



City of Palm Coast

City Hall
160 Lake Avenue
Palm Coast, FL 32164
www.palmcoastgov.com

Meeting Minutes City Council Workshop

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

Tuesday, July 26, 2016

9:00 AM

City Hall Community Wing

>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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>City Council Meetings are televised on Brighthouse Networks Channel 495 and on AT&T U-verse Channel 99.

>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

Records Coordinator Barbara Redline called the roll.

Mayor Netts asked for a moment of silence in memory of former Council Member Frank Meeker who was a great servant to our community and to our County.

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

D. PRESENTATIONS

- 1 [16-282](#) RESOLUTION 2016-XX APPROVING A CHANGE ORDER FOR ADDITIONAL DESIGN PHASE SERVICES OF CITY UTILITY RELOCATION, ADJUSTMENTS AND EXTENSION FOR WATER, SEWER AND RE-USE LINES WITHIN THE OLD KINGS ROAD WIDENING PROJECT LIMITS

Mr. Carl Cote, Construction Management & Engineering Manager, gave a PowerPoint presentation (attached to these minutes).

CM Nobile - So we didn't even put a quiesstimate in the budget for this? Mr. Cote - We did in the CIP (Capital Improvement Plan) we had money set aside. FDOT (Florida Department of Transportation) does not pay for any utility work. We roughly estimated what we thought the utility work would be, at \$200,000. Pretty much any conflicts we had, any adjustments, any extensions involved in the project have all been identified so now we are at the point to move forward.

CM Nobile - This is about a 10% increase and the project is about \$2 mil.? Mr. Cote - A little over \$2 mil. Percentage is not a good way to look at it; it really is about how many utilities are being affected; how many adjustments have to be made; this is a normal process. The utility companies don't even see the project until it is at least at 60% because until you identify where the storm drain pipes are going and grading to get to the roadway, you don't know what kind of impacts you are going to have on them.

CM DeLorenzo - What was originally budgeted? Mr. Cote - He believes \$175,000.

VM Shipley - With the property appraisals, do we see any problems with properties for the easements? Mr. Cote - It is an unknown; we just started the process. There is a notification process and he believes they have been to four properties doing inspections with staff and appraisers. We haven't yet received the upgrades on the four properties to see how they match up to our original estimation. There are also settlement costs, legal fees that property owners have that get rolled into those costs, etc.

VM Shipley - We don't know if there are people that are going to fight us on this? Mr. Cote - One of the four engaged us to review regarding driveway closure and access to his property from Old Kings Road.

CM McGuire - A little over a year ago Council approved an additional amount of \$175,532.27 for additional design work, and what was that dollar figure based on; was that a firm estimate? Mr. Cote - That was a firm estimate and fee for scope of work.

CM McGuire asked about a reserve or contingency for this. Mr. Cote - We will work the additional \$25,000 into the next fiscal year's budget. We do set aside; some projects come in under budget and we can shift around the dollars within the same fund.

CM McGuire - Is there a possibility where you will come again with an additional cost other than the difference? Mr. Cote - Highly unlikely, we still have to do some subsurface exploration and some investigative work to identify potential conflicts. We did build into this fee additional reserves; we may not use the \$200,000.

CM McGuire - If you don't use the entire \$200,000 where does it go? Mr. Cote - It stays in the Utility CIP fund.

Enactment No: R2016-71

E. WRITTEN ITEMS

- 2 [16-283](#) RESOLUTION 2016-XX APPROVING THE INTERLOCAL AGREEMENT WITH FLAGLER COUNTY TO CONSOLIDATE COMPUTER AIDED DISPATCH (CAD) SOFTWARE MAINTENANCE AGREEMENTS

Mr. Steve Viscardi, Information Technology Director, gave a brief overview of this item.

CM McGuire - Who determines what the cost is going to be for each municipality? Mr. Viscardi - The company, New World; it varies according to the number of licenses used by each municipality.

CM McGuire - Why 2% increase each year? Mr. Viscardi - It is typical with all of our software maintenance (upgrades, etc.).

CM McGuire - So, you want us to approve an interlocal agreement with the County? Mr. Viscardi - Yes. We used to pay the New World vendor directly, but now it is going to be consolidated so the County makes one payment to the company and then each municipality; Bunnell, Flagler Beach, etc., have a similar arrangement. We are going to reimburse the County for our portion.

CM DeLorenzo - The amount is the same as last year? Mr. Viscardi - Yes, the 2% (increase) will start next year.

