



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes - Final City Commission Regular Meeting

CITY COMMISSIONERS

Linda M. Yates, Mayor
Vanessa Carusone, Vice-Mayor
Christopher B. Hanks, Commissioner
Debbie McDowell, Commissioner

APPOINTED OFFICIALS

Jonathan R. Lewis, City Manager
Mark Moriarty, City Attorney
Patsy Adkins, City Clerk

Tuesday, December 13, 2016

10:00 AM

CITY COMMISSION CHAMBERS

**Item 5.E. Resolution No. 2016-R-36 will be held at a Time Certain of 6:00 p.m.
2nd Correction - Item 3.K. 16-0645 Correcting the dollar amounts in the title to read
\$412,912.60 and \$15,000**

MINUTES APPROVED AT THE 04-11-2017 MEETING.

CALL TO ORDER/ROLL CALL

The North Port City Commission Regular Meeting was called to order at 10:00 a.m. in City Chambers by Mayor Yates.

Present: Mayor Yates; Vice-Mayor Carusone; Commissioners Hanks and McDowell; City Manager Lewis; City Attorney Moriarty; City Clerk Adkins; Recording Secretary Hale; and Police Chief Vespia.

A Moment of Silence was observed followed by the Pledge of Allegiance, led by the Commission.

APPROVAL OF AGENDA – COMMISSION

Mayor Yates stated for the record, that the Agenda was amended for Item 5.E., which will be heard at 6:00 p.m. Item 3.K., the dollar amounts were corrected to \$412,912.60 and \$15,000 for contingency. A scrivener's error was corrected in Item 4.C., Ordinance No. 2016-43: the dollar amount was corrected to \$1,000 per donor.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to suspend the City Code for Commission Meeting Procedures for this meeting. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

Mayor Yates stated that staff requested to remove Consent Agenda Item 3.C., and Item 5.E., has three components that were not captured in the backup material.

A motion was made by Commissioner Hanks, to remove Resolution No.

2016-R-36 from the agenda. The motion failed for lack of a second.

A motion was made by Commissioner McDowell, seconded by Commissioner Hanks, to remove Consent Agenda Item 3.C., Amendment No. 1 to an Interlocal Agreement between Sarasota County and the City of North Port; noting the changes for Agenda Item 5.E., the agenda item is set for a time certain of 6:00 p.m., adding the three parts: (1) creating an interim Commission Seat 4; (2) establishing criteria for selection of an appointee; and (3) the Resolution. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

1. ANNOUNCEMENTS

A. [16-0704](#) Current Vacancies for Boards and Committees.

City Clerk Adkins read the Current Vacancies for Boards and Committees into the record.

B. [16-0705](#) Upcoming Expiration Dates for Boards and Committees.

City Clerk Adkins read the Upcoming Expiration Dates for Boards and Committees into the record.

2. PUBLIC COMMENT:

Public comment was held 10:11 a.m. - 10:50 a.m.

Following a public comment, it was requested to move General Business Item 6.C after Public Comment.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to move General Business Item 6.C., Discussion and possible direction regarding a logo exchange proposal with the North Port Area Chamber of Commerce, after Public Comment. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

GENERAL BUSINESS:

C. [16-0671](#) Discussion and possible direction regarding a logo exchange proposal with the North Port Chamber of Commerce.

City Manager Lewis introduced Economic Development Program Manager Buchanan who provided an overview for an in-kind marketing logo exchange between the City and the North Port Chamber of Commerce. Executive Director Gunnin was present to answer questions. Public comment was held.

Questions and discussion ensued: (1) Mr. Gunnin stated: [a] that the Chamber's policy on bartering is limited to media exposure opportunities and in-kind hard costs; [b] the Chamber Board of Directors reserves the right of determining who will or will not participate in the in-kind marketing logo exchange; (2) following a question, City Manager Lewis stated that this agreement is outside the City's Sponsorship Program

and participation by other entities would require Commission consideration; (3) after it was suggested to use a template-type sponsorship form, City Manager Lewis stated that the City and the Chamber of Commerce could mutually agree to a formal Agreement on how to jointly market, and by Commission direction, staff could bring a draft document back for review in January; (4) subsequent to a question, Mr. Gunnin stated that, [a] under the Platinum Program, the Chamber of Commerce markets and promotes the Chamber Champions on the Chamber's website, in every Chamber event, email, banner and program; [b] it was noted that the Chamber is willing to consider a different format that sets the parameters the Commission considers most appropriate for the City; [c] currently, the Chamber of Commerce has two banners; one with logos and one with just business names; [d] the City's logo would be added to the existing logo banner; (5) concerns were expressed regarding the City's logo being on banners for political events; (6) following a question, City Manager Lewis confirmed that the Commission may disregard the draft Agreement provided as backup material, give direction to craft an Agreement that includes the direction of how the Commission wants it to work, and approve the document today.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to approve the logo exchange proposal for the North Port Area Chamber of Commerce, removing the City's logo from communications with the Chamber of Commerce, as well as removal of the City's logo on any political activity promotion. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

Following a request that an Agreement be provided at the January 10, 2017 Commission meeting for review, clarification was provided that approval of the exchange Agreement was set forth under the parameters stated in the motion and requires no further review. Thereafter, the request was rescinded.

3. CONSENT AGENDA:

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to approve Consent Agenda items 3.A., 3.B., 3.D. 3.E, 3.F., 3.G., and 3.I.; pulling items 3.H., 3.J., 3.K., 3.L. for discussion. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

- A.** [16-0706](#) Approval of Minutes for the September 12, 2016 Commission Joint Meeting with the Sarasota County Board of County Commissioners; September 29, 2016 Commission Workshop Meeting; October 21, 2016 Commission Workshop; November 3, 2016 Commission Recognition Meeting; November 8, 2016 Commission Regular Meeting.
- B.** [16-0678](#) Cash Receipts Summary - October 2016
- C.** [16-0582](#) Amendment No.1 to an Interlocal Agreement between Sarasota County and the City of North Port to undertake community development and housing activities utilizing Community Development Block Grants within the municipality, adding that Sarasota County and the City of North Port will affirmatively further fair housing.

