



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes City Commission Special Meeting

CITY COMMISSIONERS

Jacqueline Moore, Mayor
Rhonda Y. DiFranco, Vice-Mayor
Cheryl Cook, Commissioner
Tom Jones, Commissioner
Linda M. Yates, Commissioner

APPOINTED OFFICIALS

Jonathan R. Lewis, City Manager
Mark Moriarty, City Attorney
Helen Raimbeau, MMC, City Clerk
Patsy Adkins, MMC, Deputy City Clerk

Tuesday, June 21, 2016

9:00 AM

CITY COMMISSION CHAMBERS

CALL TO ORDER/ROLL CALL

The North Port Commission Special Meeting was called to order in the City Chambers at 9:00 a.m. by Mayor Moore.

Present: Mayor Moore; Vice Mayor DiFranco; Commissioners Cook, Jones and Yates; City Manager Lewis; City Attorney Moriarty; City Clerk Raimbeau; Deputy City Clerk Adkins and Police Chief Vespia.

The Pledge of Allegiance was led by the Commission.

Discussion ensued regarding the propriety of the meeting: (1) Vice-Mayor DiFranco stated [a] a motion to reconsider can only be made by a member who voted with the prevailing side and this agenda item to reconsider the Resolution was not brought forth again by someone on the prevailing side; [b] she was not notified whether there would be a quorum for this meeting; and [c] for the record, this meeting is out of order because it is an abuse of the process, was called without the establishment of a quorum, and was called by an individual on the non-prevailing side; (2) after it was recommended that the Agenda should be approved prior to discussion of any agenda items, Mayor Moore ruled to move forward with approval of the Agenda; (3) Commissioner Yates stated that: [a] no action was taken during the previous meeting; [b] this is a different Resolution; [c] that establishment of a quorum is done at the commencement of a meeting; [d] any one Commissioner may call a Special Meeting; and [e] City Attorney Moriarty previously indicated this meeting does not fall into a category of a reconsideration for the item; (4) City Attorney Moriarty noted that the appeal of a decision of the Mayor to move forward with the meeting takes precedence over any other motion, and clarified that in challenging the Mayor's decision, a yea vote indicates support of the Mayor's decision.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to challenge the Mayor's ruling to move forward with the meeting. The motion carried by the following vote with Vice-Mayor DiFranco and Commissioner Cook dissenting. Vice-Mayor DiFranco dissented for reasons previously stated and Commissioner Cook did not provide reasons for her dissent:

Yes: 3 - Mayor Moore, Commissioner Yates and Commissioner Jones

No: 2 - Commissioner Cook and Vice-Mayor DiFranco

Discussion ensued: (1) it was noted that this Agenda item was presented at a previous meeting and contains the same backup documents previously provided by the City Attorney; (2) after City Attorney Moriarty was requested to affirm the content of a conversation prior to this meeting, he stated; [a] that the previous vote was three-to-two to move forward with this meeting and the content of a conversation prior to this meeting is a moot issue; [b] that a motion to reconsider must be reconsidered during the session or meeting in which it is heard, and must be done by someone on the prevailing side; [c] this is a new motion and a new meeting; (3) Commissioner Yates supported moving forward with the agenda and the meeting; (4) Mayor Moore articulated concern that: [a] the public has known of the Seat 4 vacancy since May 27, 2016 and if Seat 4 is not on the ballot in November, 2016 the Commission will meet six months without a full Board, leaving potential two-to-two gridlock votes for six months until a special election can be held; [b] the Charter states that a vacancy should be filled "forthwith" meaning immediately; and [c] postponing the election for Seat 4 would also cost the tax payers additional money to hold the special election in 2017.

A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to deny the Agenda as presented or as amended. The motion failed by the following vote with Mayor Moore, Commissioners Jones and Commissioner Yates dissenting. Mayor Moore and Commissioner Yates provided reasons for dissenting. Commissioner Jones did not provide a reason for dissent:

Yes: 2 - Commissioner Cook and Vice-Mayor DiFranco

No: 3 - Mayor Moore, Commissioner Yates and Commissioner Jones

APPROVAL OF AGENDA – COMMISSION

A. [16-0348](#) Resolution 2016-R-13 calling for a special election for Commission Seat 4

City Clerk Raimbeau read Resolution 2016-R-13 into the record by title only. City Attorney Moriarty provided a brief overview of the Resolution, and stated that currently there is a Court Case which determined the definition of "forthwith" as "immediately without delay directly hence within a reasonable time under the circumstances of the case promptly and with reasonable dispatch within such time as to permit that which is to be done to be done lawfully and according to the practical and ordinary course of things to be performed or accomplished." (U.S. v. Jennings 333 F. Supp. 1392). The Resolutions in the backup material call for the election of Seat 4 to be held contemporaneously with the General Election in August and November, 2016, or calling for an election in March and May, 2017. Public comment was held.

Subsequent to a request, Mayor Moore ruled that City Attorney Moriarty shall be allowed to convey Commissioner Jones' position on the agenda item, which was summarized as follows: According to the City Charter, in 2016 an election will be held for Seat 1, 2 and 3 and nothing else. If there are four seats on the 2016 election ballot, there is a potential of having only one Commissioner with institutional knowledge. In Section 7.02 of the City Charter, provides the ability of a majority of the Commission to fill the vacancy by appointment if a vacancy occurs less than 90 days prior to the next General Election and shall serve until the next General Election.

