

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
MAY 16, 2017

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

Pledge of Allegiance

Silent Invocation

Roll Call:	Present:	Councilman Chase Tramont Councilman Drew Bastian Councilman Scott Stiltner Vice Mayor Bob Ford Mayor Don Burnette
	Also Present:	Jake Johansson, City Manager Margaret T. Roberts, City Attorney Robin Fenwick, City Clerk

CONSENT AGENDA

4. Public Comments on Consent Agenda Items Only

There were none.

5. Agenda Approval

There were no changes requested.

6. Approval of Minutes

- Regular City Council Meeting May 2, 2017

7. Resolution No. 17-17* - Amending Resolution No. 17-15 Temporary Waiver of Sewer Connection Fees

8. 3-year Lease Extension with ArtHaus Foundation, Inc. for the City-owned property located at 3840 Ridgewood Avenue

9. Interlocal Agreement Between City of Port Orange and New Smyrna Beach for the Use of the Port Orange Police Department Training Facility

10. Second Amendment to Interlocal Agreement regarding Vargal Conservation Area for Police Shooting Range Training Facility, Article 3

11. Major Special Event Request – Remarkable River Run 5K/10K @ Aunt Catfish Restaurant at 4009 & 4108 Halifax Drive and 4085 Ridgewood Avenue

12. Family Days After Action- Alcohol

13. Addendum to Sandy Point Progressive Sports License Agreement.

14. Biological Consulting Services Inc. Services Agreement and Addendum No. 1

*Resolution Nos. 17-16 & 17-17 were inadvertently re-used. They have been renumbered to 17-23 and 17-24, respectively. Staff will request Council ratification of this change on June 20, 2017.

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

CITIZEN PARTICIPATION (Agenda)

15. Presentation on SVAA branding and logo updates by Debbie Meihls, Executive Director New Smyrna Beach Area Visitors Bureau

Debbie Meihls, Executive Directory New Smyrna Beach Area Visitors Bureau, updated Council on the branding and logo updates they are implementing for the SE Volusia Advertising Authority.

CITIZEN PARTICIPATION (Non-Agenda – 15 minutes)

Shannon Thomas, business owner, expressed her concern regarding zoning requirements relating to medical marijuana dispensaries affecting children.

COUNCIL COMMENTS

16. Comments/Concerns from Council Members

Vice Mayor Ford is concerned with medical marijuana dispensaries and cautioned the public that the laws are coming to allow them within certain areas of the City.

Councilman Bastian recognized Captain Kim Kilpatrick who was invited to read the roll call at the American Police Hall of Fame. She is the first female officer to be invited in its 57 years.

Councilman Stiltner said Representative Tom Leak is searching for a local business to host a debriefing session. They want to hold it in Port Orange. Thompson Pump was suggested to them and the City Manager is working on the details.

Mayor Burnette asked for an update on pogTV. Mr. Johansson advised that the renovations will occur between June 28, 2017 and mid-July. Mayor Burnette asked for the status of Riverwalk Park Phase 1b. Mr. Johansson said they are on track at this time. Mayor Burnette expressed his concern regarding the upcoming \$25,000 additional exception vote in 2018. He believes it will cause additional inequities. Council and Staff will need to discuss options. Mr. Johansson advised the estimated impact will be \$1.2 million in the City of Port Orange. The millage rate would need to be raised significantly to cover that loss. Other options would be to cut programs to save money, increase stormwater rates, or add a fire fee to each property. Mayor Burnette clarified the fee would be a shift not an additional fee. Councilman Stiltner is concerned with there being

enough education to the voters as to the financial impact of the additional homestead exception. If it is approved by the voters, it will change the quality of the services and programs in the community.

BOARD APPOINTMENTS, INTERVIEWS, REPORTS

17. Citizen Advisory Committee for TPO

Bobby Ball was unable to attend the meeting but was advised that everything on the agenda passed. A few projects for Port Orange were moved up on the list and moving forward.

18. Youth Advisory Board Appointments

Grant Foxman introduced himself to Council.