THIS ITEM WAS REMOVED FROM THE AGENDA.

- D. [16-0624](#) Annual water demand projections.
- E. [16-0660](#) Sole source exemption request for the replacement of the center column in Wastewater Treatment Plant Clarifier No. 2, by Ovivo USA, LLC in an amount not to exceed \$122,775.00.
- F. [16-0614](#) Approval of the waiver/exemption of competitive procurement process under Sec. 2-403 (b) of the Procurement Code in accordance with F.S. § 255.20(c) 7 for design, engineering, construction permitting, construction engineering inspection services and operational permitting by Cardno, Inc. for the Permanent Facility of the Aquifer Storage and Recovery (ASR) Well Project, in an amount not to exceed \$369,200.
- G. [16-0674](#) Adopt-A-Park Program Agreement for Marina Park
- H. [16-0639](#) Sungard Public Sector, Inc. Sole Source Software, Training, Annual Maintenance and Professional Services purchase in the amount of \$352,993.29.

Information Technology Manager Kasson provided a PowerPoint regarding the Sungard licenses, software/training packages used to facilitate the business and financial arms of City government. Public comment was held.

Questions ensued: (1) costs have increased due to the expansion of various modules and a graph was provided shown, demonstrating how the program was scaled up to accommodate the changing needs of the organization; (2) a copy of the graph will be provided for the record; (3) the renewals for City Hall and the Police Department are on the same schedule; (4) the costs posted on the graph represent the Police Department and City Hall combined expenditures.

A motion was made by Commissioner McDowell, seconded by Vice-Mayor Carusone, to approve the Sungard Public Sector, Inc., Sole Source Software, Training, Annual Maintenance and Professional Services purchase in the amount of \$352,993.29 The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

- I. [16-0656](#) Acceptance of grant from Wal-Mart / Sam's Club stores in the amount of \$2,000.
- J. [16-0680](#) Memorandum of Understandings between the North Port Police Department and the Peace River K9 Search and Rescue, and the North Port Police Department and Sarasota K9 Search & Rescue, Inc.

City Manager Lewis stated this is a non-cost Agreement, is supplemental to what is done and introduced Assistant Chief Pelfrey who provided an overview. There was no public comment.

Discussion and questions ensued: (1) after a question, it was stated that the Agreement can be approved with the addition of addressing the volunteer status liability and indemnity clauses, and added that the Agreement is between the City and Sarasota K-9 Search and Rescue, Inc. non-profit organization, and the City could stipulate that the organization has those requirements in place; (2) subsequent to a question, City

Attorney Moriarty confirmed that the item is not time-sensitive and he preferred to make the change and present it to the Commission at a later date; (3) it was requested to model the Agreement after the Adopt-a-Park Program clauses regarding volunteer status, indemnity, and no assumption of liability.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner Hanks, to continue the Memorandum of Understandings between the North Port Police Department and the Peace River K9 Search and Rescue, and the North Port Police Department and Sarasota K9 Search & Rescue, Inc. to the next commission meeting, January 10, 2017, and include the clauses relating to volunteer status, no assumption of liability, and indemnity. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

K. [16-0645](#)

Approve Contract No. 2017-08 between the City of North Port and C-Squared Certified General Contractor, Inc. to construct curbing around the South Biscayne Drive medians in the amount of \$412,912.60 plus \$15,000.00 for contingencies.

City Manager Lewis introduced Public Works Director Bellia who presented a PowerPoint overview of the Construction Contract components, and distributed a map of the South Biscayne Drive median improvements. Public comment was held.

Discussion ensued: (1) the project process was explained with an estimated date of completion 120 days after the contractor receives the Notice to Proceed; (2) an early completion incentive was not included in the bidding documents; (3) there is a clause for liquidated damages if the contractor exceeds the contract time; (4) to reduce costs during the bid renegotiations, the City offered to provide the 2500 cubic-yards of embankment soil, depending if testing results received from the University of Florida are within established parameters of the landscape architect. If the City's soil samples do not meet the standards, the contractor is responsible for testing any soil he supplies and that cost is included in the bid; (5) a cost analysis has not been performed regarding the traffic maintenance cost to the City; (6) the project plans were not updated to reflect the renegotiated contract and will be changed; (7) the bidding process for the landscaping and irrigation contract was not ready to bring to the Commission, but will be presented at the January 24, 2017 Road & Drainage District Meeting.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner Hanks, to approve Contract No. 2017-08 between the City of North Port and C-Squared Certified General Contractor, Inc. to construct curbing around the South Biscayne Drive medians in the amount of \$412,912.60 plus \$15,000.00 for contingencies.

Further discussion ensued: (1) Vice-Mayor Carusone stated that the public has waited long enough and this project needs to move forward and the Public Works Department is fully capable to resolve all the small details; (2) after citing some inaccuracies in the document, Commissioner McDowell supported not moving forward until all questions are answered; (3) Mayor Yates: [a] requested to review the cost analysis of staff's time involved in the traffic maintenance work; [b] was concerned about approving a master plan when it is incomplete; [c] the Contract needs to be approved along with the Landscaping and Irrigation Contract at the January meeting; [d] the Contract should not start now when there is a substantial late fee for every day it is late; (4) following a question, City Attorney Moriarty stated that, if the current motion fails, the Contract can be reconsidered during a new meeting because it resets the item. A reconsideration at this meeting may only be accomplished by someone who voted in the affirmative side; (5) City Manager Lewis stated that it is not practical for staff to provide the traffic maintenance costs at this meeting. The Commission may continue the item, take no

action, table it until a future meeting, or fail the item.