Questions ensued and City Attorney Moriarty clarified: (1) the Charter in Section 3.02

states that "the Commission shall forthwith call a Special Election" not hold a Special Election; and Section 7.02 provides a starting point in providing the Commission ability to declare the office vacant now and not wait until it is actually vacant; (2) the vacancy will occur November 8, 2016 and the Letter of Resignation affords the ability to treat it as the end of the term and schedule a Special Election for that seat; (3) if the Commission deems to accept the date of the resignation letter as notice of the end of term, it enables the election of Seat 4 to be held with the Primary and General Election in 2016.

Following a question, City Clerk Raimbeau stated that the Commission could recess the Special Meeting to open the Commission Workshop Meeting, then recess the Workshop Meeting to continue the Special Meeting.

A motion was made by Commissioner Jones, seconded by Vice-Mayor DiFranco to recess the Special Meeting. The motion carried by the following vote:

Yes: 5 - Mayor Moore, Commissioner Cook, Commissioner Yates, Vice-Mayor DiFranco and Commissioner Jones

Recess 10:02 a.m. -- 10:12 a.m.

After the meeting was reconvened, questions continued: (1) Mayor Moore explained that the purpose of the second, unnamed Resolution in the backup material was to schedule dates for a Special Election to be held in March, 2017 for the Primary Election, and May 9, 2017 for the General Election to fill Seat 4; (2) City Attorney Moriarty stated: [a] if there is a clean sweep of Commissioners this fall in Seats 1, 2, 3, and 4, Commissioner Yates would be the only Commissioner with institutional and historical knowledge; (3) the Commission Special Meeting was scheduled to move forward with determining how and when Seat 4 would be filled as a result of her resignation in November, 2016; (4) City Attorney Moriarty stated: [a] that the Commission could designate an appointee to Seat 4 and clarified that the special appointment is not in lieu of a Special Election but to appoint until the Special Election can be held; [b] that the second, unnamed Resolution included in the backup material cannot be adopted at this meeting because it was not publicly noticed and was included for illustrative purposes; [c] agreed that if Resolution No. 2016-R-13 is not approved, the Commission could call a future meeting regarding the second, unnamed Resolution for discussion and possible action; [d] in the meantime, due to the Letter of Resignation, the Commission may begin the process to appoint someone to Seat 4 commencing November 8, 2016 when the seat is physically vacated.

A motion was made by Commissioner Yates, seconded by Mayor Moore, to approve Resolution No. 2016-R-13, calling for a Special Election for Commission Seat 4.

Discussion ensued: (1) Commissioner Yates: [a] voiced concern that an appointment to Seat 4 is taking the choice from the public; [b] there will be four seats impacted in this election cycle; [c] the Special Election should coincide with the Primary Election and the General Election due to the financial impact and with regard to instability it may cause regarding attendance at meetings and voting; [d] if a Commissioner currently running in this election cycle does not prevail, he/she could immediately file for the at-large seat of Seat 4 to fill the remaining two-year term of Seat 4; (2) Commissioner Cook would not support the motion due to: [a] the Commission has a right to use the appointment tool; [b] the Commission has the fiduciary responsibility to the public to ensure a fair election; [c] the qualifying time limits for candidates is too short for candidates to qualify for a November, 2016 election and [d] addressing a public comment, it was noted that the tools of Roberts Rules of Order are being used to ensure meetings are held in an efficient manner; (3) Vice-Mayor DiFranco expressed the following: [a] holding an election for Seat 4 in November, 2016 would be rushing the process and there must be a fair election by holding a special election in May, 2017; [b] this item should have been brought to the Commission for approval when the resignation to vacate Seat 4 was

submitted and made public on May 24, 2016; [c] will not support the motion because two days to file for candidacy does not make for a fair election process; (4) Mayor Moore stated that holding an election for Seat 4 in November, 2016 follows the City Charter, and her resignation of Seat 4 to run for election in her proper district was the right thing to do.

A vote was taken on the motion, which failed by the following vote with Vice-Mayor DiFranco and Commissioners Cook and Jones dissenting for reasons previously stated:

Yes: 2 - Mayor Moore and Commissioner Yates

No: 3 - Commissioner Cook, Vice-Mayor DiFranco and Commissioner Jones

Discussion ensued: (1) Commissioner Jones did not support another Resolution because only Seat 1, 2, and 3 are up for election in this election cycle; (2) Commissioner Yates did not support the direction in which the Commission was moving and expressed disappointment that this issue is not moving forward.

A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to direct the City Attorney to bring back the second Resolution calling for a Special Election for Seat 4 March 14, 2017 for the Primary Municipal Election and May 9, 2017 for a General Municipal Election. The motion failed by the following vote with Mayor Moore and Commissioners Jones and Yates dissenting for reasons previously stated:

Yes: 2 - Commissioner Cook and Vice-Mayor DiFranco

No: 3 - Mayor Moore, Commissioner Yates and Commissioner Jones

A motion was made by Commissioner Yates, seconded by Mayor Moore, to direct the City Attorney request an opinion from the Division of Elections and the Attorney General in regards to the vacancy of Seat 4 and requirements for filling that vacancy in accordance with the City Charter. The motion carried by the following vote:

Yes: 5 - Mayor Moore, Commissioner Cook, Commissioner Yates, Vice-Mayor DiFranco and Commissioner Jones

PUBLIC COMMENT: Public comment was held from 10:52 a.m. to 10:55 a.m.

ADJOURNMENT:

Mayor Moore adjourned the North Port City Commission Special Meeting at 10:56 a.m.

City of North Port, Florida

By: _____
Jacqueline Moore, Mayor

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

Minutes approved at the City Commission Regular Meeting this ____ day of _____, 2016.

