

City of Palm Coast

Meeting Minutes

City Council

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

Tuesday, March 4, 2014

6:30 PM

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

Palm Coast Community Center

City Staff Jim Landon, City Manager William Reischmann, City Attorney Virginia A. Smith, City Clerk

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

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

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

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

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

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

A. Call to Order

Mayor Netts called the meeting to order at 6:30 p.m.

B. Pledge of Allegiance to the Flag

C. Roll Call

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

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

Approval of Minutes

1 14-74 MINUTES OF THE CITY COUNCIL'S: A. February 18, 2014 City Council Business B. February 25, 2014 City Council Workshop Attachments: February 18, 2014 Business Meeting February 25, 2014 Workshop A motion was made by Vice Mayor DeLorenzo, and seconded by Council Member McGuire, that the Minutes be Approved as presented. This motion was approved by the following vote: Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire **Proclamations and Presentations** 14-72 PRESENTATION ON WASTE PRO RECYCLE REWARDS 2 WINNERS Ms. Torino provided a PowerPoint presentation, attached to these minutes, on Solid Waste pick up, recycling, and hazardous waste pick up. Ms. Torino presented the Waste Pro recycle rewards. The Presentation was Received and Filed. PROCLAMATION RECOGNIZING THE MONTH OF MARCH AS 3 14-63 MULTIPLE MYELOMA AWARENESS MONTH Attachments: Proclamation-Multiple Myeloma Awareness Month-March VM DeLorenzo presented the Proclamation to Mary Hack. **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

Second Reading

14-24

4

ORDINANCE 2014-XX AMENDING THE OFFICIAL ZONING MAP

RELATING TO ISLAND WALK (F.K.A. PALM HARBOR SHOPPING CENTER) CONTAINING 28.69 +/- ACRES FROM COM-2 TO MASTER PLANNED DEVELOPMENT

 Attachments:
 Ordinance Island Walk fka Palm Harbor Shopping Center MPD

 Palm Harbor Development Agreement FINAL
 Exhibit 4 - Traffic Report (Available in City Clerk's Office)

 FLUM Map
 Zoning Map

 Staff Report
 Island Walk - Tax Revenue Calculation

 Ltr from resident

City Attorney Reischmann read the title into the record. Attorney Reischmann reminded Council this is a quasi-judicial issue. Mayor Netts called for any ex-parte communication.

VM DeLorenzo and CM Ferguson-received emails but will base their decision on what is presented tonight.

Mayor Netts received emails relating to traffic issues on Florida Park Drive and will base his decision on what is presented tonight.

Mr. Landon gave a brief summary of the item. *Mr.* Falgout provided a PowerPoint presentation, which is attached to these minutes. *Mr.* Chiumento, the attorney for the applicant stated the applicant is ready to go and appreciates the hospitality Council provided with the extension of bringing this item to the public hearing.

CM Ferguson-There is going to be a much greater economic impact on the economy other than \$13 million dollars, is there some other rough figure? Maybe the applicant has some knowledge with the developer, in terms of jobs and the multiplier affect that you have talked about. CM McGuire added ex-parte communication relating to emails regarding Palm Harbor Shopping Center. Ans: Mr. Chiumento-Based upon Mr. Collard's experience and Publix's experience, that a plaza this size, typically generates 162 temporary construction jobs, a fully leased plaza will generate 152 jobs, the increased sales per annum, I should say, the total revenue generated from this plaza is based on square footage and historical averages, is about \$31million per year, and add on to that sales tax generated at about \$2.1million.

VM DeLorenzo-In Development Order Section 8.1.2, there is a Resource protection which states that the applicant shall provide the City with a Cultural Resource assessment, what type of an assessment is that? Ans: Mr. Tyner-Typically what that is the applicant will get a certified cultural resource expert to provide a certified report that for the raw land that has never been surveyed they will go there and look at soils and make sure that there is no cultural resources there. It is typical during site plan to require that on raw land. VM DeLorenzo-Artifacts? Ans: Mr. Tyner-Yes, artifacts, etc.

Mayor Netts-Clty Council had several requests from the local historical society, county historical society, they share this concern that where there is raw land and that they would like to be consulted, if there is something that is found to let them take a look. Our goal is to preserve our pre ITT history that we possibly can, to include those that are concerned in preserving our pre ITT days.

