

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
SEPTEMBER 5, 2017

THE REGULAR CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Donald O. Burnette at 6:30 p.m.

Pledge of Allegiance

Invocation was provided by Rev. Rebecca Hyvonen of Cross Creek Community Church

Roll Call:	Present:	Councilman Chase Tramont Councilman Drew Bastian Councilman Scott Stiltner Vice Mayor Bob Ford Mayor Donald Burnette
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Also Present:	Jake Johansson, City Manager Margaret T. Roberts, City Attorney Robin Fenwick, City Clerk
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Mayor Burnette called a Special Meeting for Thursday at 5:00 p.m. regarding Hurricane Irma.

PUBLIC HEARING

4. Discussion of Tentative Millage Rate and Budget for FY18

Mayor Burnette announced the Fiscal Year (FY) 2018 Budget commences on October 1, 2017 and continues through September 30, 2018. The public hearing is now convened to discuss the millage rate and budget. We will begin with the City of Port Orange City Council discussion of the tentative millage necessary to fund the FY2018 tentative budget for the City of Port Orange, the Community Redevelopment Agency for Port Orange Town Center, and the Community Redevelopment Agency for Eastport Business Center. The tentative millage rate to be levied is 4.5673 mills per \$1,000.00 of valuation and is an 8.89% increase in ad valorem tax revenues above the rolled-back rate. The rolled-back rate is 4.1945 mills per \$1,000.00 of valuation.

Council discussion regarding the millage rate ensued. Council doesn't want the increase but understands it is necessary to maintain the City's standards and provide new services, such as Riverwalk. Councilman Stiltner would like to discuss what items Council wishes to cut if they don't want to increase taxes.

Mr. Johansson discussed the reason for the increase in the millage rate and some of the items cut to meet the millage rate being discussed tonight.

Mayor Burnette asked for public comments. The general public shall be allowed to address the Council, to make comments, and to ask questions.

Ted Noftall, citizen, discussed his concerns with the budget being presented.

Mayor Burnette asked Council for any revisions to the millage rate as presented. There were no changes.

5. Resolution No. 17-35 - Adopting the Tentative Millage Rate for FY18

Mayor Burnette read Resolution No. 17-35.

RESOLUTION NO. 17-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING THE TENTATIVE PROPERTY TAX MILLAGE RATES TO BE LEVIED FOR FISCAL YEAR 2018 (OCTOBER 1, 2017 TO SEPTEMBER 30, 2018); AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-35 was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried 3-2 by roll call vote with Councilman Tramont and Vice Mayor Ford voting no.

Mayor announced the adopted tentative millage rate of 4.56673 mills per \$1,000.00 of valuation is an 8.89% increase in ad valorem tax revenues above the rolled-back rate.

6. Resolution No. 17-36 - Adopting the Tentative Operating Budget for FY18

Mayor Burnette read Resolution No. 17-36.

RESOLUTION NO. 17-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING THE TENTATIVE OPERATING BUDGET FOR FISCAL YEAR OCTOBER 1, 2017 THROUGH SEPTEMBER 30, 2018 FOR THE CITY OF PORT ORANGE; SETTING FORTH ANTICIPATED SOURCES OF REVENUE IN THE ESTIMATED AMOUNT OF \$98,365,206; SETTING FORTH EXPENDITURES IN AN EQUIVALENT AMOUNT;

**PROVIDING FOR APPROPRIATION AND PROCEDURES;
AND PROVIDING AN EFFECTIVE DATE.**

Motion to approve Resolution No. 17-36
was made by Councilman Bastian, and
Seconded by Councilman Stiltner.

Mr. Nofall asked for an explanation as to the overage amount in the Police Department budget and would like assurances that it won't happen this year. Mayor Burnette explained the manpower issues within the Police Department during the current fiscal year.

Motion carried 3-2 by roll call vote with
Councilman Tramont and Vice Mayor
Ford voting no.

7. Resolution No. 17-37 - Adopting the Tentative Capital Budget for FY18

Mayor Burnette read Resolution No. 17-37.

