



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes City Commission Regular 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
Patsy Adkins, Interim City Clerk

Tuesday, July 26, 2016

10:00 AM

CITY COMMISSION CHAMBERS

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 Moore.

Present: Mayor Moore, Vice-Mayor DiFranco; Commissioners Cook, Jones and Yates; City Manager Lewis; City Attorney Moriarty; Interim City Clerk Adkins; Recording Secretary Hale and Police Chief Vespia.

A moment of silence was observed by those in attendance.

The Pledge of Allegiance was led by the Commission.

1. APPROVAL OF AGENDA – COMMISSION

Discussion ensued: (1) Commissioner Yates related that there has been constant public supplication to renew the request for evening Commission meetings; (2) Mayor Moore stated opposition to remove the agenda item.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to approve the Agenda, pulling Item 7.D. Discussion and possible action regarding Commission Regular Meeting start time for the remaining meetings in 2016 on the fourth Tuesday of the month. The motion carried by the following vote with Mayor Moore and Commissioner Yates dissenting for reasons stated:

Yes: 3 - Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 2 - Mayor Moore and Commissioner Yates

2. ANNOUNCEMENTS

A. [16-0416](#) Current Vacancies for Boards and Committees.

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

- B. [16-0417](#) Upcoming Expiration Dates for Boards and Committees.

Interim City Clerk Adkins read the Upcoming Expirations for Board Members into the record.

3. PUBLIC COMMENT:

Public comment was held 10:09 a.m. --10:41 a.m.

4. CONSENT AGENDA:

A motion was made by Commissioner Yates, seconded by Mayor Moore, to approve the Consent Agenda, pulling Items 4.G., 4.H., 4I., 4J., and 4.K. for discussion. The motion carried by the following vote:

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

- A. [16-0418](#) Approval of Minutes for the June 24, 2016 Commission Workshop Meeting, July 7, 2016 Commission Special Recognition Meeting.
- B. [16-0389](#) Renewal of Agreement No. 2013-63 with Greenberg Traurig, P.A. for professional lobbyist services in Tallahassee for a monthly retainer of \$4,675.00.
- C. [16-0331](#) Procurement of replacement vehicle for Utilities through Alan Jay Ford Lincoln Mercury, Inc. utilizing the Florida Sheriff's Association and Association of Counties Bid 15-13-0904 in the amount of \$41,858.00.
- D. [16-0336](#) Inter-local agreement with Sarasota County Government and Sarasota County Sheriff's Office for Fire/Rescue and Emergency Medical Dispatch Services.
- E. [16-0377](#) Agreement between the School Board of Sarasota County, Florida and City of North Port for the School Resource Officer Program
- F. [16-0394](#) County-Wide Justice Assistance Grant (JAG) for Behavioral/Mental Health Court Support Letter.
- G. [16-0393](#) License and Hold Harmless Agreement for Use of Training Facility between the City of North Port and the Sheriff of Hillsborough County.

Police Chief Vespia provided a brief overview of the reasoning to use the Hillsborough Police Training Facility and stated that the request focused on a cost savings and additional resources and training offered at the establishment. There was no public comment.

Questions ensued: (1) officers will be bussed to and from the complex and training will take place en route; (2) the compound offers extensive training resources and is the nearest one to North Port; (3) four training days over three weeks are scheduled to accommodate sworn officers in all shifts, and the proposal includes an overall cost savings in the Department budget.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook,

to approve License and Hold Harmless Agreement for Use of Training Facility between the City of North Port and the Sheriff of Hillsborough County. The motion carried by the following vote:

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

H. [16-0383](#)

Approval of Amendment No. 1 Contract 2015-19, for Additional Outreach and Land Acquisition Activities for the Price Boulevard Widening from Sumter Boulevard to Toledo Blade Boulevard in an amount not to exceed \$161,570.00.

City Manager Lewis presented a brief overview of the agenda item, stating that there are two components the Contract: [a] three additional public outreach meetings are scheduled; and [b] the acquisition of 16 additional undeveloped lots for use as stormwater retention ponds. Public Works Director Bellia provided additional details regarding the proposed amendment to the Agreement and was present to answer questions. There was no public comment.