CM Lewis-Trees-recapture of the trees? Ans: Mr. Chiumento-Relying on Bill Butler and Andy Dance. Trees that are removed are trees that cannot be designed around or are unhealthy. The City requires a certain number of trees and trees to be replaced.

Public Comment: Louis McCarthy-Will there be any disruptions in traffic? If so, what is the length of time?

Attorney Joshuah Knight-Point of Order-should be provided opportunity to present evidence and has the right to call witnesses. Spot zoning.

Dennis McDonald-Neighborhood meeting issue on an application that was withdrawn. No limitation of time in a quasi judicial item.

Steve Carr-Florida Park Drive-traffic issues.

Responses to Public Comment:

Disruption of traffic-Ans: Mayor Netts-I can almost guarantee it if for no other reason other than rubber-necking. Our City traffic engineer will be looking into this issue. Ans: Mr. Tyner-Yes, sir.

Mayor Netts-What about the juxtaposition of this redevelopment and the six laning of Palm Coast Parkway? Ans: Mr. Tyner-First, the traffic engineer during this process, again, not very common with a MPD rezoning, there was a traffic study conducted that showed that the level of service the impacts from this proposed development and the level of service on Florida Park Drive will be maintained at the same level of service that it has now. As far as traffic flow, we are widening Palm Coast Parkway, as far as internal traffic flow, when the applicant comes in for a site plan, this will be a phased project, so those details about circulation within the development will be determined at the time of site plan to make sure things flow adequately as it develops.

Mr. Landon-This project should be taken place in the next two years as well as the 6 laning. Most of the traffic will be with the 6 laning.

Point of Order-Ans: Attorney Reischmann-This is a quasi judicial matter and the courts have provided some guidance for local governments including the City of Palm Coast and how these are to be done. The first thing to start with is that this is not a judicial proceeding, this is a Quasi-judicial proceeding. The 5th DCA in 2010 specifically recognized the distinction between all of the formalities and all of the protections afforded to the parties in the judicial process when you go before a court. The 5th DCA specifically rules on matters involving Flagler County and ruled that the level of due process is not afforded within a quasi-judicial proceeding. And further made a distinction between the parties and the participants. Parties like the City and the applicant have a higher standard, a higher level of protections under due process, a participant and in that case before the 5th DCA, it was a Corrillion Community Home Owners Association vs. Seminole County. The 5th DCA specifically ruled that neighboring property owners or home owners association were not parties, they were participants and the specific ruling in that case was they did not have the right to cross exam any witnesses, that if every participant had the opportunity to make demands that you would normally have the right to do in a lawsuit, then it would be an overly burdensome process that would be unworkable for local governments. So as to the right to cross exam, that is something that is afforded under Florida law to the parties but not the participants.

As to the right to call witnesses, certainly, any party or participant has the right to

bring someone up and make presentation to this Council as questions and that certainly is what you are doing now Mr. Mayor. While there is no obligation for the City to allow a question from an attorney or other participant to a witness or to another party or participant, what we do is we go beyond that, the City of Palm Coast allows every participant to come forward and ask questions, and when that process is done those questions are answered, so for that part of due process we accord that in the City of Palm Coast in quasi-judicial matters. As to spot zoning-it is very clear that when it is at odds with the comprehensive plan (that is the first threshold test to determine spot zoning)- you have a finding, a specific factual legal determination from your PLDRB and staff concluded that this application is consistent with our Comprehensive Plan and therefore cannot be a matter of spot zoning. So from a standpoint of due process, the City of Palm Coast has met those requirements.

Mayor Netts-I might add for the record, that Mr. McDonald had communicated with me by email, requesting the right to cross examine witnesses and I pointed out in my response that the member of the public is entitled to the same 3 minutes like everyone else and if he had questions that could not be adequately expressed in the 3 minutes, he was welcome to submit them in writing either to the City Clerk or any member of this Council or to me and that we would avert to having them answered.