A vote was taken on the motion, to approve Contract No. 2017-08 between the City of North Port and C-Squared Certified General Contractor, Inc. to construct curbing around the South Biscayne Drive medians in the amount of \$412,912.60 plus \$15,000.00 for contingencies. The motion failed by the following vote with Mayor Yates and Commissioner McDowell dissenting for reasons stated:

Yes: 2 - Vice-Mayor Carusone and Commissioner Hanks

No: 2 - Mayor Yates and Commissioner McDowell

A motion was made by Commissioner McDowell, seconded by Mayor Yates, to bring the item back to the January 10, 2017 Commission Meeting with the requested questions answered and further documentation for review; and not as a Consent Agenda Item. The motion carried by the following vote with Vice-Mayor Carusone dissenting for reasons previously stated:

Yes: 3 - Mayor Yates, Commissioner Hanks and Commissioner McDowell

No: 1 - Vice-Mayor Carusone

- L. [16-0642](#) Fire Rescue Panasonic Mobile Desktop Terminal (MDT) purchase in the amount of \$136,661.25

General Services Director Carmichael, Information Technology Manager Kasson, and Fire Division Chief Berman provided an overview of the Fire Department mobile data tablets that need to be replaced. It was confirmed that the devices in question are within the City's current replacement policy. There was no public comment and no questions or comments from the Commissioners.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to approve the Fire Rescue Panasonic Mobile Desktop Terminal (MDT) purchase in the amount of \$136,661.25. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

Recess 12:18 p.m. - 1:00 p.m.

4. PUBLIC HEARINGS:

- A. [16-0675](#) Petition No. PLF-16-054, Final Plat for Gran Paradiso Phase 6 (Quasi-Judicial)

City Clerk Adkins as a Notary Public of Florida, swore in all those wishing to speak on the agenda item.

The Commission had no ex parte communications to disclose.

Mr. Gremaux, P.E. with Kimley-Horn & Associates, for Lennar Homes, provided an overview of the Petition. Thereafter, Neighborhood Development Services Director Williams, and Planner McAllister, provided a PowerPoint and overview of the petition. There was no public comment and no questions or comments from the Commission.

A motion was made by Commissioner Hanks, seconded by Vice-Mayor Carusone, to approve Petition No. PLF-16-054, Final Plat for Gran Paradiso Phase 6. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

- B.** [16-0684](#) Ordinance No. 2016-42, first reading, Petition No. TXT-16-221, Amending the City of North Port Unified Land Development Code (ULDC) Chapter 53, permitting of chickens in the Residential Zoning District.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to read Ordinance No. 2016-42 by title only. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

City Manager Lewis introduced the item and clarified that Commission's direction was to bring back a draft Ordinance and to base it on the City of Sarasota's current legislation. Staff was able to bring the version of the Ordinance that was presented to the Planning & Zoning Advisory Board which was slightly different than what was done in the City of Sarasota. The Commission may adjust the provisions of this Ordinance as it deems appropriate. Director Williams: [a] provided staff's concerns regarding how the item was presented; [b] from a Commission Workshop in 2013 and thereafter staff drafted an Ordinance; [c] noted that PZAB did not recommend approval; [d] the Ordinance was reviewed by the Commission in April and May, 2013 for first and second reading with minor changes. The Ordinance failed with a two-to-two (2-2) vote. Public comment was held.

Discussion and questions: (1) subsequent to a question, City Attorney Moriarty stated: [a] that the further the Commission deviates from the Ordinance presentation heard by the Planning & Zoning Advisory Board, the greater the exposure for a challenge for a procedural due process; [b] Ordinance 2013-03 is identical to Ordinance No. 2016-42; (2) it was suggested to add [a] to limit the number of chickens to four, unless two or more properties are owned, wherein six chickens would be allowed; and [b] to include the Sarasota County Ordinance provision that no portion shall affect homeowners' associations; (3) a provision is also needed regarding what to do with unwanted chickens; (4) change the location of a coop from 10-feet to 25-feet from a property line; (5) the City Clerk signature line needs to be changed; (6) the restriction regarding a movable coop can be modified by the Commission and the idea was to prevent concentrated droppings in a single location; (7) the word "chickens" could be changed to "hens"; (8) whether a structure is permanent and requires a permit is a determination made by the Building Official; (9) pending adding provisions to the Ordinance by the Commission, City Attorney Moriarty recommended sending it back for a second review by the Planning & Zoning Advisory Board; (10) due to the combined advertising time required for the PZAB and the Commission, it is not possible to bring the Ordinance back for first reading at the January 10, 2017 Commission meeting; (11) it was suggested that the Commission consider changing the number of chickens allowed from six to four and then send the draft document to the PZAB for additional review of the land use issues; (12) it was noted that the private homeowners' associations and deed restricted communities set their own regulations; (13) subsequent to a question, City Attorney Moriarty stated that there are no rules that limits the time or gives an expiration date between the time the PZAB reviews an issue and the City Commission reviews the issue; (14) it was noted that Exhibit A, bullet #8, should be clarified; (15) Director Williams cited the provision in the Sarasota County Ordinance; (15) in six months the Ordinance may be reviewed and amended if necessary.

A motion was made by Vice Mayor Carusone, seconded by Commissioner McDowell, to continue Ordinance No. 2016-42, Petition TXT 16-221 amending the City of North Port Unified Land Development Code, Chapter 53, permitting of

chickens in the Residential Zoning District to the January 24, 2017 Commission Regular Meeting for second reading, with the following amendments: In Exhibit A, amending #1, to read "no more than four chickens may be kept on an 80x120 lot, or six chickens on two or more lots, with roosters being prohibited." Adding a #11 to read: "Chickens that are no longer wanted, by their owners shall not be taken to Animal Control, nor shall they be released. Unwanted chickens may be taken to the Health and Human Services, Mosquito Control Division for utilization in the sentinel chicken program." To amend #8, to read: "The sale of eggs or any other chicken products generated in a Residential Single Family District is prohibited and cannot be sold in a Residential Single Family District." To clarify the typographical errors changing the word "chickens" to "hens" and the City Clerk's name shall be changed to reflect the current City Clerk.