Motion to nominate Grant Foxman to the Youth Advisory Board was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by voice vote.

Michael Navarra introduced himself to Council.

Motion to nominate Michael Navarra to the Youth Advisory Board was made by Councilman Bastian, and Seconded by Vice Mayor Ford. Motion carried unanimously by voice vote.

PUBLIC HEARING

19. Final Plat & Plans for the King's Landing Subdivision, Phase I, east side of Hensel Road, between East Hensel Drive and Hills Boulevard, Case No. 16-50000004

Motion to approve was made by Councilman Bastian, and Seconded by Councilman Tramont.

Tim Burman, Planning Manager, explained the project location and details of the project being requested. Staff recommended approval.

Councilman Tramont asked for clarification regarding the density. Mr. Burman explained the Future Land Use restrictions regarding density, which will change to half acre lots in future phases. Discussion was held regarding interconnection of neighborhoods.

Glen Storch, Attorney for developer, will look into the access points into the Hamlet Subdivision that could potentially be waived during future phases. However, it doesn't apply to Phase I.

Motion carried unanimously by roll call vote.

20. Special Exception for a Medical Marijuana Dispensary at 3510 Nova Rd., Unit 116, Case No. 17-70000001

Prior to the meeting, the property owner, D.S. Patel, withdrew his permission of the Special Exception and requested the item be pulled from the agenda. Council approved the request.

21. Second Reading - Ordinance No. 2017-3 – Fifth Amendment to the Clark Professional Center and Wedding Chapel PCD Master Development Agreement and Conceptual Development Plan, Case No. 16-40000006

Mayor Burnette read Ordinance No. 2017-3.

ORDINANCE NO. 2017-3

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE FIFTH AMENDMENT TO THE CLARK PROFESSIONAL CENTER AND WEDDING CHAPEL PLANNED COMMERCIAL DEVELOPMENT MASTER DEVELOPMENT AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN; PROVIDING FOR CONFLICTING ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-3 on second reading was made by Councilman Bastian, and Seconded by Vice Mayor Ford. Motion carried unanimously by roll call vote.

22. Second Reading - Ordinance No. 2017-11 - Revision to City Code Sec. 2-267 - Bidding Requirements

Mayor Burnette read Ordinance No. 2017-11.

ORDINANCE NO. 2017-11

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CITY OF PORT ORANGE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION,

SECTION 2-267, RELATING TO BIDDING REQUIREMENTS FOR PURCHASES; PROVIDING FOR PROCEDURES FOR SINGLE RESPONSES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-11 on second reading was made by Councilman Bastian, and Seconded by Councilman Tramont. Motion carried unanimously by roll call vote.

23. Second Reading - Ordinance No. 2017-13 -Sec. 2-278 Professional Services and Consultants' Competitive Negotiation Act (CCNA)

Mayor Burnette read Ordinance No. 2017-13.

ORDINANCE NO. 2017-13

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, DIVISION 2 TO ESTABLISH SECTION 2-278 REGARDING PROFESSIONAL SERVICES AND CONSULTANTS' COMPETITIVE NEGOTIATION ACT, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-13 on second reading was made by Councilman Bastian, and Seconded by Vice Mayor Ford. Motion carried unanimously by roll call vote.

24. Second Reading - Ordinance No. 2017-14 -Section 2-269 Performance and payment bonds.

Mayor Burnette read Ordinance No. 2017-14.

ORDINANCE NO. 2017-14

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, DIVISION 2 SECTION 2-269 REGARDING PAYMENT AND PERFORMANCE BONDS; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES;

PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-14 on second reading was made by Councilman Bastian, and Seconded by Councilman Tramont. Motion carried unanimously by roll call vote.

25. Second Reading - Ordinance No. 2017-15 - Sec. 2-262 Purchase and Sales Procedures

Mayor Burnette read Ordinance No. 2017-15.

ORDINANCE NO. 2017-15

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, DIVISION 2 SECTION 2-262 REGARDING ADDITIONAL REGULATIONS AND PROCEDURES; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-15 on second reading was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by roll call vote.