Adequacy of a public meeting-Ans: Mr. Tyner-It is a code requirement, not a state requirement and it is something that we implemented back in 2008 and the intent of the neighborhood meetings is before you have a public hearing, before you have the PLDRB to get that public input; what are the concerns of the citizens? As illustrated during the presentation, we have heard a lot of those concerns with the trees, with the buffer to Arbor Trace, those where the type of concerns brought up at the public meeting and sometimes the application is not even filed. Sometimes the applicant, it is an applicant meeting, it is not City staff's meeting, we do not run the meeting, sometimes we are there to observe. The LDC provides that the Land Use Administrator me, acting as the Planning Manager may waive the requirement for a neighborhood meeting if the project is part of a multi-phase project for which meetings have already been held. This is a multi-phase project.

ADA issue-Ans: Mayor Netts-I don't know how you can say that it does not comply with the American with Disabilities Act when there is no site plan or building plan. Ans: Mr. Falgout-There are responsibilities by both the applicant and the City of course new development in the City, we do review for ADA compliance when it comes to transportation and of course the building codes (ADA-State and Federal) that will be reviewed and complied with as we move down the development process. Mr. Landon added not just reviewed but complied with.

Commercial traffic-This is an on-going issue and is hopeful that as we proceed with this project, we will consider this.

CM Ferguson-Changing zoning from Comm 2 to MPD, the outparcels, are they permitted under the Comm 2? Ans: Mr. Falgout-The MPD allows for all the uses under Comm 2 and excludes certain uses, so the outparcels along the roadway, yes, they could apply for a site plan under Comm 2 and develop and then also develop those uses that are allowed under Comm 2 but are not allowed under MPD but those parcels are part of this plan and are under the Comm 2 uses minus those excluded uses.

A motion was made by Council Member Lewis, and seconded by Council Member Ferguson, that the Ordinance be adopted on Second Reading. The motion was adopted by the following vote: Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

First Reading

5

14-68ORDINANCE 2014-XX COMPREHENSIVE PLAN AMENDMENT FOR
SUBJECT PROPERTIES BETTER KNOWN AS GRAND LANDINGS

 Attachments:
 Ordinance-Grand Landings-FLUM

 Staff Report-Grand Landings-FLUM
 GrandLandings Location Map

 GrandLandings_Existing FLUM Map
 GrandLandings Current Zoning Map

 GrandLandings_ProposedFLUM
 GrandLandings ProposedFLUM

City Attorney Reischmann read the title into the record.

Mr. Landon gave a brief summary of the item.

Mr. Papa gave a PowerPoint presentation on this item and the next, which is attached to these minutes.

VM DeLorenzo-If in the future they decide to do multi-family in the mixed use are, their maximum residential is still 749? Ans: Mr. Papa-No that will be a new number. The 749 is what limits the residential.

VM DeLorenzo-Park land being dedication to the County, with annexation did the park land come to the City? Ans: Mr. Papa-Although the land came into the City, the deed of land transfer did not.

CM Lewis-What sort of impact will the airport have on that development? Ans: Mr. Papa-The expansion of the airport takes some of the runways further north. Mr. Landon-The runways go east west and the expansions are east west and this is south. Since this was used by military at one point, there are a number of runways that are no longer being used by planes of today. We have no reason to believe the airport will have a significant impact on this area.

Mayor Netts announced public comment can be heard on Items 5 and 6 but will open both items up to the public.

Public Comment:

Jack Carall-They are going to put in 700 units, do they do a water study when they put up all these buildings? Ans: Mr. Papa-Part of any future land use map, there is an analysis done.

Janice Brink-Was this the community that was supposed to have hangers and access to the airport. Ans: Mr. Landon-There was this phase and this is not included in this project. To our knowledge that portion of the project is dead.