Further discussion ensued: (1) concerns were expressed that putting limits on buffer zones will take away rights of owners; and it was recommended slowing down to ensure that the legislation is done correctly; (2) it was suggested to amend the motion and change #5; (3) Mayor Yates will not support an amendment and favored moving forward with approval of the Ordinance; (4) if the amendment is approved at second reading, Vice-Mayor Carusone will request to return the Ordinance to the PZAB to be reheard; (5) City Attorney Moriarty clarified that the PZAB would review the document after first reading and prior to second reading because once the second reading of the Ordinance is approved, the legislation becomes law; (6) Commissioner McDowell will not support an amendment because neighbors have rights as well and it needs to be vetted by the PZAB.

A motion was made by Commissioner Hanks, seconded by Vice-Mayor Carusone, amending Exhibit A, #5, after "No covered enclosure or fenced enclosure shall be located in the front yard," to eliminate "nor shall the hen coop be closer than 10-feet to any property line nor within 25-feet of any adjacent residential property." The motion and second were withdrawn.

A vote was taken on the motion, to continue Ordinance No. 2016-42, Petition TXT 16-221 amending the City of North Port Unified Land Development Code, Chapter 53, permitting of chickens in the Residential Zoning District to the January 24, 2017 Commission Regular Meeting for second reading, with the following amendments: In Exhibit A, amending #1, to read "no more than four chickens may be kept on an 80x120 lot, or six chickens on two or more lots, with roosters being prohibited." Adding a #11 to read: "Chickens that are no longer wanted, by their owners shall not be taken to Animal Control, nor shall they be released. Unwanted chickens may be taken to the Health and Human Services, Mosquito Control Division for utilization in the sentinel chicken program." To amend #8, to read: "The sale of eggs or any other chicken products generated in a Residential Single Family District is prohibited and cannot be sold in a Residential Single Family District." To clarify the typographical errors changing the word "chickens" to "hens" and the City Clerk's name shall be changed to reflect the current City Clerk. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

C. [16-0700](#)

Ordinance No. 2016-43, first reading, repealing Ordinance No. 2016-11, Campaign Contribution Limitations, Chapter 2, Article II, Division 1, Section 2-25 Code of the City of North Port, Florida.

Vice-Mayor Carusone stepped out of the room momentarily.

A motion was made by Commissioner McDowell, seconded by Commissioner Hanks, to read Ordinance No. 2016-43 into the record by title only. The motion

carried by the following vote:

Yes: 3 - Mayor Yates, Commissioner Hanks and Commissioner McDowell

Not Present: 1 - Vice-Mayor Carusone

City Clerk Adkins read Ordinance No. 2016-43 into the record by title only and Commissioner McDowell provided an overview and clarified the request to rescind the Ordinance 2016-11 and to schedule the second reading on January 5, 2017 in a Special Meeting. Public comment was held.

Discussion and questions ensued: (1) subsequent to a question, City Attorney Moriarty confirmed that the requirement for advertising an ordinance is 10-days prior to its adoption at two separate meetings at least one week apart, as required by City Charter Section 9.01; (2) after a question, City Clerk Adkins affirmed that all the candidates currently in the running for Seat 4 were made aware of today's meeting and received a copy of Ordinance 2016-43.

A motion was made by Commissioner McDowell, seconded by Commissioner Hanks, to continue Ordinance No. 2016-43 to the January 5, 2017 Special Recognition Meeting for second reading. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

5. RESOLUTIONS

A. [16-0670](#)

Resolution No. 2016-R-28, Petition No. VAC-16-153, to vacate portions of the platted rear ten (10) foot utility and drainage easements located on lots 16, 17, 31 & 32, Block 1235, Twenty-Seventh Addition to the Port Charlotte Subdivision, Section 08, Township 39 South, Range 21 East, for the construction of a single-family home and septic system. (Quasi-Judicial)

City Clerk Adkins read Resolution No. 2016-R-28 into the record by title only, and as a Notary Public for Florida, swore in all those wishing to provide testimony.

Commissioner McDowell disclosed that she had exparte communication with staff.

Neighborhood Development Services Director Williams introduced Mr. Doerfeld representing Mr. and Mrs. Moore, who provided a brief review of the petition to build in the middle of four lots.

Director Williams and Zoning Coordinator Willette-Grondin provided an overview regarding the petition for Vacation of the Easement and highlighted the areas in a presentation. There was no public comment.

Discussion and questions ensued: (1) after a question, City Attorney Moriarty clarified that the procedural requirement is to provide a public hearing to give notice to all the easements holders opportunity to present any objections to the Commission prior to the vacation of easement being granted. The past practice for the process of a vacating an easement has been to do this by Resolution in one public meeting and that is what is required by law, but it may be done by Ordinance in two meetings if the Commission so directs; (2) Zoning Coordinator Willette-Grondin reported that the Resolution is recorded with the Sarasota County Clerk of Court and will be part of the record attached to the property; (3) all the lot lines are vacated and there are no anticipated drainage

problems; (4) City Attorney Moriarty clarified that Section 9.08 of the City Charter authorizes Resolutions to be applicable for three things: [1] concerning matters of administration; [2] an expression of a temporary character; or [3] a provision for the disposition of a particular item of the administrative business of the governing body. Either the first provision would apply to the situation, or the third provision would. In addition the Resolution definition in the City Charter mirrors that which is in Florida Statutes, Chapter 166.041; (5) Commissioner McDowell stated she will not support a motion due to procedures because this is a land-use issue; (6) City Manager Lewis explained that this is not a land-use issue, by law, but a Vacation of an Easement on the property and the City is releasing its easement to their property; (7) a recommendation was proffered that the Commission review the processes of how the City approaches certain things.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner Hanks, to approve Resolution No. 2016-R-28, Petition No. VAC-16-153, partial vacation of the platted rear ten (10) foot utility and drainage easements. The motion carried by the following motion with Commissioner McDowell dissenting for the reason previously stated:

Yes: 3 - Mayor Yates, Vice-Mayor Carusone and Commissioner Hanks

No: 1 - Commissioner McDowell

Recess 3:23 p.m. - 3:37 p.m.