RESOLUTION NO. 17-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING
THE TENTATIVE CAPITAL BUDGET FOR FISCAL YEAR
OCTOBER 1, 2017 THROUGH SEPTEMBER 30, 2018 FOR
THE CITY OF PORT ORANGE; SETTING FORTH
ANTICIPATED SOURCES OF REVENUE IN THE AMOUNT
OF \$8,741,936; SETTING FORTH EXPENDITURES IN AN
EQUIVALENT AMOUNT; PROVIDING FOR APPROPRIATION
EXPENDITURES; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-37
was made by Councilman Bastian, and
Seconded by Councilman Stiltner.
Motion carried 3-2 by roll call vote with
Councilman Tramont and Vice Mayor
Ford voting no.

**8. Resolution No. 17-38 - Adopting the Tentative Millage Rate for FY18 for Town
Center CRA Tax Increment District**

Mayor Burnette read Resolution No. 17-38.

RESOLUTION NO. 17-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING THE TENTATIVE PROPERTY TAX MILLAGE RATES TO BE LEVIED FOR THE TOWN CENTER TAX INCREMENT DISTRICT FOR FISCAL YEAR 2018 (OCTOBER 1, 2017 TO SEPTEMBER 30, 2018); AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-38 was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried 3-2 by roll call vote with Councilman Tramont and Vice Mayor Ford voting no.

9. Resolution No. 17-39 - Adopting the Tentative Operating Budget for FY18 for Town Center CRA Tax Increment District

Mayor Burnette read Resolution No. 17-39.

RESOLUTION NO. 17-39

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING THE TENTATIVE TOWN CENTER TAX INCREMENT DISTRICT OPERATING BUDGET FOR FISCAL YEAR OCTOBER 1, 2017 TO SEPTEMBER 30, 2018; SETTING FORTH ANTICIPATED SOURCES OF REVENUE IN THE ESTIMATED AMOUNT OF \$479,438; SETTING FORTH EXPENDITURES IN AN EQUIVALENT AMOUNT; PROVIDING FOR APPROPRIATION AND PROCEDURES; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-39 was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried 3-2 by roll call vote with Councilman Tramont and Vice Mayor Ford voting no.

10. Resolution No. 17-40 - Adopting the Tentative Millage Rate for FY18 for Eastport CRA Tax Increment District

Mayor Burnette read Resolution No. 17-40.

RESOLUTION NO. 17-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING THE TENTATIVE PROPERTY TAX MILLAGE RATE TO BE LEVIED FOR THE EASTPORT TAX INCREMENT DISTRICT FOR FISCAL YEAR 2018 (OCTOBER 1, 2017 TO SEPTEMBER 30, 2018); AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-40 was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried 3-2 by roll call vote with Councilman Tramont and Vice Mayor Ford voting no.

11. Resolution No. 17-41 - Adopting the Tentative Operating Budget for FY18 for Eastport CRA Tax Increment District

Mayor Burnette read Resolution No. 17-41.

RESOLUTION NO. 17-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ADOPTING THE TENTATIVE EASTPORT TAX INCREMENT DISTRICT OPERATING BUDGET FOR FISCAL YEAR OCTOBER 1, 2017 TO SEPTEMBER 30, 2018; SETTING FORTH ANTICIPATED SOURCES OF REVENUE IN THE ESTIMATED AMOUNT OF \$199,872; SETTING FORTH EXPENDITURES IN AN EQUIVALENT AMOUNT; PROVIDING FOR APPROPRIATION AND PROCEDURES; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-41 was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried 3-2 by roll call vote with Councilman Tramont and Vice Mayor Ford voting no.

Motion to direct the City Clerk to publish an advertisement providing notice of the City of Port Orange City Council's intent to adopt the final millage rate and final operating and capital budget for the City

of Port Orange, Community Redevelopment Agency for Port Orange Town Center and the Community Redevelopment Agency for Eastport Business Center complying with the budget summary requirements of law was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by roll call vote.

