Conservation Month 2015](#)

CM DeLorenzo presented this proclamation.

The Proclamation was Received and Filed.

- 5 [15-94](#) PRESENTATION - 2014 PLANT EXCELLENCE AWARD FROM THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Ms. Lane presented the award to the Water Plant manager and operators.

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

Resolutions

- 6 [15-96](#) RESOLUTION 2015-XX APPROVING THE SECOND AMENDMENT TO THE CONTRACT WITH ATS RELATING TO THE RED LIGHT CAMERA PROGRAM

Attachments: [Resolution ATS 2nd amendment](#)
 [Amendment No 2 to ATS contract](#)
 [Exhibit A to ATS Contract - Red Light Camera](#)

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

CM Nobile-Is it possible to go through how the business process works? Ans: Mr. Falgout-With this change in the business procedures, City staff would review each event. In the past, City staff would receive a reduced amount of potential violations to review and approve.

CM Nobile-As far as ATS paying for the current lawsuit, will it only be for the current active one, what about future lawsuits? Ans: Mr. Reischmann-The amendment that is suggested, and in your agenda packet, specifically provides for the defense to be provided by a law firm in southeast Florida, that would be compensated by ATS, it further provides in the proposed amendment that if there are any other lawsuits arising out of the Hollywood case, that involved as Defendants, both ATS and the City of Palm Coast, that the same law firm would be retained for the City by ATS. It is broader than the current class action lawsuit. With that said, there are two other factors, and that is the existing contract has an indemnification clause, the duty to defend as well. The proposed amendment certainly further clarifies and arguably expands that provision in the existing contract. And lastly, I wanted to make sure that the City Council and the public are aware of one other change, since the last time we had an opportunity to speak with you, Mr. Landon and I, we have received correspondence from the Florida League of Cities that they will provide a defense to the current class action lawsuit with a firm that they retained in southeast Florida. I have had communications with counsel from both of those law firms and they have indicated that the City of Palm Coast, if it so desires, can have both law firms work together to defend the City of Palm Coast in the current class action lawsuit.

Public Comments:

Jack Carall-If they/we lose and we have to repay all these people that paid their fines,

where does that money come from? And how much of that does ATS put in?

Ron DeCosta-Advocate for red light cameras. Does not want the City to end the red light camera program.

George Mayo-If approved by City Council when will this take affect?

CarMichael McMillan-Does not support red light cameras.

Responses to Public Comments:

Refunds if mandated by court-Mr. Reischmann-The monies that are paid by violators when they receive a NOV or a UTC is issued and they ultimately pay that. It is distributed 3 ways: the City receives some, the smallest percentage, the State of Florida receives a larger portion and ATS receives a portion. If there is an award issued to those that have run a red light and have paid either a NOV or traffic citation, the monies that would have to go to pay the judgment would be pro-rated from those that have received it. So, it is important for the public to understand that ATS would be obligated to pay its share, the State would be obligated to pay its share it received and the City would only be obligated to pay that portion of what it has received. The City would not have to pay the amounts received by ATS or the State of Florida. The other thing that I feel is important for the public to understand is it is presumptuous, very presumptuous, to assume that there will be a judgment, and if so that will be an amount of all runners, violators in Palm Coast since the Mark Wandall Act was passed and have paid. There are many substantive defenses that will be raised, one which is the voluntary defense doctrine, which provides under Florida law, under general law, in this situation, is if you make a payment (voluntarily) on a Notice of Violation or a UTC that you receive that bars you from making a claim for you to get your money back; and that is just general law. It is also very important for you to understand that at some point in time, the individuals that brought this class action lawsuit, in their name alone, are going to have to go to a federal judge to establish a class, and the size of that class is going to be an issue. It is important to note that this class action lawsuit that is identified there is a compilation of over 10 different plaintiffs filing against 10 or more different defendants against different jurisdictions. Each of those jurisdictions, in each of those different claims, will have a different size of class and I am just touching the surface. There are going to be a lot of complicated issues that will be brought up. The point I am trying to make is the ultimate reward, if there is such, is going to be much smaller than perceived. The amount the City would have to repay would only be from what the City has received.

Mr. Landon-All revenue the City has paid, has gone into our street improvement fund. If we were to have to reimburse, it would come out of the street improvement fund. Our annual revenue would cover any expenses or exposure we would be required to refund.