26. Second Reading - Ordinance No. 2017-16 - LDC Amendments/Chapters 2, 12, 16, 17, and 18 - Tattoo Establishments, Case No. 17-25000001

Mayor Burnette read Ordinance No. 2017-16.

ORDINANCE NO. 2017-16

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE FOLLOWING SECTIONS OF THE LAND DEVELOPMENT CODE: CHAPTER 2, SECTION 2, TO ADD A DEFINITION FOR "TATTOO ESTABLISHMENT" AND AMEND THE DEFINITION OF "PERSONAL SERVICE"; CHAPTER 12, SECTION 4, TO ESTABLISH PARKING REQUIREMENTS FOR TATTOO ESTABLISHMENTS; CHAPTER 16, SECTION 2, TO PROHIBIT TATTOO ESTABLISHMENTS AS A HOME OCCUPATION; CHAPTER 17, SECTION 22, 22.5, AND 25,

ADDING TATTOO ESTABLISHMENTS AS A PERMITTED USE IN THE HIGHWAY COMMERCIAL (HC), INTERCHANGE COMMERCIAL DEVELOPMENT (ICD), AND RIDGEWOOD DEVELOPMENT (RD) ZONING DISTRICTS, AND REMOVING TATTOO ESTABLISHMENTS AS A SPECIAL EXCEPTION USE IN THE RIDGEWOOD DEVELOPMENT (RD) AND HIGHWAY COMMERCIAL (HC) ZONING DISTRICTS; CHAPTER 17, SECTION 29, REMOVING TATTOO ESTABLISHMENTS AS A PROHIBITED USE IN THE PLANNED COMMUNITY AGRICULTURAL (PC-A) ZONING DISTRICT; AND CHAPTER 18, SECTION 3, REMOVING THE SPECIAL REQUIREMENTS FOR TATTOO ESTABLISHMENTS AS A SPECIAL EXCEPTION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-16 on second reading was made by Councilman Bastian, and Seconded by Vice Mayor Ford. Motion carried 3-2 by roll call vote with Councilman Tramont and Vice Mayor Ford voting no.

27. Second Reading - Ordinance No. 2017-17 - LDC Amendments/Chapters 12, 17, and 18 - Adult Entertainment Establishments, Case No. 17-25000002

Mayor Burnette read Ordinance No. 2017-17.

ORDINANCE NO. 2017-17

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE FOLLOWING SECTIONS OF THE LAND DEVELOPMENT CODE: CHAPTER 12, SECTION 4, TO ADD "ADULT THEATER OR ADULT PERFORMANCE" PARKING REQUIREMENT; CHAPTER 17, SECTION 22, TO REMOVE ADULT ENTERTAINMENT FROM THE LIST OF SPECIAL EXCEPTION USES IN THE HIGHWAY COMMERCIAL (HC) ZONING DISTRICT; CHAPTER 17, SECTION 23, ADDING ADULT ENTERTAINMENT AS A SPECIAL EXCEPTION USE IN THE COMMERCIAL INDUSTRIAL (CI) ZONING DISTRICT; AND CHAPTER 18, SECTION 23, TO SPECIFY MEASUREMENT OF SEPARATION REQUIREMENTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-17 on second reading was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried 4-1 by roll call vote with Mayor Burnette voting no.

28. First Reading - Ordinance No. 2017-18 – Rezoning/3813 S. Nova Road, Case No. 17-65000001

Mayor Burnette read Ordinance No. 2017-18.

ORDINANCE NO. 2017-18

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, REZONING +/-7.6 ACRES LOCATED AT 3813 SOUTH NOVA ROAD FROM PLANNED COMMUNITY DEVELOPMENT (PCD) TO COMMUNITY COMMERCIAL (CC); AUTHORIZING REVISION OF THE OFFICIAL ZONING ATLAS; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2017-18 on second reading was made by Councilman Bastian, and Seconded by Councilman Stiltner.

Mr. Burman provided details of the request. Staff recommends approval.