Mayor Burnette advised the public of the following:

In addition to the foregoing general operating budget/millage levy, there is a voter approved millage levy of .3174 mills to fund the debt service for the 2016 general obligation refunding bonds issued for public safety capital facilities. A Public Hearing will be held on September 19, 2017, at 6:30 P.M. in City Council Chambers at City Hall, 1000 City Center Circle, Port Orange, Florida, to discuss and adopt a final millage rate, the final operating and capital budget for FY2018 for the City of Port Orange, the Community Redevelopment Agency for Port Orange Town Center and the Community Redevelopment Agency for Eastport Business Center.

12. Second Reading - Ordinance No. 2017-27 - 15th Amendment to the Countryside PUD Master Land Use Plan, Case No. 17-40000003

Mayor Burnette read Ordinance No. 2017-27.

ORDINANCE NO. 2017-27

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE FIFTEENTH AMENDMENT TO THE COUNTRYSIDE PLANNED UNIT DEVELOPMENT MASTER LAND USE PLAN FOR APPROXIMATELY +/-1.5 ACRES GENERALLY LOCATED ON SOUTHWEST CORNER OF DUNLAWTON AVENUE AND SOUTH SWALLOW TAIL DRIVE; PROVIDING FOR CONFLICTING ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-27 on second reading was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by roll call vote.

13. First Reading - Ordinance No. 2017-28 - Medical Marijuana/LDC
Amendment: Chapters 2, 12, 16, 17, and 18, Case No. 17-25000005

Mayor Burnette read Ordinance No. 2017-28.

ORDINANCE NO. 2017-28

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 2 TO REVISE THE DEFINITION OF RETAIL PHARMACY TO INCLUDE MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITY AND REMOVING THE DEFINITIONS FOR MEDICAL MARIJUANA CULTIVATION, MEDICAL MARIJUANA DISPENSARIES, AND MEDICAL MARIJUANA PROCESSING FACILITIES; AMENDING CHAPTER 12 TO REMOVE THE PARKING REQUIREMENTS FOR MEDICAL MARIJUANA RELATED USES; AMENDING CHAPTER 16 TO REMOVE THE MARIJUANA RELATED USES FROM THE LIST OF PROHIBITED HOME OCCUPATIONS, AND TO REMOVE SECTION 13 REGARDING A MORATORIUM ON MEDICAL MARIJUANA RELATED FACILITIES AND ACTIVITIES; AMENDING CHAPTER 17 TO REMOVE MEDICAL MARIJUANA DISPENSARIES AS A SPECIAL EXCEPTION USE IN THE COMMUNITY COMMERCIAL ZONING DISTRICT; AND REMOVE MEDICAL MARIJUANA CULTIVATION AND MEDICAL MARIJUANA PROCESSING FACILITIES AS SPECIAL EXCEPTION USES IN THE COMMERCIAL INDUSTRIAL AND LIGHT INDUSTRIAL ZONING DISTRICTS; AMENDING CHAPTER 18 TO REMOVE THE SPECIAL REQUIREMENTS FOR MEDICAL MARIJUANA RELATED SPECIAL EXCEPTION USES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-28 on second reading was made by Councilman Bastian, and Seconded by Councilman Stiltner.

Penelope Cruz, Planner, explained the State Law preempting the City's regulations.

Councilman Tramont does not personally support the ordinance but understands the majority of the population is in support of it and he was elected to represent the citizens.

Danielle Bailey, resident, discussed her experiences with medical marijuana and pain pills. She has used medical marijuana for years and is 100% better than she was while using pain pills. She is a productive member of the community and asked Council to support the ordinance to allow dispensaries in the City.

Sarah Jones, resident, agreed with Ms. Bailey's comments. She supports medical marijuana and believes Council should, too.

Mark Dickinson, resident, asked how the dispensary works as far as the tax base. Vice Mayor Ford said it's just like any other business. Mr. Dickinson asked if there is any funding from the State. Vice Mayor Ford said no.

Mr. Nofall addressed Council regarding the violence around the war on drugs. He hopes this will curtail it.