Intersection safety-Mayor Netts-Alternative solutions-one that comes to mind prior to the stop bar-paint on the concrete or the asphalt, "red light camera ahead" giving people more warning. Council has asked the City Manager to talk with various traffic engineers to see if we can put together a request for proposals to see if there are other possible solutions. I tend to be skeptical. Those big red lines hang up there right in your line of vision. If you somehow do not see the red light hanging in front of you, I doubt you will see some writing on the pavement, but you never know. Our goal from the get go with this program has been to reduce the incidents of traffic accidents at intersections. If the red light cameras go away, this City will pursue any other possible options that there may be.

Effective Date of Change to Contract-Mr. Landon-If you adopt today, we will forward

on to ATS and they would have to sign; execute the agreement. As soon as they sign the agreement, it would go into effect and we would start the new business practice, but it does require their approval. We have been in contract with them and ATS has stated they will support either option provided to you today.

Mayor Netts-Statistics on those dying from crashes and rear end crashes. Sr. Commander Carman-Within the last two years, traffic fatalities have been up but most are on our State roads (I-95 and US 1), which do not have cameras; just spoke to our representative at FHP and our current barracks for FHP is based out of St. Augustine. We have 11 troopers assigned to St. John's, 7 to Putnam and 4 to Palm Coast. This does not make sense since we have I-95 to get through Palm Coast; we have asked to reallocate resources since we have I-95 through our community. If you go back two years, the traffic fatalities were down. Crashes and fatalities are up but they are mostly on our interstates. Rear end collisions fluctuate up and down. When the program first began, the News Journal did their own survey, at one of the intersections (Cypress Point Parkway) and found 10 less dangerous accidents. The Sheriff's office will take all necessary actions; the Sheriff supports any decision the Council makes. We will take the appropriate action necessary to fit in with the changes that Council takes. There are options available to us.

VM McGuire-At the last workshop, I requested a presentation from Sheriff Manfre on how he will compensate for the loss of red light cameras. I am still waiting for that presentation.

A motion was made by Council Member Nobile and seconded by Council Member DeLorenzo to reduce the number of cameras to five and the term of the contract to 2017.

A motion was made by Council Member Nobile, and seconded by Council Member DeLorenzo, that the Resolution be Adopted. The motion was adopted by the following vote:

Approved: 3 - Mayor Netts, Council Member DeLorenzo, and Council Member Nobile

Denied: 2 - Vice Mayor McGuire, and Council Member Shipley

Enactment No: R2015-23

Consent Agenda

Public comments shall be held 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 each to speak.

7

[15-82](#)

RESOLUTION 2015-XX APPROVING THE RESTRICTIVE COVENANT RELATED TO THE PALM COAST ARTS FOUNDATION LEASE

Attachments: [Resolution-Restrictive Covenant-PCAF Lease](#)
 [Restrictive Covenant related to PCAF Lease](#)

This item was requested to be pulled from the consent agenda by a citizen. Mr. Falgout provided a brief overview to this item.

Public Comments.
There were no comments.

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

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

Enactment No: R2015-27

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

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

8 [15-84](#)

RESOLUTION 2015-XX AMENDING THE CITY OF PALM COAST
FUND BALANCE POLICY

Attachments: [Resolution Approving Revised Fund Balance Policy 2015](#)
 [Exhibit A - Fund Balance Policy proposed revisions](#)

The Resolution was Adopted on Consent.

Enactment No: R2015-24

9 [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

Attachments: [Resolution Purchase of Excavator](#)
 [Price Quote-Piggyback Contract](#)

The Resolution was Adopted on Consent.

Enactment No: R2015-25

10 [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

Attachments: [Resolution](#)
 [Engagement Letter for URETEK](#)
 [Osceola County Contract](#)
 [Uretek Price Quote](#)
 [Bridge Location Map](#)

The Resolution was Adopted on Consent.

Enactment No: R2015-26

D. Public Participation

Public Participation shall be held 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 and state their name. Each speaker will have up to three (3) minutes each 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.

Jack Carall-To replace a water heater would cost over \$1,000. The City charges a fee for a permit to replace a water heater.

Ron DeCosta-Read in Observer about a code change to fences. Supports the rules and regulations for the quality of life and the beauty of Palm Coast.

George Mayo-Sunshine week in Florida, would like to see Palm Coast's score higher.

CarMichael McMillan-Public records requests and burdens.

