



# 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**

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**Tuesday, September 15, 2015**

**9:00 AM**

**Palm Coast Community Center**

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### AMENDED AGENDA

>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.

>If you wish to obtain more information regarding City Council's agenda, please contact the City Clerk's Office at 386-986-3713.

>In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk at 386-986-3713 at least 48 hours prior to the meeting.

>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**      [15-379](#)      MINUTES OF THE CITY COUNCIL'S:

- A. September 1, 2015 City Council Business
- B. September 8, 2015 City Council Workshop
- C. September 9, 2015 Budget Hearing

**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      [15-309](#)      PROCLAMATION RECOGNIZING SEPTEMBER 19, 2015 THROUGH SEPTEMBER 26, 2015 AS NATIONAL ESTUARIES WEEK
- CM DeLorenzo presented this Proclamation to Ms. Tina Gordon and Mr. Gary Raulerson.*
- The Proclamation was Received and Filed.**
- 3      [15-369](#)      PROCLAMATION RECOGNIZING SEPTEMBER 17, 2015 THROUGH SEPTEMBER 23, 2015 AS "CONSTITUTION WEEK"
- VM McGuire presented this Proclamation to Ms. Marcella Tomaselli of the Old Kings Road Chapter of the National Daughters of the American Revolution.*
- The Proclamation was Received and Filed.**
- 4      [15-378](#)      PROCLAMATION RECOGNIZING OCTOBER AS RAISE THE PINK FLAG WITH THE PINK ARMY MONTH
- CM Nobile presented this Proclamation to representatives of Florida Hospital-Flagler.*
- The Proclamation was Received and Filed.**

### Other Business

- 5      [15-370](#)      APPOINT FOUR MEMBERS FOR THE CODE ENFORCEMENT BOARD
- Each seat was motioned and approved by City Council.*
- There was a motion to appoint Norman Mugford by VM McGuire and seconded by CM DeLorenzo. Motion passed unanimously.*
- There was a motion to appoint Tameka McDowell by VM McGuire and seconded by CM Nobile. Motion passed unanimously.*
- There was a motion to appoint Kenneth Carruth as the regular member and Richard Lapadula as the alternate member by VM McGuire and seconded by CM Nobile. Motion passed unanimously.*

**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.**

**A motion was made by Vice Mayor McGuire, and seconded by Council Member Shipley, 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

- 6**      [15-364](#)      RESOLUTION 2015-XX APPROVING A CONTRACT WITH S.E. CLINE CONSTRUCTION, INC., FOR REMOVAL OF THE SPOIL ISLAND IN THE LEHIGH CANAL/EAST OF THE OLD KING'S ROAD BRIDGE
- The Resolution was adopted on Consent.**
- Enactment No: R2015-98
- 7**      [15-363](#)      RESOLUTION 2015-XX APPROVING A THREE-YEAR CONTRACT WITH THE FLORIDA DEPARTMENT OF CORRECTIONS FOR THE USE OF SUPERVISED INMATE LABOR WORK CREWS
- The Resolution was adopted on Consent.**
- Enactment No: R2015-99
- 8**      [15-333](#)      RESOLUTION 2015-XX APPROVING A ONE-YEAR PRICE AGREEMENT WITH HARRIS CULVERT, INC., TO PURCHASE VARIOUS TYPES OF DRAINAGE PIPE
- The Resolution was adopted on Consent.**
- Enactment No: R2015-100
- 9**      [15-339](#)      RESOLUTION 2015-XX APPROVING A PRICE AGREEMENT WITH ARGOS READY MIX, LLC, FOR CONCRETE AS NEEDED
- The Resolution was adopted on Consent.**
- Enactment No: R2015-101
- 10**      [15-355](#)      RESOLUTION 2015-XX APPROVING THE PURCHASE OF A 2015 CAT MODEL 906M COMPACT WHEEL LOADER PIGGYBACKING THE FLORIDA SHERIFFS ASSOCIATION CONTRACT #14-12-0904 WITH RING POWER CORPORATION
- The Resolution was adopted on Consent.**
- Enactment No: R2015-102
- 11**      [15-362](#)      RESOLUTION 2015-XX CONFIRMING THE DESIGNATION OF THE CODE ENFORCEMENT STAFF TO SERVE AS THE CLERK TO THE RED LIGHT

## CAMERA HEARING OFFICER

**The Resolution was adopted on Consent.**

Enactment No: R2015-103

**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-Seating in new city hall.*

*Vince Ligori-Charter issue, vacant lots in high density housing areas, downtown area is the renovated Palm Harbor area, and media issues.*

*Ralph Lightfoot-Increasing salaries on Council Members. Low turn out to meetings.*