CM McGuire - What is the advantage of not paying the vendor directly? Mr. Viscardi - He believes they just decided when they renegotiated their contract; seemed to be an easier fit. County to take care of everything and charge the jurisdictions; we are not paying more; it's just easier.

The Resolution was Continued.

Enactment No: R2016-72

3 16-287 RESOLUTION 2016-XX APPROVING FINAL NUISANCE ABATEMENT ASSESSMENT

Mr. Christopher Quinn, Finance Director, gave a brief overview of this item. Ms. Barbara Grossman, Code Enforcement Manager, was present for questions.

CM McGuire - What does the list look like compared to last year? Mr. Quinn - Less than half; we are just looking back one year this time; economic factors.

CM DeLorenzo - How many people came in and paid since the notices went out? Ms. Grossman - About \$5,000 worth.

CM McGuire - Where does that money go? Mr. Quinn - It came out of the general fund and goes back into the general fund. Attorney Reischmann - The purpose of this is to make sure taxpayers' money that is being spent to benefit the community, the health and safety of the community, is not lost but recaptured through this process. The people that are causing this cost are paying this cost; it works because if they don't pay it there is a consequence.

VM Shipley - Some are foreclosed properties, where do you get the money? Mr. Quinn - Whoever pays the tax bill, whether it is the bank or if it goes to tax deed sale, etc. We basically get paid first. Attorney Reischmann - Unlike other types of expenses that cities incur on behalf of this objective, this lien cannot be wiped out by foreclosure, so it gets paid. As opposed to other expenses that local governments incur on behalf of their citizens that can get wiped out through mortgage foreclosure, it survives so the general tax dollars get recovered. Mr. Quinn - It is effective; helps tremendously.

The Resolution was Continued.

Enactment No: R2016-69

- 4 [16-259](#) RESOLUTION 2016-XX RELATING TO THE OLD KINGS ROAD SPECIAL ASSESSMENT ROLL TO BE TRANSMITTED TO THE FLAGLER COUNTY TAX COLLECTOR

Mr. Quinn gave a brief overview of this item.

No Council questions.

The Resolution was Continued.

Enactment No: R2016-70

- 5 [16-297](#) DISCUSSION ON COUNCIL VACANCY PROCEDURE

Mayor Netts gave some background on this item. There are several possible mechanisms. In the past, vacancy was advertised and Council whittled down applicants to a workable list; Council interviewed, individually and collectively, the applicants and then voted on appointing a single individual; that is difficult to complete in 30 days. Another, is to simply select from those who are currently running for that vacancy, but argument has been made that may be showing preference to one candidate and that may be undue influence in the upcoming election. Third option proposed, is that we simply select from one of the individuals who previously held that City Council seat. The complicating factor is that under law if during the primary election, if any individual gets 50% of vote + 1, that person is considered elected and does not proceed to the general election. So, it would be awkward if City Council were to appoint somebody prior to the August 30th primary and find that their choice does not match up with the public.

Mayor Netts asked Attorney Reischmann if that was a fair assessment of the options.

Attorney Reischmann - Virginia Smith, City Clerk, provided a memorandum of several options that have been used in the past. In 2002, Council Member Holland (passed away) there was a vacancy created and there several options presented to the Council then were to choose an appointee from District 3 at that time, who were currently serving on a City board. It was not the option that was chosen but it was an option that was considered. The other option at that time was to choose from a list of citizens that ran for that District 3 seat in the prior election in 1999; that option was not selected either. All of these options were also available for seat vacancies in 2008 and 2012.

CM Nobile stated in the past Council chose to not appoint to a vacant seat, is that an option? Attorney Reischmann - He has some concerns about that option; the word that is used in the charter is "shall."

CM Nobile - What if we can't come to a consensus vote? Mayor Netts - That has happened in the past and we did a coin toss.

CM Nobile - Can the charter reference a policy outside the charter as far as how this process would take place? Mayor Netts - It is silent on mechanism. CM DeLorenzo - It is intentionally silent so the Council in place sets the policy. We are the elected representatives of the people.

Mayor Netts expressed the results of the primary may make this decision for Council. He suggests Council defer any decision until after the primary; he believes there is still enough time.

Attorney Reischmann - Clock starts August 15th (resignation); the decision should be made no later than September 15th (within 30 calendar days per charter). If someone wins the primary August 30th, Council can appoint them to fill the seat prior to November (deadline) and there is nothing in the charter that would prevent that.