Responses to Public Comments:

Hot water heater-Mr. Abreu-There is a cost for a permit. The permit costs about \$75-\$150. Mr. Landon-I am not sure what Mr. Carall was referring to going from \$300 to \$1,000; that is definitely not a result of any City fees or rules, but yes it is plumbing and electrical. It requires a plumbing permit or a building permit to replace it. So as is the case with any building permit, the cost of the plan review and the inspection is born by the applicant, so the tax payers' dollars do not go towards that. If you recall, all the permit fees stay in the building department and cannot be used for anything else other than plan review, inspections and associated regulatory processes under the building code. If the contractor is telling him the City is kicking the cost up to \$1,000, we need to know that too. Mr. Abreu confirmed the permit cost is \$85.

Fence options-Mayor Netts-This is part of an on-going discussion in any community in the U.S. Provided an overview to private/personal property rights and community rights and obligations.

Public records and sunshine-Mr. Landon-Mayor I would like to address that if I may, Virginia has taken the lead and I am going to let her also address it. Mr. McMillan said something about being offended and I am going to tell you I am very offended by his comments. First of all, the News Journal report, the first time I have heard of it, but it is not the first time we have had a rating like that and the City of Palm Coast is always above average. Every time we get a report, it usually grades us on things and yes, Mayor, Virginia takes that and we talk about how we can use this as a learning tool to improve and then she actually makes changes. We also find that they sometimes do not know where to find the information, which means we have it and it is available but maybe we need to make it easier. It is like budgets, we have actually started a budget center so all information is in one location. We use this to try

to learn where we can improve and where we can make the information most visible to the public. Mr. McMillan's comment, I am very much aware of it, what he has done and the other individual, is ask for personal information; he wants all the information of everyone that has received a red light camera ticket, the name, address and anything else that we have on them. There are laws that protect that information and if you think about it, we have utility billing, we have credit card information; there are laws that protect that private information from being released to the public. So, when we get a request for information for everyone that got a red light camera citation, and that is the request Virginia received, we can give that but we have to redact the information that is not public. We go to the attorney and say it is all open except for personal, private information that we are not supposed to give. If they insist on that list, then we have to sift through it and strikethrough all the information that is not public; that takes time and when you ask for thousands of records that we have. To do that, who should have to pay for that the individual who has made the request or the public?

VM McGuire-I think the Florida State Constitution provides for a reasonable charge to be made for public records requests. Mr. Landon-Yes, and that is correct also, so the State law, the Florida Constitution and our policy all state that the individual that is making that request can pay for it; costs a lot of time and money. If you come in and request a document, we give that out all the time or we point them in the direction that does not cost any money, but when you come in and ask for these special requests that particularly requires a lot of staff time to redact or work on providing that information by law . . . Virginia please add to that because I know you have been working on it directly. Mrs. Smith-With the First Amendment Foundation of Florida, we received a report, I reviewed it and went over several items that they were missing. We actually increased our score from a 58 to a 69, which is above average as well. I have worked with them to increase further transparency. We are improving with that for the open sunshine laws and public records. With public records, I am bound by State law and Federal law. So when an extensive request does come in such as all NOVs, I have to look to Federal law and State law and redact all personal information. What that entails is actually, depending on how the record is provided to me by our contractor who is bound by sunshine and public records laws to provide that information to me, I would have to print that document and redact all personal information. That requires extensive time and paper (we would charge for the paper as well if it must be printed out). If it is a document that comes to me electronically and I am able to redact it and then protect it so no one can open it, then I can provide it that way, but every public records request that does come in we provide to the public in accordance with Florida Statute, Chapter 119.

CM DeLorenzo-I am always surprised when I see the week-in-review how many requests you receive, so what is an average month of public requests? Ans: Mrs. Smith-I can get that number for you, it is processed through Barbara and I, it is a significant amount, they come in daily and we process accordingly. Mr. Landon-Virginia, is it fair to say that we seldom charge for records, it is only those unusual requests that take an extraordinary amount of time that we charge for a record? Ans: Mrs. Smith-Correct.

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

VM McGuire-Red light camera vote-voted no since I have not heard from the Sheriff; cannot support something unless I know what protection we have.

CM DeLorenzo-Parade of Homes starts on Saturday.

Mayor Netts-Food Truck Tuesday starts tonight at Central Park.

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

May 2, 2015 is Arbor Day, start with a 5K run. We are in the midst of our 2015 Photo contest.

H. Adjournment

The meeting was adjourned at 10:25 a.m.

*Respectfully submitted,
Virginia Smith, City Clerk*

Calendar and Worksheet**11 [15-98](#) MEETINGS CALENDAR AND AGENDA WORKSHEET**

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

[15-102](#) ATTACHMENTS TO MINUTES

Attachments: [Flood Aware Poster](#)
 [Red Light Camera Program 3-17-15 CC](#)