*Responses to Public Comments:*

*City Hall-seating-Mr. Landon-The tables and chairs will stay here. The seating in City Hall will be movable and will be more comfortable. They are movable so we will have flexibility in the space.*

*Charter salaries-Mayor Netts-According to our last speaker, we already have received a raise, stating salaries were \$10,000, I don't believe it is \$10,000 yet. The answer to the question is unlike the County Commission whose salaries are established by the State Constitution, our charter specifies City Council can propose and vote on a raise. Thus, there has been one leave since our inception, one increase. Anytime City Council feels they deserve a raise, any time they want to bring the issue forward, certainly if the public feels City Council should be paid more, feel free to share that with your Council Members as you share all your other concerns.*

*Eligibility to be on ballot-1% or 10% of the salary, that is something Council could look at but you do need some kind of threshold, otherwise you will have a ballot that would be filled with people who are really not committed, but again City Council can look at that at any time they choose.*

*Vacant lots and trees-Mayor Netts-I question Mr. Ligori that there are 60 or 80 plus pine trees of towering heights on vacant lots, the issue is that it is private property, if the City were to require a property owner to clear a lot and then maintain it, it would be an unreasonable burden on someone who owns a piece of vacant property that has not been developed. Additionally, if you look at our Land Development Code, if you have an undeveloped lot, you are not supposed to clear it, because unless you*

sod it or put down some kind of ground cover you are going to promote significant erosion into our canals. Again that is something City Council could look at if we feel trees become a problem.

Island Walk (f.k.a.-Palm Harbor Shopping Center)-thanked the resident for the comments and is looking forward to the project.

Council salaries-VM McGuire-an increase in Council salaries would come from our general fund, correct? Ans: Mayor Netts-Yes. VM McGuire-So any increase in a City Council Member or the Mayor would be reflected in the amount of ad-valorem taxes that we need. Ans: Mayor Netts-Unless you take the money from some other account, yes.

Attendance at meetings-Ans: Mayor Netts-There are the pessimists and the optimists. The pessimists state they are so disenfranchised. The optimists state they are satisfied with how things are.

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

CM Shipley-loves the idea that Council receive a raise.

CM Nobile-Charter, a charter review is currently necessary. There are many items in the charter that we need to look at. One of the things we have brought up is the salaries-I am not comfortable deciding if the Council receives raises. I believe a charter review committee should look at this. I also received information from the former Mayor. Mayor Canfield, he was part of the process of creating the charter. The two things that Palm Coast needs to do: 1. Senior Community Center and 2. Charter review. His idea of the intention of the statement regarding review of no less than 10 years was not an option. I would like to ask the Council if we can come to some kind of consent if we can decide how to approach this, not necessarily on the decisions, ok we want to do this but how to discuss and is this something we should do-the review. Or do we bring issues one by one to Council? I am asking for consent on bringing that to a near future workshop.

VM McGuire-From time to time we look at other cities our size-can we look to other cities and accumulate some data that says what the pay for a City our size is for Council and how many Council do they have? Ans: Mr. Landon-Sure.

Mayor Netts-Charter review concept-Mr. Nobile correctly asserts that the initial charter prohibited charter revisions other than scrivener's errors for the first 10 years, it is permissive thereafter, not mandatory that the charter may be reviewed after 10 years. There are three ways in which charter review can be initiated, or charter amendments can be initiated.

1. City Council on its' own can propose an amendment to the charter which would then be put on the ballot and voted upon by the public.
2. Public by referendum-by petition, collect signatures for proposed charter amendments, and if they achieve sufficient signatures, that proposal or those proposals are put on a ballot.
3. City Council can start a charter study commission. The results of the charter study commission, the proposals, the recommendations are then put on the ballot.

So there are several ways in which the charter can be reviewed. Thus far City Council has discussed this at previous workshops and has not felt a need for charter amendments, the public has not generated any sufficient number of petition signatures and the idea of a charter study commission remains a possibility for the City to look at.

*CM DeLorenzo-It is my understanding, our charter reads, a charter review would come back to City Council for what would go on the ballot, not what was reviewed would go directly to the ballot.*

*Attorney Reischmann-Under State Statute Chapter 166, it provides that the governing body by ordinance can propose an amendment to the charter to the voters; the voters, the electors, can enter into a petition signed by 10%, (this is under Chapter 166.031, Florida Statutes) of the registered electors as of the last preceding municipal general election. Notwithstanding any local governments charter, that charter can be amended in those ways. That is important because in our charter, it says, that to propose an amendment to our charter you have to have 25% of the qualified electorate, that would be trumped by the 10% in the statute. The other difference is the charter review committee, because charter review committee is not really mentioned as one of the means, as you know, in the statutes but it is in our charter and it is a five member committee appointed by this Council. Their recommendations shall come back to the City Council who shall hold 2 minimum public hearings on the proposed changes. That is the process.*