Mayor Netts suggests between now and August 30th Council can look at the options discussed. We still have time to do that. However, he is not in favor of choosing someone that is currently running for the seat and then someone else gets chosen by the public in the primary. The only difficulty is advertising before August 30th. He suggests to see the results from the primary.

VM Shipley was in agreement.

VM Shipley asked if the two former Council Members that held the position previously were interested. Ms. Smith had not contacted them.

CM Nobile expressed one of the prior Council Members has already publicly said he will fix this Council, he is not in agreement with that proposal. CM McGuire agreed with him.

Mayor Netts suggested to publish - if we don't have a primary winner (August 30th for District 1), Council will consider applications/resumes.

Council agreed to put out the ad before the primary with the above consideration; motion will be made at the next business meeting (8/2/16).

The Presentation was Continued.

F. 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 topics on the workshop agenda or any topic or proposition not on the agenda, 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.

Louis McCarthy inquired as to the lady sleeping on Whiteview Pkwy. He sees her bags, but he doesn't see her.

Anita Moeder asked about the consolidation of the CAD software maintenance agreements (Interlocal Agreement with the County); usually software companies consider discounts for volume; was there any discount?

Robert MacDonald expressed he attended many different council meetings and he had never seen a public evaluation of a City Manager, and how it was conducted and the HR Director presenting and the delay of the evaluation, etc. He asked for an

explanation of what really happened at the meeting last week. He also said he spotted the homeless lady on a bench just south of McDonald's on SR100.

Jack Carall spoke about the marijuana issue and the vote that is coming up to legalize marijuana; like everything else they made a big thing about smoking regular cigarettes and addiction to the secondhand smoke. If marijuana is made legal, he doesn't want that kind of smoke in his face. When you make something legal, more people take the opportunity to use it. He spoke of 45 years ago England legalized heroin and addictions increased 100% in a year. The more problems we have, the more money we spend. He says vote no to anything that is addictive, like marijuana.

Responses:

CM McGuire - The lady that used to be on the bench did not want any help. He called Commander Mark Carman and a representative of a Florida State agency has come down and counseled her and he was told in the near future she will be placed in a position where she can survive and be more comfortable and cared for. She has already been Baker Acted twice.

Mayor Netts - Cost savings for consolidation for the CAD system. We consolidated the payment, which is an advantage to the company to receive one check rather than numerous checks. It is worth asking the company. Mr. Viscardi - We weren't involved with the renegotiation; the vast majority of the licenses are used by the County, the Sheriff's Office. The actual number of licenses being consolidated - Palm Coast, Flagler Beach, Bunnell, is relatively small. The number of licenses for the City is the same, but we will ask.

Mayor Netts - (City Manager evaluation) The chair does not have to vacate the seat and move down to the audience; he simply vacates the chair of the meeting for the duration of that item. Attorney Reischmann - That is correct. Attorney Reischmann confirmed the way it was done was consistent with the Roberts Rules of Order. In Florida, we have no choice but to bring this in the public because City Council cannot discuss City business without it being in the public, in the sunshine. Mayor Netts explained the involvement of the HR Director, was because pursuant to the Charter the City Council hires three people: the City Manager, City Attorney (if in-house) and the Auditors. The City Council does not have the expertise so they asked the HR Director to put together the evaluation instrument which was approved and used; her role was ministerial not decision making. He sees nothing in conflict with State Law or the City charter. CM DeLorenzo believes, based on the scores City Council gave, the HR Director made her suggestions as she normally would do for other employees. It took months to go through the evaluations.

Mayor Netts - Nobody at this point is considering legalizing marijuana. What the County is investigating is what the nature of the penalty should be. Marijuana is still illegal; possession is still illegal and if you are going to use it in a smoking fashion, to the best of his knowledge, the restrictions on smoking of tobacco and e-cigarettes will also apply to smoking marijuana. So you shouldn't get marijuana smoke in your face. We are waiting for the result of the law enforcement coordinating committee. They will draft a final proposed ordinance that the County Commission he presumes will vote upon then it will be distributed to all the municipalities for consideration. There may be new City Council Members by that time.

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

VM Shipley - School is going to be starting next month. Is there someone that is going to be taking over the bus stop safety if CM DeLorenzo gets elected to the Flagler County Commission? VM Shipley is interested in getting involved. CM

DeLorenzo - He will suggest that to Mr. Dance.