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

		Approved: 5 -		or Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council nber Lewis, and Council Member McGuire			
6	<u>14-69</u>	ORDINANCE 2014-XX ZONING MAP AMENDMENT AND DEVELOPMENT AGREEMENT FOR SUBJECT PROPERTY BETTER KNOWN AS GRAND LANDINGS					
		<u>Attachmen</u>	ts:	Ordinance Grand Landings MPD			
				Staff Report-Grand Landings Rezoning			
			-	ischmann read the title into the record. Attorney Reischmann il this is a quasi-judicial issue.			
		Mayor Netts called for any ex-parte communication. There were none.					
		This item	was pi	resented under the previous item.			
		 Public Comments: Jack Carall-How does this type of bulding affect our policing? Responses to Public Comments: Ans: Mayor Netts-Keep in mind 749 additional units, if they get built, means 749 additional taxpayers and that's more revenue available for fire and police. A motion was made by Vice Mayor DeLorenzo, and seconded by Council Member McGuire, that the Ordinance be approved on First Reading. The motion was adopted by the following vote: 					
		Approved: 5 -		or Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council nber Lewis, and Council Member McGuire			
7	<u>14-70</u>	ORDINANCE 2014-XX FLUM AMENDMENT FOR APPROXIMATELY 4.1 ACRES OF CITY-OWNED LANDS ADJACENT TO SEMINOLE WOODS PARKWAY					
		Attachmen	ts:	Ordinance-Seminole Woods 4 City Acres FLUM Amendment			
				Staff Report-City Property Seminole Woods Blvd-flum			
				Seminole Woods City Property Location Map			
				Seminole Woods City Property Current FLUM Map			
				Seminole Woods City Property Existing Zoning Map			
				Seminole Woods City Property Proposed FLUM			
		City Attorn	City Attorney Reischmann read the title into the record.				
		Mr. Lando	n gave	e a brief summary of the item.			
		Mr. Papa provided a PowerPoint for this item and the next, which is attached to these minutes.					
		CM McGuire-What is a monitoring well? Ans: Mr. Papa-It measures the amount of					

salt in the water.

Public Comment: There were no public comments.

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

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

8 14-71 ORDINANCE 2014-XX ZONING MAP AMENDMENT FOR A CITY-OWNED 4.1+/- ACRE PARCEL ALONG SEMINOLE WOODS PARKWAY

<u>Attachments:</u>	Ordinance-Seminole Woods City 4 Acres Rezoning				
	Staff Report- City Property-Seminole Woods Blvd-Rezoning				
	Seminole Woods City-Owned Proposed Zoning Map				

City Attorney Reischmann read the title into the record.

Attorney Reischmann reminded Council this is a quasi-judicial item.

Mayor Netts called for any ex-parte communication. There were none.

This item was presented with the previous item.

Public Comments: There were no public comments.

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

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

Other Business

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14-65PRESENT CERTIFICATES TO GRADUATING STUDENTS OF THE
CITY OF PALM COAST'S CITIZENS ACADEMY CLASS

Mayor Netts and Ms. Cindi Lane presented the certificates to the graduating class.

The Presentation was Received and Filed.

Consent Agenda

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

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

City Council			March 4, 2014			
			yor Netts, Vice Mayor DeLorenzo, Council Member Fergusc mber Lewis, and Council Member McGuire	on, Council		
10	<u>14-59</u>	RESOLUTIO PROCEDUR	TION			
		<u>Attachments:</u>	Resolution-Auditor Selection Procedures			
			Exhibit A COPC Auditor Selection Process			
		The Resolution was adopted on Consent.				
11	<u>14-52</u>	CONTRACT INC., TO PER	N 2014-XX APPROVING THE FINAL ONE-YEAF EXTENSION OPTION WITH CONNECT CONSU RFORM PROFESSIONAL HYDROGEOLOGICAL NG SERVICES	JLTING,		
		Attachments:	Resolution-Connect Consulting Contract Extension			
			Connect Consulting Renewal Letter			
		The Resolution was adopted on Consent.				
12	<u>14-37</u>	RESOLUTION 2014-XX APPROVING EXPENDITURES FOR DIRECTIONAL BORING SERVICES FOR RELOCATING AND REPLACING WATER LINES				
		Attachments:	Resolution-B&B Underground Expenditures			
		The Resolution	was adopted on Consent.			
13	<u>14-64</u>	RESOLUTION 2014-XX APPROVING THE BULLDOG DRIVE RIGHTS-OF-WAY MAINTENANCE MAP				
		<u>Attachments:</u>	Resolution-Bulldog Drive Rights-of-Way Maintenance Ma	<u>ap</u>		
			Bulldog Drive ROW Maintenance Map			
		Maureen Jones spoke on behalf of Colleen and Gus Ajram. Bulldog Drive is currently a County Road known as CR 401. Provided a copy of the 2001 Interlocal Agreement relating to the transfer of roads with the County. Requesting to table the agenda until the transfer from the County to City of CR 401.				
		Motion made by CM Lewis and seconded by VM DeLorenzo to remove this item from consent. Council concurred.				
		Mayor Netts-Ms. Jones has requested this item be tabled until some issues can be resolved.				
		Mr. Landon provided a PowerPoint presentation, attached to these minutes.				
		Ms. Jones provided IA 2010 between the City and Flagler County School Board for the record.				
		Mayor Netts-Wh impact.	hat impact will this have on our schedule? Ans: Mr. Landon	а-No,		

CM Ferguson-Can this project proceed if the County does not agree to transfer. Ans: Attorney Reischmann-We can amend the Resolution's effective date to upon acceptance of a quit claim deed from the County to the City.

