

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
OCTOBER 3, 2023

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.

Invocation by Pastor Ken Sharp of High Point Pentecostal Church

Pledge of Allegiance

Roll Call

Present:

Councilman Tracy Grubbs
Councilman Drew Bastian
Councilman Scott Stiltner
Vice Mayor Reed Foley
Mayor Donald Burnette

Also Present:

Wayne Clark, City Manager
Shannon Balmer, Assistant City Attorney
Tracee Cody, Deputy City Clerk

RECOGNITION AND PROCLAMATIONS

4. Domestic Violence Awareness Month

Mayor Donald Burnette read the proclamation for Domestic Violence Awareness Month and presented it to Odetta Horruttiner, City of Port Orange Victim Advocate Coordinator.

CONSENT AGENDA

5. Public Comments on Consent Agenda Items Only

There were none.

6. Agenda Approval

Vice Mayor Reed Foley asked to pull Item #10 from the Consent Agenda.

Motion to approve the agenda as amended was made by Vice Mayor Reed Foley and seconded by Councilman Scott Stiltner. Motion carried unanimously by voice vote.

7. Approval of Minutes
 - a. September 19, 2023 - Regular City Council Meeting
 - b. September 20, 2023 - Special City Council Meeting
8. Bid Awards and Contract Items
 - a. Approval of Task Authorization No. 3 with Pegasus Engineering, LLC for grant application development for the FEMA Hazard Mitigation Grant Program (HMGP) Application for the Elevation of 9 Flood-Prone Homes under Hurricane Nicole (DR-4680-FL)
 - b. Approval of Task Authorization No. 4 with Pegasus Engineering, LLC for grant application development for the FEMA Hazard Mitigation Grant Program (HMGP) Application for the Acquisition and Demolition of 7 Flood-Prone Homes under Hurricane Nicole (DR-4680-FL)
 - c. Approval of Task Authorization No. 5 with Pegasus Engineering, LLC for grant application development for the FEMA Hazard Mitigation Grant Program (HMGP) Application for the Elevation of 5 Flood-Prone homes under Hurricane Nicole (DR-4680-FL)
 - d. Approval of Task Authorization No. 6 with Pegasus Engineering, LLC for grant application development for the FEMA Hazard Mitigation Grant Program (HMGP) Application for the Demolition and Reconstruction of 1 Flood-Prone Home under Hurricane Nicole (DR-4680-FL)
 - e. Approval of Task Authorization No. 7 with Pegasus Engineering, LLC for grant application development for the FEMA Hazard Mitigation Grant Program (HMGP) Application for the Acquisition and Demolition of 1 Flood-Prone Home under Hurricane Nicole (DR-4680-FL)
9. Approval of Major Special Event Request for The Doghouse Bar and Grill Biketoberfest 2023 Event at 3400 S. Nova Road
10. Approval of Major Special Event Request for the Daytona's Original First Turn Biketoberfest 2023 Event at 5164, 5204, and 5236 South Ridgewood Avenue
11. Resolution No. 23-44 - Ratification of Actions Taken During Hurricane Idalia
12. Resolution No. 23-45 - Reimbursement Resolution for Public Safety Equipment
13. Resolution No. 23-46 – Hurricane Nicole Hazard Mitigation Grant Program (HMGP) Application to Request Funds to Elevate 9 Flood-Prone Homes
14. Resolution No. 23-47 – Hurricane Nicole Hazard Mitigation Grant Program (HMGP) Application to Request Funds to Acquire and Demolish 7 Flood-Prone Homes
15. Resolution No. 23-48 – Hurricane Nicole Hazard Mitigation Grant Program (HMGP) Application to Request Funds to Elevate 5 Flood-Prone Homes
16. Resolution No. 23-49 – Hurricane Nicole Hazard Mitigation Grant Program (HMGP) Application to Request Funds to Demolish and Reconstruct 1 Flood-Prone Home
17. Resolution No. 23-50 – Hurricane Nicole Hazard Mitigation Grant Program (HMGP) Application to Request Funds to Acquire and Demolish 1 Flood-Prone Home

Motion to approve the Consent Agenda
Items #7-9 and #11-17 was made by
Vice Mayor Reed Foley and seconded

by Councilman Scott Stiltner. Motion
carried unanimously by roll call vote.

Item #10 - Approval of Major Special Event Request for the Daytona's Original First
Turn Biketoberfest 2023 Event at 5164, 5204, and 5236 South Ridgewood Avenue

Motion to approve Item #10 was made
by Councilman Scott Stiltner and
seconded by Councilman Drew Bastian.

Vice Mayor Reed Foley abstained from the vote due to a conflict of interest as he does
business with Daytona's Original First Turn.

Motion carried 4-0-1 by roll call vote with
Vice Mayor Reed Foley abstaining.

PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

Frank Rampino, President of the Briarwood Estates Homeowner's Association,
commented on the canal on Normandy not being maintained and flooding in the area.
Israel Rivas, Vice President of Briarwood Estates HOA, further commented about
speeding, lighting, and issues with porch thieves in their community.

COUNCIL COMMENTS

18. Comments/Concerns from Council Members

Councilman Tracy Grubbs commented on the upcoming Parks & Rec Bond initiative
and possible projects.

Vice Mayor Reed Foley commented on another city's Parks & Rec app for notifications
and his interest in seeing if Port Orange Parks & Rec could do something similar. He
also expressed his disappointment about an unknown resident who tampered with a
Public Works pump and stressed that tampering with city equipment is a criminal
offense and that staff is working very hard on solutions.