*Mayor Netts-After the public hearings then what? Ans: Attorney Reischmann-It goes before the general public.*

*Mayor Netts-As proposed? Ans: Mr. Reischmann-As proposed.*

*CM Nobile-The portion of the charter that states that the review shall occur, does the term "shall" not mean-must? Ans: Mr. Reischmann-It does contain the word shall but you have to read it as a whole. CM Nobile-What about the intent of the original scribes? Ans: Attorney Reischmann-Well that is, ...If you ever got to the point that the matter became adversarial, a court would first have to find that there was a threshold ambiguity and the language states that "the charter shall be reviewed no sooner than 10 years after the creation of the City of Palm Coast, 1999 and thereafter it may be reviewed every 10 years. It has been my opinion that the most logical and reasonable interpretation is that it is permissive, you cannot review prior to the 10 years but after that it could be reviewed and then every 10 years thereafter.*

*Mr. Landon reminded Council that after 10 years, the City Council at that time did review the Charter and did actually propose an amendment for the voters to consider and that was the changing of the election years for City Council. So they actually went through that process at that time.*

*CM Nobile-I am talking about an official review of the charter by the people not by the Council. I know people are flipping their eyes and going oh my gosh, here we go again, but I have to apologize, the last time we discussed this it was more of a mini battle royale, there was some things that occurred in the Council that I was not aware of early on in that year and it was a sore spot to mention the charter review. So it was not a valid discussion on should this be done and how should this be done and how, to piggyback on VM McGuire's request on size, a lot of them hold a charter review committee regularly-Deltona, Port Orange...I am not suggesting changes, we have citizens who are requesting changes, to see if they even have a valid change. It is citizen driven not board driven.*

*Mayor Netts-Disagrees with you (CM Nobile) wholeheartedly that there was not a valid discussion of this. It was discussed at that time, at any City Council meeting, any member of the Council can propose the creation of a charter study commission. It would take three votes to make that happen and you have not had three people willing to go down that road but at any time the three Council Members want a charter review they can create it.*

CM Shipley requested this issue be discussed at the next workshop. Ans: Mayor Netts-We certainly can.

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

Stormwater fees-Saw this in one of the recent publications from the Florida League of Cities. One of the things that the FLC is promoting (for the legislatures to consider) and has been relevant to so many cities, including the City of Palm Coast, is Stormwater fee collection. The current status is, the law, other governments, some do and some have taken a position they can't be sued unless they have an Interlocal Agreement, received the benefits from water collection that have not paid for the fees, obviously there are some inequities associated with that. That is something the FLC hopes to address in the next legislative session. Wanted to make sure the Council was aware that this is something that is on the FLC's agenda.

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

Matanzas Woods Golf Course property-Ms. Grossman provided an update to Council. April 2015 Notice of Violation was issued to the owners. Posted it would be heard at the June code board. August it was still in violation. September we scheduled them for code board. It will go to November code board and they will be applying a fine to the property. As of this date the fine is \$10,000. Staff also at that time will ask the board for authority to start the foreclosure proceedings for the golf course.

Mr. Landon-When the City starts foreclosure proceedings, it means it will be placed up for sale by the County and not foreclosed as to us taking over of the property but foreclosed so that a buyer could buy it and payoff the debt on the property. So this would not have the City own the property but it would turn it over to another property owner, if we get to that point.

Another case open is fire compliance. In July an inspection was performed by the Fire Marshall and a notice of violation issued; August Fire Marshall received email from the property owner that the buildings would be demolished. Then we also received an email in the same month from the other property owner (Michael Yokam) wanted to discuss the fire violations since it is not an occupied building. Yesterday we received an email for a teleconference today with their attorneys and our attorney regarding that issue.

Another case adjacent to 185 London-overgrown nuisance-scheduled for the City to remedy and invoice and if not paid we can lien the property. There is also a wildfire hazard mitigation that abuts a residential lot-issued in July, re-inspection in August and the City will remedy next month if not in compliance.

CM Nobile-What is the length for wildfire mitigation? Ans: Ms. Grossman-30 feet from the structure. Mayor Netts-Basically 15 feet from both, correct? Ans: Ms. Grossman-Whatever the setback is, for example, if I have a 10 foot setback, then 20 foot in on the adjoining property to equal the 30 feet, minimum.

VM McGuire-In the code board hearing, did we not say that we would start fining if they did not come into compliance? Ans: Ms. Grossman-Yes, the fines are up to \$10K.