B. [16-0699](#)

Resolution 2016-R-37, Approving the Terms and Authorizing the Mayor to Execute the Memorandum of Understanding Between the United States Attorney for the District of Columbia, the Metropolitan Police Department of Washington D.C., and the City of North Port.

City Clerk Adkins read Resolution No. 2016-R-37 into the record by title only and Police Captain Morales provided an overview of the Memorandum of Understanding (MOU) to provide security along different areas during the Presidential Inauguration in January, 2017. There was no public comment and the Commissioners acknowledged the great work of the North Port Police Department.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to approve Resolution No. 2016-R-37, Authorizing the Mayor to Execute the Memorandum of Understanding Between the United States Attorney for the District of Columbia, the Metropolitan Police Department of Washington D.C., and the City of North Port as it relates to the 2017 Presidential Inauguration. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

C. [16-0695](#)

Resolution No. 2016-R-35, supporting the appointment of FLC President Susan Haynie to the Florida Constitution Revision Commission (CRC).

City Clerk Adkins read Resolution No. 2016-R-35 into the record by title only and Mayor Yates provided an overview regarding the appointment of the Florida League of Cities President Haynie for the Florida Constitution Revision Commission and requested that the Commission pass the Resolution, supporting the recommendation as well as a Letter of Support to Governor Scott, and if applicable to the Senate President and Speaker of the House of Representatives. There was no public comment.

Following a question, Mayor Yates confirmed that Ms. Haynie was aware of this pending Resolution.

A motion was made by Commissioner Hanks, seconded by Commissioner McDowell, to approve Resolution No. 2013-R-35 supporting the appointment of FLC President Susan Haynie to the Florida Constitution Revision Commission (CRC), including the letters of support to the Governor, and if applicable the House Speaker and Senate President. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

D. [16-0682](#) Resolution 2016-R-34 rescinding Resolution 2015-R-28 setting a policy for the use of city facilities.

City Clerk Adkins read Resolution No. 2016-R-28 into the record by title only and Vice-Mayor Carusone provided an overview. There was no public comment.

Discussion ensued: (1) a policy is also needed for the use/rental of the Morgan Family Community Center, the George Mullen Activity Center and the expectations regarding the use of City Hall rooms; (2) the language in Resolution No. 2015-R-26 seemed to exclude the public and the language is problematic; (3) clarification was provided that facility use agreements are in place for City buildings including requirements, expectations, fee schedules, the proposed Resolution simply opens the buildings back up to the public.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to approve Resolution No. 2016-R-34 rescinding Resolution 2015-R-28 setting a policy for the use of city facilities. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

6. GENERAL BUSINESS:

A. [16-0694](#) Adams Group request for temporary consideration of agreement

Economic Development Program Manager Buchanan provided a review for temporary consideration from the Adams Group regarding an Economic Development Agreement and provided a PowerPoint. Ms. Adams, Chief Financial Officer of the Adams Group, was present to answer questions. There was no public comment.

Questions and discussion ensued: (1) following a question regarding the Job Creation Audit PowerPoint page and one new job in 2012 which netted \$10,000, clarification was provided that the amount is a year-end total and that year five new jobs were created but four were lost; (2) the requested extension of the Agreement will allow time to recoup losses owed to the City, but if the Agreement is not approved, the \$38,000 will be repaid to the City; (3) for the record, the required investment by December 31, 2011 of \$4,945,000 was met by the Adams Group; (4) verification was provided that the established annual wages for new job hires fell slightly below requirement of \$45,627 for this year, but the goal was met consistently for the past six years; (5) employees as of 09-30-2016 total 97; (6) with the recent acquisition of significant contracts, a very positive growth pattern is anticipated in the next year. Additionally, the company is expanding to retail space storefront preparation; (7) hiring North Port residents remains a priority; (8) during the next 12-month extension, the 19 new jobs that are projected would make the Agreement financially whole again and there is no expectation of additional funds from the City for jobs achieved above the 19; (9) further clarification was provided that the extension is inclusive only to the payout amount owed to the City.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner

McDowell, to approve authorizing the City Manager to execute a modification of the term of the 2010 Agreement with Adams Group, as presented for reconciliation of the 19 jobs. The motion carried by the following vote with the following concerns expressed:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

Commissioner Hanks voiced support for the motion, but also expressed concern that government is subsidizing specific businesses and not supporting others; and for the record, this is typically not good practice for government to subsidize specific businesses. Mayor Yates shared Commissioner Hank's philosophy but supported the motion.

B. [16-0697](#)

Economic Development Summit framework

City Manager Lewis introduced Economic Development Program Manager Buchanan, who provided a PowerPoint regarding the Economic Development Summit including possible prerogatives, objectives and format for the meeting. Public comment was held.

Questions and discussion ensued: (1) after a question, City Manager Lewis clarified that Ms. Buchanan's reference to Sarasota County referred to the Economic Development arm of Sarasota County; (2) it was suggested to include Charlotte County entities and a Sarasota County representative.

There was a consensus to grant the City Manager latitude to schedule an Economic Summit Meeting with a timeframe of February or March.

There was a consensus to consider evenings and Saturdays for the event.