Discussion ensued: (1) appraisals will serve two purposes: [a] to insure that the City pays the fair market value for the lot; and [b] to prove the City has done due diligence if eminent domain is required to acquire the lot; (2) Assistant City Manager Schult stated that land acquisition for the Myakkahatchee Creek Greenway lots are based on the Sarasota County Property Appraiser's Just Value, and it was determined to offer those owners the Just Market Value due to the Appraiser's low assessed value. In the Price Boulevard corridor lots, the City is using the Fair Market Appraised Value; (3) City Manager Lewis stated that the same procedure used to acquire the Greenway properties may be inserted as a step in the acquisition of the Price Boulevard corridor properties.

A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to approve Item 4.H.

Commissioner Yates questioned that the cost of the acquisition company does not include the cost of the land or any difficulties encountered in the property negotiation process, and recommended that the project be accomplished by the City's in-house attorney.

A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to amend the motion, to remove the \$108,240 for the land acquisition services. The motion carried by the following vote with Commissioner Cook dissenting. She gave no reason for her dissent:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Jones and Commissioner Yates

No: 1 - Commissioner Cook

A vote was taken on the main motion, as amended, to approve Amendment No. 1 Contract 2015-19, with Charlotte Engineering, for Additional Community Outreach activities for the Price Boulevard Widening from Sumter Boulevard to Toledo Blade Boulevard in an amount not to exceed \$26,270. The motion carried by the following vote with Commissioner Cook dissenting but she did not provide a reason:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Jones and Commissioner Yates

No: 1 - Commissioner Cook

- I. [16-0408](#) Variance to City Code Section 78-30(f), to authorize the execution of Florida Department of Environmental Protection (FDEP) permits for Sarasota County School Board.

City Manager Lewis introduced the item and Utilities Director Newkirk presented an overview. School will open Aug 2017 and a delay in permitting could delay the start date for the Technical Institute. Mr. Kirk Jensen, engineer of record for the Sarasota County School Board was present to answer questions. There was no public comment.

Discussion: (1) City Manager Lewis stated that the Interlocal Agreement associated with this Contract would not be ready for the August Special Commission Meeting and is contingent upon the Sarasota County School Board approval process; (2) the Utilities Department is not requesting a change in City Code, but rather a variance waiver to allow the Utilities Director to sign the necessary FDEP permits, thereby avoiding unnecessary delay of the project's progress until September; (3) City Manager Lewis stated that in his last five-year tenure or prior to that, it cannot be definitively stated that a waiver was granted for a Utility Agreement prior to granting a FDEP permit; (4) Commissioner Yates opined that due to the nature of the amendment, the Contract and the Interlocal Agreement should be addressed at the Commission Special Meeting scheduled for August 16, 2016, and has reservations allowing the permitting process to move forward in advance of the Interlocal Agreement.

A motion was made by Commissioner Cook, seconded by Commissioner Jones, to approve the Variance to City Code Section 78-30(f), to authorize the execution of Florida Department of Environmental Protection (FDEP) permits for Sarasota County School Board. The motion carried by the following vote with Commissioner Yates dissenting for reasons previously stated:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 1 - Commissioner Yates

- J. [16-0392](#) Group medical insurance coverage and carrier change from Cigna to United Health Care estimated at \$5,791,832

Human Resources Director Dade introduced Mr. Chris Woertz, Willis Account Executive/Client Advocate of Willis Towers & Watson, who provided an overview of the health insurance findings and options. Public comment was held.

Questions ensued: (1) mental health coverages for United Healthcare were cited and it was reported that in-patient psychiatric care is covered like other hospitalizations in regard to the deductible plus the co-insurance, and the "never to exceed the out-of-pocket maximum amount" for in-network providers; (2) there are unlimited visits for out-patient psychiatric care; (3) it was reported that the number of claims submitted by the City has exceeded 100% of premiums for several years; (4) for budget purposes, it was assumed that most employees will choose the low HMO coverage for the first year; (5) the insurance deductibles and the out-of-pocket max are renewable annually on a calendar year and complexities arise only when the insured employee increases or decreases the amounts; (6) the Health Savings Account (HSA) high deductible health plan was explained; (7) the main difference in switching from Cigna to United Healthcare is that the co-pay will be lower; (8) Applied Behavior Analysis (ABA) therapy as covered by United Healthcare was explained; (9) miscellaneous services are included and the backup only included an overview of coverages; (10) an overall healthcare rating will be provided for United Healthcare; (11) City Manager Lewis stated that if the only disconcerting issue is how the ABA/mental health coverages are addressed, the Commission could consider the present plan under discussion, and give direction to bring back plan alternatives with associated costs; (12) it was reported that

the benefit level [co-pays] for ABA coverage is the same for United Healthcare as for Cigna; (13) clarification was provided regarding ABA/mental health that there is no limitation to visits, the co-pay is the same, and the difference lies in clinical management prior authorizations when the child is in school. United Healthcare does not cover during that time; (14) clarified that the maximum out-of-pocket and deductibles carry over after October 1, 2016 as long as the coverage remains the same. Public comment was held.