Mayor Netts asked for an explanation of a Massey hearing. Attorney Reischmann explained the Massey Hearing and the fines that are accruing at \$500 per day, the fine has not yet attached to the property as a lien, that is what the 2nd DCA has

said-It must have a 2nd hearing to contest the fine, then due process has been held, the lien is then recorded in the Public Records.

VM McGuire-The property owner was there and assured that the property would be in compliance. The only subject of this next hearing "Is this property in compliance or not?"

CM Nobile-What if there is no bid? Who would be responsible for maintenance if there is no bid? Ans: Mr. Reischmann-If there is no bid, then the title would go to the foreclosing entity and at that point in time, it would be the City of Palm Coast and then we would market it and sell it. You have to understand there is a foreclosure action pending already in place from the first mortgagee.

CM DeLorenzo-Your point is that they will not give it away. Ans: Attorney Reischmann-They (mortgagee) have a significant investment, it is my understanding it is 6 figures or more that they have loaned out on this property. I cannot imagine they would not intervene in the foreclosure.

Mayor Netts-In summary, it sounds like a very convoluted process, and it is because we must recognize and abide by private property rights. You cannot simply take someone's property because you think it is a good idea or because the majority of the people think it is a good idea. The state has set forth guidelines to protect not only the rights of the City but to protect the private property owners. The Massey Hearing is their last chance to be sure they have been awarded due process. It is a convoluted process but it eventually works. The problem of course from the public perception is the process takes an inordinate amount of time but the end is in sight.

Players Club-Ms. Grossman-cases opened in November and December 2014, February 2015- came into compliance, cases closed; prior to that was 2012-fences, enclosures, graffiti, we have had fires, and break-ins. We are waiting for the Fire Marshall's results. Heading the same road as Matanzas (foreclosure proceedings).

Mayor Netts-It probably has no bearing on the City's actions but there appears to be a sign stating "sale pending" at the Player's Club-Ans: Ms. Grossman-There is a sign that says "sale pending" at the Players Club. We have responded with the realtors as of yesterday, there are some previous liens on the property for the administrative costs. There are two of them in the amount of \$420. There is a title company that is talking with us so we can only hope that their actions, as indicated are that they would demo the entire site, but so did Matanzas and we are a little bit closer on Matanzas than we are at the Players Club.

Cats-Ms. Grossman provided an update to Council. Palm Coast Community Cats diversion. I have been working with the Humane Society, we have a phone conference today with the attorney. Hope to have it finalized by the end of the month.

CM Shipley-I actually have seen on social media that they are marking TNR (trap, neuter, release) and that is why I had contacted you because I knew that was not from us. Ans: Ms. Grossman-No that is not part of us. That is not something we would put out there. We have not seen anything so if there is a location, I even had staff go online to social media to see but we do not have any signage that you can see. You should not even know that they are there.

Retail recruitment efforts-Mr. Falgout-Buxton contract signed end of July, within 60 days, which is coming up next week, their 60 day implementation timeline, a couple of milestones reached with Buxton. They did a demographic analysis on three areas, we chose Bulldog Drive and SR 100, Palm Coast Parkway and Belle Terre, and



*Matanzas and US 1. The three nodes of commercial development. They did their demographic analysis, last week delivered the retail matches to the Economic Development Team. Sent out in an email to all of you. And finally the last piece they are working on for the deadline is to deliver the pursuit packages for each of those retailers. So, the plan is within the next week or two they will deliver those. We have access to their scout system, electronic system, we have had a hotelier looking at Palm Coast, looking at some existing properties to purchase and have communicated with some of those. So basically our plan is in the last quarter of the calendar year to start the sales process with those retailers that are matched with us and leading into the first quarter of next year to attract them here to Palm Coast. In the first quarter our goal will be to reach out to commercial developers and brokers. Also pursuing some events with the chamber.*

*CM Nobile-Will we look at pursuing all the matches? Ans: Mr. Falgout-We will go after all of them. We will start the process with the 20 and if you noticed one of the matches was Aldi, we are going to replace that since they are coming here already.*

*The 2nd and Final Budget hearing is Wednesday, September 23, 2015 at 5:05pm here at the Community Center.*

*Food Truck Tuesday is tonight September 15, 2015 at Central Park.*

*Senior Games began September 12 through the 19th.*

*City Hall is on schedule. Talking about 30 days to start moving. Certificate of Occupancy is expected first week of October.*

## **H. Adjournment**

*The meeting was adjourned at*

*10:05 a.m. Respectfully submitted,  
Virginia Smith, City Clerk*

## **Calendar and Worksheet**

[15-380](#)

MEETINGS CALENDAR AND AGENDA WORKSHEET