There was a consensus to include the following entities in the discussions: Charlotte County entities; tourism boards and corporations throughout Sarasota and Charlotte Counties; and a Sarasota County Commission representative.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to proceed with the Economic Development Summit framework directed by the Commission. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

There was a consensus to move General Business Item 6.F., after 6.D.

D. [16-0681](#)

Discussion and possible action regarding appointment of one (1) Member to the Charter Review Advisory Board.

City Clerk Adkins announced the vacancy on the Charter Review Advisory Board and requested Commission review and approval of a new Board Member. There was no public comment.

Discussion ensued: (1) Mayor Yates expressed concern that Ms. Korpa submitted her application at the last Commission meeting when there was one seat available on the Charter Review Advisory Board, and although both are qualified, to be fair, Ms. Korpa deserves the appointment; (2) City Clerk Adkins stated that there are other openings on the City's Advisory Boards and Committees and the City Clerk's Department contacts applicants regarding other opportunities; (3) following an observation that the Commission may interview candidates prior to approving an appointment, a suggestion was offered to revisit the Advisory Board Ordinance.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner Hanks, to appoint Cory Hutchinson to the Charter Review Advisory Board. The motion carried by the following vote with Mayor Yates dissenting for reasons previously stated:

Yes: 3 - Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

No: 1 - Mayor Yates

F. [16-0698](#) Discussion and possible action regarding the Letter of Engagement with Rob Robinson and Nelson Hesse Law Firm.

Commissioner McDowell provided reasoning for cancelling the letter of engagement with Attorney Robinson. There was no public comment and no questions or comments from the Commission.

A motion was made by Commissioner McDowell, seconded by Vice-Mayor Carusone, to rescind in its entirety, the Letter of Engagement with the parameters set forth in Section 8 in the Letter of Engagement both to Mr. Robinson at Kirk Pinkerton and to Nelson Hesse. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

Recess 514 p.m.

RESOLUTIONS

E. [16-0701](#) TIME CERTAIN 6:00 P.M. - Resolution 2016-R-36 Appointing _____ as an interim City Commissioner to fill the vacancy of Jacqueline Moore seat 4 until a successor is elected, qualified and sworn-in following the special election.

Mayor Yates reconvened the meeting at 6:00 p.m. and stated, for the record, that 150 emails were submitted to the City Clerk. Thereafter, it was requested that all Commissioners forward any emails received to the City Clerk. A brief overview of the item was presented by Mayor Yates.

City Clerk Adkins read Resolution No. 2016-R-36 into the record by title only. Public comment was held.

Discussion and questions ensued regarding creating an interim seat: (1) subsequent to a question, City Attorney Moriarty explained: [a] the hierarchy of laws begins with the U.S. Constitution, U.S. Laws; Florida Constitution, Florida Laws; City Charter, City Ordinances and Resolutions; [b] the City Charter addresses North Port specifically for decisions affecting the City; [c] State Statutes set the minimum law and the City may set a higher standard but cannot go below; (2) City Charter, Section 3.01(b) was read into the record. "The City Commission, with all legislative powers vested therein, shall consist of five (5) Commissioners elected by the electors of this City as provided herein and in accordance with election procedures established by Ordinance."; (3) concern was expressed that the word "shall" is finite and provides explicit instructions of how to elect a Commissioner, that the appointment must be done by the electors, and election procedures to call a special election must be done by Ordinance not a Resolution; (4) City Attorney Moriarty: [a] confirmed that the City's Special Election was called in accordance with the provisions of Florida Statutes Chapters. 97-106, the City's Administrative Code, Section 2-1, and the City Charter; [b] an Ordinance is anything that is legislative in nature and a Resolution is anything administrative and the latter is

suitable to call for a special election; (5) following an appeal to rescind a portion of Resolution No. 2016-R-36, a more appropriate action would be a consensus of whether or not appointing an interim commissioner is appropriate; (6) Vice-Mayor Carusone stated that: [a] she supported the Resolution due to historical items that have failed by a 3-2 vote and a 2-2 vote could be detrimental; [b] six months without a fifth commissioner is a long time and decisions could get delayed; [c] appointing a commissioner is not unprecedented; [d] this situation was created by a former Commission; [d] an appointment at this time would not replace the current scheduled election; [e] the potential appointment would be done with the understanding that the individual would not run again; [f] many residents have voiced approval of the appointment; [g] her greatest concern is if something happened that would prevent City business from moving forward due to lack of a quorum; [h] preferred someone with previous government experience; (7) Commissioner Hanks opposed the Resolution: [a] due to the number of communications he received in opposition to appointing an interim commissioner; [b] the Charter does not allow this action; [c] appointing a commissioner takes the people's voice out of the process; (8) Commissioner McDowell stated: [a] there was sufficient time to hold a special election last November, there would not have been a vacancy now, and this could have been avoided; [b] City Charter stipulates that there shall be an election by the electors of the City; (9) Mayor Yates: [a] agreed with Commissioners Hanks and McDowell comments regarding their interpretation of the City Charter stipulations; [b] weighed and considered all public input; [c] has confidence in the four seated Commissioners to move forward with City business; [d] stated a review of the City Charter is needed; [e] expressed concern regarding the potential risk and challenge that should an appointment be made, every decision could be challenged for the next five months and may become null and void if the City Charter's language prevails; (10) it was requested that the Charter Review Advisory Board review the language and clarify the intent of this issue in their revisions of the Charter.

A motion was made by Commissioner McDowell, seconded by Commissioner Hanks, to leave the seat vacant until the May Special Election so the voters will fill the seat by election. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

Recess 7:00 p.m. - 7:05 p.m.

Mayor Yates requested that General Business Item 6.H. be heard next, because the attorney for that item has been present and waiting for that discussion.

There was a consensus to move General Business Item 6.H. before 6.E.