Councilman Scott Stiltner spoke to the Briarwood Estates HOA concerns and believes
that a lot of the canals in their area are actually owned by the County and not the city.

Councilman Drew Bastian offered his condolences to former Planning Commissioners
and community volunteers, Rich Barker and Frank Crooks, who passed away.

Mayor Donald Burnette reminded the public about the Family Days event happening
October 12-15.

19. Report from KemperSports on the Cypress Head Golf

Jeff Dayton, General Manager of KemperSports, provided an overview of the Cypress Head Golf Course financials and the golf course conditions.

20. State of Florida PACE Program by Will Roberts, Volusia County Tax Collector

Will Roberts, Volusia County Tax Collector, provided information on the State of Florida PACE Program. Mayor Donald Burnette directed staff to bring forth language on a future agenda to revoke predatory practices in our ordinances.

BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

21. Environmental Advisory Board Appointment

Motion to nominate Eric Gregory to be appointed to his first term was made by Councilman Tracy Grubbs and seconded by Councilman Scott Stiltner.

Eric Gregory, new applicant for the Environmental Advisory Board, introduced himself.

Motion carried unanimously by voice vote.

22. Police Pension Board Appointment

Motion to re-appoint Brian Cobb to the Police Pension Board as a Resident Trustee, was made by Councilman Scott Stiltner and seconded by Councilman Drew Bastian. Motion carried unanimously by voice vote.

PUBLIC HEARING

23. Second Reading - Ordinance No. 2023-13 - 4th Amendment to the Master Development Agreement and Conceptual Development Plan for the Pavilion at Port Orange Planned Commercial Development (CASE NO. PRZA-23-0005)

Mayor Donald Burnette read Ordinance No. 2023-13.

ORDINANCE NO. 2023-13

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE FOURTH AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT FOR THE PAVILION AT PORT ORANGE PLANNED COMMERCIAL DEVELOPMENT (PCD) AND CONCEPTUAL DEVELOPMENT PLAN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2023-13 was made by Vice Mayor Reed Foley and seconded by Councilman Scott Stiltner. Motion carried unanimously by roll call vote.

24. First Reading Ordinance No. 2023-15 - Implementing the State's Statutory Mandate to Prepare Business Impact Estimates Pursuant to Section 166.041, Florida Statutes

Mayor Donald Burnette read Ordinance No. 2023-15.

ORDINANCE NO. 2023-15

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, CREATING SECTION 2-4 TO IMPLEMENT THE STATE'S STATUTORY MANDATE TO PREPARE BUSINESS IMPACT ESTIMATES PRIOR TO ADOPTION OF PROPOSED ORDINANCES PURSUANT TO SECTION 166.041(4), FLORIDA STATUTES; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SCRIVNERS ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2023-15 was made by Vice Mayor Reed Foley and seconded by Councilman Scott Stiltner.

Wayne Clark, City Manager, explained the proposed Ordinance and how it will be implemented.

Motion carried unanimously by roll call vote.

25. Resolution No. 23-51 - Opposition to the Proposed Construction of the Belvedere Fuel Farm

Mayor Donald Burnette read Resolution No. 23-51.

RESOLUTION NO. 23-51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, IN OPPOSITION TO THE PROPOSED CONSTRUCTION OF THE BELVEDERE FUEL FARM NEAR ORMOND BEACH IN THE UNINCORPORATED AREA OF VOLUSIA COUNTY AT, OR ABOUT 874 HULL ROAD, ORMOND BEACH, FLORIDA.

Motion to approve Resolution No. 23-51 was made by Councilman Scott Stiltner and seconded by Councilman Drew Bastian. Motion carried unanimously by roll call vote.

26. Discussion on Legislative Priorities for 2024

Robin Fenwick, Assistant City Manager, provided an overview of Legislative priorities and appropriation requests to the State. Tom DiEulio, Public Works Director, answered questions from Council regarding pipe lining projects.

ADDITIONAL ITEMS

27. City Attorney

There was nothing further.

28. City Manager

Mr. Clark recommended to Council that the former ArtHaus building be demolished as it would outweigh maintenance costs of upkeep on the structure. The demolition costs are within his authorization but wanted consensus from Council. Council all agreed with the choice to demolish it, clear the lot, and reseed it.

COUNCIL COMMITTEE REPORTS

29. City Council Committee Reports

Mayor Burnette asked Barbara Ann Heegan, President & CEO of the Port

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Orange/South Daytona Chamber of Commerce, to introduce the Port Orange/South Daytona Chamber of Commerce 2023 leadership class that was in attendance.

a. River to Sea TPO - Vice Mayor Reed Foley

Vice Mayor Reed Foley was unable to attend the meeting.

b. Arthaus - Vice Mayor Reed Foley

Vice Mayor Reed Foley provided details from their recent meeting.

ADJOURNMENT – 7:44 p.m.



Mayor Donald O. Burnette

Attest:



Robin Fenwick, MMC
City Clerk



FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Foley, Reed</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>City Council</i>	
MAILING ADDRESS <i>Horseman</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Port Orange</i>	COUNTY <i>Volusia</i>	☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY	
DATE ON WHICH VOTE OCCURRED <i>10/3/2023</i>		NAME OF POLITICAL SUBDIVISION: <i>Port Orange</i>	
		MY POSITION IS: ☒ ELECTIVE ☐ APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Reed Foley, hereby disclose that on October 3rd, 20 23:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item 10 - First Turn Special Event

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

10/3/23

Signature

[Signature]

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.