Paul Holub, Developer and Property Owner of 3813 S. Nova Road, discussed development issues in the center. He explained issues with the MDA. He has received inquiries for a bowling alley, as well as a gas station for the site. Mr. Holub advised that he will retain ownership of the outparcels long term. He asked for Council's support on the rezoning.

Motion carried unanimously by roll call vote.

REGULAR AGENDA

29. Naming of the Old Police Department

Susan Lovallo, Parks & Recreation Director, provided the background of the building and the need for a true name for the building.

Discussion was held regarding other options. Council isn't keen on Dr. DuBois. They would prefer something more toward the building's function. Mr. Johansson suggested a

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workshop to discuss more options and asked Council to submit their ideas prior to the workshop being scheduled.

Motion to table until a future workshop
was made by Councilman Tramont, and
Seconded by Councilman Stiltner.
Motion carried unanimously by voice
vote.

30. Resolution No. 17-18 - LAP Agreement for construction of the Dunlawton Sidewalk and Street Lighting from Spruce Creek Road to Ridgewood Avenue

Mayor Burnette read Resolution No. 17-18

RESOLUTION NO. 17-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; APPROVING THE LOCAL AGENCY PROGRAM AGREEMENT FPN 435591 -1-58-01; FOR THE CONSTRUCTION OF SR 421 (DUNLAWTON) SIDEWALK AND STREET LIGHTING FROM SPRUCE CREEK ROAD TO RIDGEWOOD AVENUE PROJECT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST THE AGREEMENT, RESPECTIVELY, WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-18
on second reading was made by
Councilman Bastian, and Seconded by
Vice Mayor Ford.

Wayne Clark, Community Development Director, explained the need for the LAP Agreement. He advised there is a budget issue that Council needs to be aware of. He explained the three options. Approximately \$290,000 is needed to complete the full project. Council could direct a change in the project to not include the street lights at the intersections at Dunlawton Ave/US 1 and Dunlawton/Spruce Creek Road. An additional \$290,000 is needed to do the entire project (to include the intersections.) Funding is available through the gas taxes but it will impact other projects.

Mr. Johansson advised there is \$541,000 in equity in the gas tax fund. The current CIP draft includes a request for \$800,000 for road paving. He spoke with the Public Works Director who supports using the amount needed to fund the full lighting project. Mr. Clark reminded Council the City is only responsible for 30% of the funding for the project. The State is paying for the remaining 70%. Council would like to fund the entire project using the gas tax funds.

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Motion carried unanimously by roll call vote.

31. Paver Driveways in Public Right of Way

a. Resolution No. 17-16* - Pavers

Mayor Burnette read Resolution No. 17-16*.

RESOLUTION NO. 17-16*

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING A POLICY REGARDING THE INSTALLATION OF PAVERS IN THE CITY'S RIGHTS-OF-WAY; ESTABLISHING LICENSE AGREEMENT REQUIREMENTS FOR INSTALLATION OF PAVERS; REQUIRING INSTALLATION IN ACCORDANCE WITH THE CITY'S STANDARD CONSTRUCTION DETAIL FOR SUCH IMPROVEMENTS; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-16* on second reading was made by Councilman Bastian, and Seconded by Councilman Stiltner. Motion carried unanimously by roll call vote.

b. Resolution No. 17-22 - Proposed Construction Detail - Paver Driveway Apron

Mayor Burnette read Resolution No. 17-22

RESOLUTION NO. 17-22

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ADOPTING STANDARD CONSTRUCTION DETAIL M-6A RELATING TO PAVER DRIVEWAY APRONS; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 17-22 on second reading was made by Councilman Bastian, and Seconded by

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Councilman Stiltner. Motion carried
unanimously by roll call vote.

- c. License Agreement - 5833 Riverside Drive
- d. License Agreement - 1108 Harbour Point Drive
- e. License Agreement - 1110 Harbour Point Drive

Mr. Clark advised the applications on this agenda were received after the workshop and direction from Council but before tonight's approval of the above Resolutions. The first three do not have sidewalks.

Dennis Brooks, Contractor, expressed his concerns regarding the proposal he has provided to his customers. He asked for a waiver for conformity with neighbors on Riverside Drive.