GENERAL BUSINESS:

H. [16-0702](#)

Discuss whether to appeal the recent order in Neuman v City of North Port; Circuit Court Case # 2016 CA 000427 NC.

City Attorney Moriarty provided a brief introduction to the agenda item and stated that because the City is involved in an on-going law suit, Attorney Mooney-Portale will be the legal advisor for the City. Thereafter, she presented an overview of the applicant's appeal and the quasi-judicial procedures that must be followed. The two options open to the Commission are: (1) to appeal the circuit court's determination of the property owner's writ of certiorari on or by December 15, 2016; or (2) to reboot the process to cure and fix the process regarding the property owner's Special Exception request. It was recommended not to appeal and pending that Commission direction, it was suggested to remand it back to the Planning & Zoning Advisory Board, and re-boot it from the start. There was no public comment.

Attorney Mooney-Portale provided the following information from questions posed by the Commission: (1) confirmed that this is a public meeting and there is nothing to prevent City Attorney Moriarty from being in the room; (2) the action still pending in the circuit court pertains the property owner's appeal to the Code Enforcement violation which was upheld by the court; (3) part of the applicant's allegation is that the whole process for the Special Exception request was tainted from the onset; (4) if full public hearings are held, and due process is afforded with an examination of competent evidence, and by applying the pertinent law, a record is compiled that can substantiate a denial of the request, if that is the conclusion of the Board and/or Commission; (5) pending a reboot of the process, it was recommended to hire an outside attorney to represent the City's interests; (6) in a reboot, the Commissioners should not consult with the City Attorney regarding the Special Exception petition so there is no question regarding impartiality or a perceived bias; (7) the best practice is not to engage in a discussion about the merits of land use applications that are pending before this City when it is known they will ultimately come to the Commission; (8) an additional step was recommended that when citizens lobby Commissioners about pending controversial land use (quasi-judicial) matters, the conversation should be stopped and the individual respectfully encouraged to attend the public hearing so the Commissioners may remain impartial and fair in their judgement and hear public comments as a body; (9) respond to email ex parte communications regarding quasi-judicial matters the same way; (10) the City Attorney will handle land owner's Code Enforcement appeal and may be consulted in regard to that matter being careful concerning the limitations of the discussion; (11) the applicant has the ability to withdraw, amend or proceed with the current application filed with the City; (12) a re-boot is considered a completely new hearing; (13) the judge's order stated that the pendency of the Code Enforcement matter in the circuit court was not violative of the applicant's due process rights, but the weight given to the Code Enforcement issue when the Commission considers the Special Exception application, and whether or not that is relevant, based upon applicable City Codes, is within the Commission's judgement at the quasi-judicial hearing.

Following a question and not having the City Code from which to read, City Manager Lewis stated that Special Exceptions have only been granted by the Commission where there was a requirement of an expiration date. In this case, due to the judge's ruling, it is a moot point.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, to follow the court's order to remand the case back to the City's Planning & Zoning Advisory Board and give the applicant a full due process; hiring special legal counsel for that process.

Subsequent to an inquiry, Ms. Mooney-Portale confirmed that the City Attorney may hire the outside legal counsel, and then the special counsel would report directly to the Commission. Discussion ensued regarding the option of directing the City Manager to handle the hiring.

A motion was made by Commissioner McDowell, seconded by Vice-Mayor Carusone, to amend the motion to give direction to the City Manager to hire the outside counsel. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

A vote was taken on the main motion, as amended, to follow the court's order to remand the case back to the City's Planning & Zoning Advisory Board and give the applicant a full due process; hiring special legal counsel for that process; and to give direction to the City Manager to hire the outside counsel. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

E. [16-0687](#) Discussion and possible action regarding appointment of Members to the Medical Hospital Task Force.

City Attorney Moriarty resumed his duty as legal counsel to the Commission.

City Clerk Adkins provided an overview of the applications for the Medical Hospital Task Force and requested the Commission consideration to fill the positions. There was no public comment.

Questions and discussion ensued: (1) citing Resolution No. 2016-R-21, the process of selecting Task Force members was explained; (2) for diversity, the intent was to appoint one individual in each professional category; (3) after concerns were expressed by Commissioners regarding the focus of the Resolution, it was suggested to give the Commission time to review the intent of the legislation for discussion at a future meeting, and appoint members at that time.

A motion was made by Vice-Mayor Carusone, seconded by Commissioner McDowell, that the discussion and possible action regarding the appointment of members to the Medical Hospital Task Force be postponed for a future date. The motion carried by the following vote:

Yes: 4 - Mayor Yates, Vice-Mayor Carusone, Commissioner Hanks and Commissioner McDowell

Further discussion ensued: (1) concern was expressed not to delay the appointments; (2) for the record, applications will continue to be accepted from the public; (3) the current applicants will be contacted to update them regarding the Commission's determination to postpone the item to a future date.

There was a consensus to bring back Resolution No. 2016-R-21 for review at the January 24, 2017 Commission Regular Meeting.

Clarification was provided that: (1) the Commission will review the Resolution and may provide backup material for consideration; (2) subsequent to a request for updated information regarding the Certificate of Need (CON) process, City Manager Lewis stated he will contact the hospital consultant used in the City's last CON process. The legal lobbying side is still under contract with the City and will be contacted as well; (3) City Manager Lewis stated that a generalized staff report will also be included as backup material; (4) an agenda item pertaining to this issue will be placed on the next Community Economic Development Advisory Board meeting for their review and recommendations to the Commission.

There was a consensus for staff to provide the Community Economic Development Advisory Board with information to review at their next Board meeting, and then forward their recommendations to the Commission.

G. [16-0683](#) Draft Ordinance 2016-40 Amending Commission Procedures

Vice-Mayor Carusone introduced the agenda item and public comment was held.