Motion carried unanimously by roll call vote.

CONSENT AGENDA

14. Public Comments on Consent Agenda Items Only

Vice Mayor Ford asked for further discussion regarding #18.

15. Agenda Approval

There were no changes to the Revised Agenda.

16. Approval of Minutes

- a. August 15, 2017 - Regular City Council Meeting
- b. August 22, 2017 - City Council Workshop

17. Bid Awards and Contract Items

- a. Approval of the Port Orange/South Daytona Chamber of Commerce Services Agreement
- b. Award of ITB #17-30 to Kenworth of Jacksonville for Pre-owned Yard Spotter Truck
- c. Ratification of Change Order No. 2 to Premier Magnesia, LLC
- d. Renewal of Property, Inland Marine, Crime, Equipment Breakdown, and AD&D for Law Enforcement Officers and Firefighters Insurance
- e. Renewal of Wright National Flood Insurance
- f. Renewal of Florida Municipal Insurance Trust Policies
- g. Rejection of all bids for ITB #17-28 for a Pre-Owned Ambulance

18. Resolution No. 17-34 - Conservation Easement Vacation – 1058 Dunlawton Avenue

19. Request for Historic Tree Removal at 846 Bears Trail

20. Approval of the Amended Conservation Easement for Gopher Tortoise Relocation

Motion to approve the Consent Agenda as amended was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by roll call vote.

18. Resolution No. 17-34 - Conservation Easement Vacation – 1058 Dunlawton Avenue

Vice Mayor Ford is in favor of keeping Dunlawton Avenue the way it is. He does not support removing the buffers.

Wayne Clark, Community Development Director, explained the Code still requires the buffers. The intent is to allow the property owner to maintain the easement area.

Motion to approve Resolution No. 17-34 was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by roll call vote.

CITIZEN PARTICIPATION (Non-Agenda – 15 minutes)

Mr. Nofall discussed his concerns with civil asset forfeiture. He would like to see it end in Port Orange.

Mike Gardner, resident, addressed Council regarding a raid that occurred June 17, 2016 in Port Orange. He believes the level of violence was over the top.

Ms. Jones suggested Council allow additional time for citizens to complete their comments over three minutes.

Christopher Blake, Second Chance Veterans Foundation, was unable to stay for the meeting, but invited Council to the Second Chance Veterans Golf Tournament on Saturday, September 30, 2017. Mayor Burnette announced the event for Mr. Blake.

COUNCIL COMMENTS

21. Comments/Concerns from Council Members

Councilman Stiltner read Diane Landau's obituary and thanked her for her service in the community.

Vice Mayor Ford asked what size ALF is permitted within a residential area. Tim Burman, Planning Manager, advised the State allows six or less residents and are 1,000 feet away from another ALF. Parking has to comply with the City's Codes.

SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

22. Report from KemperSports on the Cypress Head Golf

Bob Duquette, General Manager, provide details from the July 2017 reports.

BOARD APPOINTMENTS, INTERVIEWS, REPORTS

23. Planning Commission Appointments

The terms of John Junco and Newton White are expiring in September. Both have expressed their desire to continue to serve the City in this capacity and requested re-appointment. No other applications were received by the City Clerk.

Motion to re-appointment John Junco and Newton White to the Planning Commission was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by voice vote.

REGULAR AGENDA

24. First Reading - Ordinance No. 2017-19 - Increasing Police Pension Board Terms to Four Years (Continued from 7/18/17)

Mayor Burnette read Ordinance No. 2017-19.

ORDINANCE NO. 2017-19

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING SECTION 54-134(a) RELATING TO THE POLICE PENSION FUND BOARD OF TRUSTEES TERM OF OFFICE; PROVIDING FOR STAGGERED TERMS OF FOUR YEARS FOR EACH TRUSTEE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-19 on first reading was made by Councilman Bastian, and Seconded by

Councilman Tramont. Motion carried
unanimously by roll call vote.