Vice Mayor Ford agreed with Mr. Brooks that the request should be granted since it was submitted prior to the change. Councilman Bastian read from the agenda item relating to the advice provided to the applicant that the change was being considered by Council and the application may not be approved under the old rules.

Motion to approve Items 31 (c), (d), and (e) under the old rules was made by Vice Mayor Ford, and Seconded by Councilman Tramont. Motion failed 2-3 by roll call vote with Mayor Burnette and Councilmen Stiltner and Bastian voting no; and Councilman Tramont and Vice Mayor Ford voting yes.

Motion to return this item to staff to process in accordance with Resolution 17-16*, subject to modification of the application to meet the City standard was made by Councilman Stiltner, and Seconded by Councilman Bastian. Motion carried unanimously by roll call vote.

- f. License Agreement - 408 Lafayette Street

Mr. Johansson explained the pavers were installed without a License Agreement. Staff has been in contact with the property owner and will pull it out to conform to the new rules. Vice Mayor Ford is concerned with penalizing the property owner. He believes this area needs improvements. Mr. Clark advised the property owner is willing to restore the property and complete the process correctly once the License Agreement is approved by Council.

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Motion to return to Staff to process in accordance with Resolution 17-16*, subject to reconstruction of the driveway apron to meet the City standard was made by Councilman Bastian, and Seconded by Councilman Tramont. Motion carried 4-1 by roll call vote with Vice Mayor Ford voting no.

32. City Attorney's Evaluation

Ms. Roberts asked for individual meetings with Council. She will provide a simple evaluation form for Council to utilize should they chose. Mayor Burnette asked for a summary of accomplishments and challenges.

COMMENTS

33. City Attorney Comments

Ms. Roberts asked Council for direction to Community Development regarding their policy on additional access points into and out of neighborhoods. Council agreed more than one access point into/out of neighborhoods is needed but believe five or more is too many.

34. City Manager Comments

Mr. Johansson advised Council the generator at Fire Station 71 is in disrepair, as well as the back-up generator. He will be approving an emergency purchase order tomorrow. Fire Station 73 is having trouble with a relay but believes the problem has been fixed. The County has adjusted the lights along Dunlawton Avenue. He asked Council for feedback as they travel.

He reminded Council of the Shade Meeting scheduled for Wednesday, May 17, 2017 at 6:00 p.m., which is directly after the Ribbon Cutting for the White Acres Project.

Councilman Tramont believes by passing Resolution No. 17-16* - Pavers and 17-22 - Proposed Construction Detail - Paver Driveway Apron, the Council railroaded the applicants who submitted applications prior to the change. Councilman Stiltner advised Councilman Tramont that all applicants were advised of the upcoming policy changes when they submitted their applications and they chose to move forward with their applications. He doesn't believe Council railroaded them.

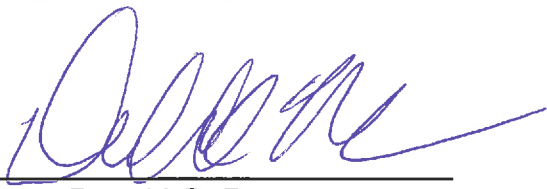
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COUNCIL COMMITTEE REPORTS

35. City Council Committee Reports

- a. ArtHaus – Vice Mayor Ford reported on upcoming events.
- b. Port Orange/South Daytona Chamber of Commerce –Mayor Burnette reported on the recent meeting held and upcoming events. Their focus is the upcoming clean-up on Ridgewood Avenue (June 3, 2017.)
- c. Roundtable of Elected Officials – The Clerk of Court and Supervisor of Elections provided presentations to the Mayors. The Volusia League of Cities Dinner is May 25, 2017, which will include municipality awards. Port Orange Police Officer Jonathon Nolan is Officer of the Year and Port Orange City Manager Jake Johansson is the Administrator of the Year.

ADJOURNMENT: 9:06 p.m.



Mayor Donald O. Burnette

Attest:



Robin Fenwick, CMC
City Clerk