CM Nobile - He has a resident on Llewellyn Trail, and there is a large property down there that runs from Llewellyn to Citation and along Belle Terre and in there is a beautiful pond, big spring fed lake; what is happening is the property has been left on its own, not developed and it is turning into a park. Big parties are going on out there, people on jet skis, trucks, etc. It is private property and unfortunately there are two roads into this property; one off Belle Terre north of Citation and then there is a road off Llewellyn Trail and a road that runs all the way around the property. He got a call from this gentleman and Code Enforcement also received a call. He went out there and there were a bunch of pickup trucks and beer cans; young people. Someone's truck got stuck and that was a mess and some kids fishing and then the Sheriff's Deputy showed up. There are washing machines and rugs out there. He would like to see if we can get in touch with the property owner and get some permissions from them. Ms. Grossman - Code Enforcement staff was out there and took some pictures. They have the name of the owner that resides in California. The property is up for sale. She made contact with the selling agent also. There is a lot that they cannot see from the street. All the pictures will be sent to the property owner. CM Nobile - The truck parties are the problem. Ms. Grossman said she will ask the property owner for written consent so the Sheriff can put a no trespass (sign) on the property.

Mayor Netts asked Attorney Reischmann if you have private property and people are injured on this property, is there a liability? Attorney Reischmann stated the property owner can get sued and have to pay. There was more discussion on liability. CM DeLorenzo stated the original plan for the property was for it to be a park.

CM McGuire stated regarding marijuana, if it is medicine you don't need a law there is already a mechanism in place, etc. If it is medicine treat it like medicine, if not it is illegal.

CM McGuire - Does the City of Palm Coast pay Attorney Reischmann a salary of \$400,000 a year? Attorney Reischmann - No.

CM McGuire - Then what does the \$400,000 buy? Attorney Reischmann - Our law firm entered into a contract with the City in 2008, we specialize in local government representation. For about a year there was an hourly rate of \$150 per hour; the objective of that was to calculate what a fair amount would be for a set monthly retainer amount and it remained the same from 2009 to last year when this Council generously agreed to increase it. There are about 10 lawyers in our law firm that work together as a team. Because of the many legal needs of the City, the advantage of retaining a law firm is that you get various types of expertise: labor, development, code enforcement, litigation, appeal work, etc. There has never been a month where the hourly rate total was in favor of the law firm (came in under the retainer amount) but that is the deal and it provides good value to the taxpayers of the City.

CM McGuire - Is it reasonable to say there are specialized fields that require a special knowledge that your law firm has people qualified in that field? Attorney Reischmann - Yes, and you cannot achieve that unless you have enough people with different levels of expertise in various areas. Mayor Netts added we tried the other approach, in the first years as a City we had an in-house attorney, Lonnie Groot, he was an employee of the City,

CM McGuire - If it was your sole responsibility to represent the City, could one person do that? Attorney Reischmann - As the Mayor mentioned, it has been done. He would argue that the quality of the legal services that are provided by a group of specialists

is always going to be better than the services of one generalist.

CM McGuire - In other municipalities where they have a resident lawyer, they still farm out legal work. Attorney Reischmann - And the City of Palm Coast, for purposes to avoid conflict, has occasions for the need to hire other attorneys in addition to our law firm; the City has an attorney to help with labor, Code Enforcement Board and the (Volunteer Firefighter) Pension Board.

Mayor Netts received an email from a young lady that was one of Mr. Meeker's early soccer stars. She and one of her colleagues have suggested that the City and/or County might consider a tribute to Mr. Meeker and what she specifically suggested was a planting of a tree in honor of Mr. Meeker in one of our parks.

Council consensus to put it on the agenda and if she would like to come and address the Council.

CM McGuire - The funeral for Mr. Meeker will be this coming Saturday morning starting at 10:00 a.m. at the Parkview Baptist Church which is on Belle Terre, just north of Pine Lakes Pkwy. The service will be held in the church; there will be a procession to the cemetery down on Old Kings Road where Mr. Meeker will be laid to rest.

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

No comments.

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

Mayor Netts stated since the City Manager is on vacation, we will not have discussion by the City Manager.

J. ADJOURNMENT

The meeting was adjourned at 10:17 a.m.

*Respectfully submitted,
Barbara Redline*

Calendar and Worksheet

[16-256](#)

MEETINGS CALENDAR AND AGENDA WORKSHEET

[16-300](#)

ATTACHMENTS TO MINUTES