DISCUSSION AND CHANGES:

SECTION 2.01(a) scheduling Commission meetings. There was a consensus to change the paragraph to read: "Regular meetings. Consistent with section 6.01 of the City Charter, regular meetings shall be held at City Hall or other specified location. The City Commission shall meet regularly not less than once a month except in the month of August. When more than one meeting is held in any given month, then one shall be

held in the day and one will be in the evening. The regular meetings may be cancelled, rescheduled or added as needed."

SECTION 2.01(b) Special Recognition Meetings. There was a consensus to delete paragraph (b). Direction may be given to staff without having it in an Ordinance.

SECTION 2.01(e) After a suggestion, it was stated that streaming Workshop meetings is a budget conversation. There was a consensus for the proposed strikethrough and underlined sentences.

SECTION 2.01(f) Agenda Items requiring public hearings. There was a consensus to unstrike "(other than quasi-judicial). Also, the Code is referencing the wrong section (2-83) and should be changed to 2-79 to 2-84.

SECTION 2.01(f)(5) There was a consensus to strike "limiting the time to ten (10) minutes per commissioner." Keep the strikethrough text with a period after the word "staff". "The mayor or designee inquires whether there are any questions for the petitioner or staff."

SECTION 2.01(f)(6) There was a consensus for the proposed strikethrough and underlined sentences, but adding "or staff comments." So it shall read: "The petitioner may rebut any public or staff comments."

SECTION 2.01(f)(7) There was a consensus to strike "or the time for questions expires."

SECTION 2.01(f)(8) There was a consensus to only strike the last sentence: "Each Commissioner may speak twice, for no more than five (5) minutes each time."

SECTION 2.02(b) amending [2-55 Agenda] #5. There was a consensus to strike "non-agenda and consent agenda items" on both #5 and #12 but to keep "any matter" on both #5 and #12. So it shall read: "Public Comment: any matter." so they mirror each other.

#10 changing Scheduling of workshops to "Commission communication." and Commission Reports can be done during the communications.

SECTION 2.02(e) There was a consensus to unstrike the entire paragraph.

SECTION 2.02(c)#2 There was a consensus to change the sentence to read: "Any Commissioner may request discussion of a consent item and the item shall be removed from the Consent Agenda."

SECTION 2.02(g) There was a consensus to make two separate bullets and (g) will read with: "Citizens under section 15.01 of the city charter proposing ordinances for adoption by the commission shall submit a request for inclusion on the agenda." The rest of the paragraph and numbers 1, 2, and 3 shall remain.

SECTION 2.02(f) There was a consensus to make the second bullet (f) to read: "Departments, through the city manager shall submit a request for inclusion on the agenda."

SECTION 2.02(g)(1) Regarding five qualified voters. There was a consensus to strike the entire paragraph.

Clarification was provided that the City Clerk's Office will receive any petition submitted by any citizen.

SECTION 2.02(h) There was a consensus to add "and time sensitive items" to the Sentence. "All requests for inclusion on any agenda, with the exception of bona fide emergency items, and time sensitive items, shall be received by the City Clerk..."

Following a concern, City Attorney Moriarty quoted Robert's Rules of Order regarding the definition of consensus. "In cases where there seems to be no opposition in routine business or on questions of little importance, time can often be saved by the procedure of unanimous consent or as it was formally called general consent." Discussion ensued and it was agreed that a consensus is defined as a majority agreement of those present.

There was a consensus to continue this discussion to the next meeting.

7. PUBLIC COMMENT:

Public comment was held 9:51 p.m. - 9:53 p.m.

8. SCHEDULING OF WORKSHOPS:

No workshops were requested.

9. COMMISSION REPORTS:

Vice-Mayor Carusone reported on her attendance at the Florida League of Cities Conference.

Commissioner McDowell reported on her attendance of the: (1) Heart Luncheon sponsored by the North Port Police Department; (2) the Florida League of Cities Conference; (3) after an inquiry, City Manager Lewis stated that Mayor Yates has been designated to present North Port's Legislative Priorities, at Sarasota County's Legislative Delegation; (4) noted that the first Community Meeting regarding the Unified Land Development Code update is scheduled for January 5, 2017; (5) toured the North Port Police Department; (6) requested that the swimming pool issue be considered as a referendum item.

A brief discussion ensued regarding the pros and cons of a community swimming pool.

Commissioner Hanks: (1) reported that he attended the Florida League of Cities; (2) recommended a review of the City's policy regarding how to utilize social media as a mechanism for communication in emergency and other situations. It was recommended to meet with the City Manager for an update on the City's policy regarding social media and report back at a Commission meeting. City Manager Lewis provided supplemental information about what is already available and that it may be expanded. A policy is needed to determine on how to handle it.

Mayor Yates reported that she attended: (1) the Florida League of Cities; (2) the Sarasota/Manatee Metropolitan Planning Organization meeting on December 12, 2016.

10. ADMINISTRATIVE AND LEGAL REPORTS:

City Manager Lewis: (1) provided an update on the YMCA pool and a written report will be provided to the Commission tomorrow; (2) a summary of the Butler Park pool will also be provided.

City Clerk Adkins: (1) reported that candidates for the Deputy City Clerk position were narrowed to three and testing was given to them today; (2) requested a consensus to

schedule a Special Meeting to interview the three candidates.

Mayor Yates reminded the Commission regarding the Tax Collector Ribbon Cutting Ceremony tomorrow at 7:30 a.m.

There was a consensus to schedule a Special Meeting on Thursday, January 5, 2017 at 1:00 p.m. to interview the three candidates for the Deputy City Clerk position.

11. ADJOURNMENT:

Mayor Yates adjourned the North Port City Commission Regular Meeting at 10:23 p.m.

City of North Port, Florida

By: _____
Linda M. Yates, Mayor

Attest: _____
Patsy C. Adkins, MMC, City Clerk

Minutes approved at the City Commission Regular Meeting this ____ day of _____, 2017.