25. Approval of Lease Extension for the Port Orange YMCA and Halifax
Sublease

Alan Rosen, Assistant City Manager, discussed the Staff's request for a three (3) month extension. Outstanding issues to discuss in September/October include the use of the pool and gym and dedicated maintenance personnel; however, he asked Council to determine the rental amount. Currently, they pay \$205,740 and have paid that since 2008. He also discussed upcoming projects for the building which necessitates a rental increase.

Council wants to work with the YMCA Staff but wants to protect the general fund as well. Council agreed with a three-month extension.

Bob Ludlow, YMCA Branch Chair, discussed membership and the financial impact of the Staff's proposal.

Mayor Burnette wants to ensure the rental amounts pay for the building and repairs. Council isn't looking for it to be a revenue source.

Motion to approve a three-month Lease
Extension was made by Councilman
Bastian, and Seconded by Vice Mayor
Ford. Motion carried unanimously by
voice vote.

26. Resolution No. 17-42 – Emergency Management for Hurricane Irma

Mayor Burnette read Resolution No. 17-42.

RESOLUTION NO. 17-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORT ORANGE, VOLUSIA COUNTY, FLORIDA;
AUTHORIZING THE EMERGENCY MANAGEMENT
DIRECTOR TO DECLARE A STATE OF LOCAL
EMERGENCY COMMENCING SEPTEMBER 5, 2017 AT
11:00 P.M.; RATIFYING ALL ACTIONS, IF ANY, OF THE CITY
IN THE RESPONSE TO THE LOCAL EMERGENCY
COMMENCING ON SEPTEMBER 5, 2017 AT 11:00 P.M.; AND
PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-42
was made by Councilman Bastian, and

Seconded by Councilman Tramont.
Motion carried unanimously by roll call
vote.

COMMENTS

27. City Attorney Comments –

1. Request to engage James Pickens, Esquire as Special Legal Counsel and to authorize filing legal action against Florida N-Viro, LP

Margaret Roberts, City Attorney, requested Council's approval of special legal counsel for a lawsuit against Florida N-Viro, LP.

Motion to approve was made by Vice Mayor Ford, and Seconded by Councilman Stiltner. Motion carried unanimously by voice vote.

2. Request to approve rate payer notice procedures.

Ms. Roberts asked Council to approve the procedure for providing notice to rate payers of increases. She suggested the following:

Prior to issuance of a legally required notice to increase rates, the city staff shall prepare a plain meaning summary to accompany the notice and shall provide copies to the city council in advance of sending the notice.

Mayor Burnette suggested additional language to include "City Council's approval" and Council agreed.

Motion to approve by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by voice vote.

28. City Manager Comments

Mr. Johansson provided information as to the hurricane preparations being made by Staff. Sandbags and sand should be available Wednesday, September 6, 2017. The sandbags will be available from 8:00 a.m.-8:00 p.m. He asked Council how they want to handle debris removal from private roads knowing there may not be reimbursement from FEMA. Council agreed.

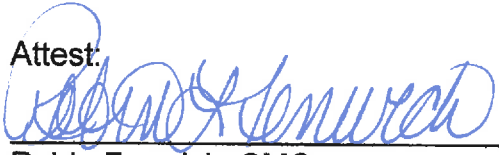
COUNCIL COMMITTEE REPORTS

29. City Council Committee Reports

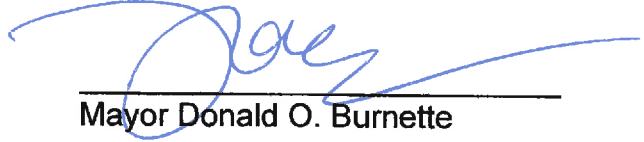
- a. River to Sea TPO – Councilman Bastian reported on the walk lights project, which was transferred to the next fiscal year.
Councilman Bastian also reported on the Police Pension meeting relating to the financial report.
- b. General Employees' Pension Plan – Councilman Stiltner will forward the notes but there was nothing significant to note. He will forward the information.

ADJOURNMENT: 9:40 p.m.

Attest:



Robin Fenwick, CMC
City Clerk


Mayor Donald O. Burnette