Public Comments: Maryellen Lent-Feels the statute we are using is between private property and a municipality. Karen P-Would like Council to take your time and do it the right way. Dennis McDonald-Where is your permit from the County? Adverse possession claim. Donald Brun-Is there some plan for work in the ROW to be done? Will he maintain his ingress/egress rights?

Responses to Public Comment: Will the property owner be harmed in any way? Ans: Mr. Landon-They will maintain ingress/egress of both their driveways.

Mayor Netts recommended to table this item. A motion was made by CM McGuire and seconded by VM DeLorenzo to table this item.

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

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

1414-60RESOLUTION 2014-XX APPROVING A CONTRACT WITH DYER,
RIDDLE, MILLS & PRECOURT, INC., FOR THE DESIGN OF THE
OLD KINGS ROAD WIDENING PROJECT

 Attachments:
 Resolution-DRMP Contract OKR Widening

 Contract Summary - DRMP

 DRMP Fee Schedule

 Presentation Summary - OKR

The Resolution was adopted on Consent.

D. Public Participation

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

Jack Carall-Sheriff returned several thousands of dollars to the County, why can't he

give the City back money?

Marsha B-Garbage issue.

Janice ??-Have we ever had a sink hole in Palm Coast?

Maryelle Lent-Impact Ajram's property. Construction signage at Bulldog Drive.

John Brady-Spending \$5million on a project we do not own.

Dennis McDonald-Elections.

Responses to Public Comments: Sheriff-Ans: Mayor Netts-The Sheriff provides a budget to the County and if he does not spend the budget, he should return it, the City has a contract with the Sheriff which calls for a per unit cost.

Garbage-Ans: Mayor Netts-That is something we can talk about. VM DeLorenzo would like to discuss it at a future workshop.

Sink holes-Mayor Netts-Typically sinkholes occur where you have a limestone substrait that is erroded by water and that is not typical of the strata that is under the City of Palm Coast. Mr. Moden-We have never experienced or been told of a sink hole.

Turn lanes for Bulldog Drive-Mayor Netts-We do need more clarity in the signs relating to Bulldog Drive. Mr. Landon agreed and thought the change had already occurred to correct the signage.

Elections-Writ of Mandamus-Ans: Mr. Reischmann-In this particular instance, a writ is a court order, to force the City to obtain an attorney general opinion. That decision of whether or not to seek an attorney general opinion is a discretionary option for this Council. Any objections or concerns that the SOE may have had to the 2011 referendum and elections were eliminated, as been confirmed by the County Attorney, the State Attorney and by me, and by the actions taken by this Council in January and February of this year to amend our Charter through Ordinance, which is specifically authorized under Section 163.065, Florida Statutes.

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

Mayor Netts-copy of a Resolution from Flagler Beach in support of the County's request that the Fl. legislature to rescind regulations on short term rentals.

Requested Mr. Landon to please put this issue on next workshop.

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

Bulldog Drive and Palm Coast Parkway construction is started this week.

CM McGuire-Are we stretching our staff too much? Ans: Mr. Landon-I can tell you our staff is stretched. The end product will be something to be very proud of.

VM DeLorenzo-What is the web address for the Palm Coast 6 Laning. Ans: Ms. Lane-It is www.palmcoastpkwy.com

H. Adjournment

The meeting was adjourned at 9:02 p.m.

Respectfully submitted, Virginia Smith, City Clerk

14-75 MEETINGS CALENDAR AND AGENDA WORKSHEET

<u>Attachments:</u> <u>City Calendar</u>

Agenda Worksheet

14-81 ATTACHMENTS TO MINUTES

Attachments: Item 2 Waste Pro Recycle Rewards

Item 4 Island Walk 2nd reading

Item 5 FLUM-Rezoning Grand Landings

Item 13 Bulldog Drive Improvements Maintenance Map