There was a general agreement to allow public comment again, with Vice-Mayor DiFranco and Commissioner Cook dissenting.

Discussion ensued: (1) Commissioner Cook expressed concern that a delay in a Commission decision will negatively affect employees; (2) City Manager Lewis presented the impact of postponing the item and voiced concern that with Open Enrollment beginning in September, insufficient time remains to educate employees on the revised coverage prior to the end of the fiscal year.

A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to table the agenda item and bring it back in Special Meeting in August with the complete services overview, company ratings, and comparative coverage between Cigna and UHC for the mental health/autism or other substantial changes in coverages. The motion carried by the following vote with Commissioners Cook and Jones dissenting. Commissioner Cook provided reasons above; Commissioner Jones did not:

Yes: 3 - Mayor Moore, Vice-Mayor DiFranco and Commissioner Yates

No: 2 - Commissioner Cook and Commissioner Jones

Recess 12:35 p.m. -- 1:35 p.m.

K. [16-0404](#) Agreement No. 2016-27 with International City Management Association Retirement Corporation for the administration of the City's deferred compensation plan.

City Manager Lewis introduced the agenda item and Finance Director Lear presented an overview of the options for approval. There was no public comment.

Clarification was provided on the following items: (1) the International City Management Association Retirement Corporation (ICMA) is the only option offered to employees at this time; (2) the current participants in the Nationwide Plan would be moved to the ICMA Plan but there is no cost to transfer the individual's funds.

A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to approve Agreement No. 2016-27 with International City Management Association Retirement Corporation (ICMA-RC) for the administration of the City's deferred compensation plan. The motion carried by the following vote:

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

5. PUBLIC HEARINGS:

A. [16-0403](#) Ordinance 2016-24, Second Reading, modifying the City-Wide Fee Schedule for Fiscal Year 2016-2017.

Interim City Clerk Adkins read Ordinance No. 2016-24 into the record by title only after which City Manager Lewis introduced the agenda item, stating that the changes directed by the Commission were incorporated into the document for second reading,

and Finance Director Lear provided a brief review. There was no public comment.

Discussion ensued: (1) Commissioner Cook opposed adding back the hourly fee for rental of the Paw Park because it excludes all other patrons from using the park while it is rented; (2) it was reported that the same exclusive rental agreement applies to private rentals of the Skate Park.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Yates, to approve Ordinance 2016-24 modifying the City-Wide Fee Schedule for Fiscal Year 2016-2017. The motion carried by the following vote with Commissioner Cook dissenting for reasons stated:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Jones and Commissioner Yates

No: 1 - Commissioner Cook

B. [16-0407](#)

Ordinance 2016-25, Second Reading, changing the name of North Main Street to Rue S. Berryman Street.

Interim City Clerk Adkins read Ordinance No. 2016-25 into the record by title only and City Manager Lewis provided a brief review. There was no public comment.

Following a question, Commission directed staff to change the signage tomorrow and to schedule a Dedication Ceremony within a month, working with the City Clerk's Office to find a suitable date.

A motion was made by Commissioner Yates, seconded by Commissioner Jones, to approve Ordinance No. 2016-25, changing the name of North Main Street to Rue S. Berryman Street. The motion carried by the following vote with Commissioner Cook dissenting because City streets and amenities should not be named after people.

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Jones and Commissioner Yates

No: 1 - Commissioner Cook

C. [16-0395](#)

Ordinance No. 2016-17, First Reading, Petition No. VIA-15-178, amendments to the West Villages Index Map

As a quasi-judicial hearing Interim City Clerk Adkins swore in all those wishing to provide testimony on the item.

Mayor Moore and Commissioner Yates disclosed ex parte communication with staff.

A motion was made by Commissioner Jones, seconded by Vice-Mayor DiFranco, to read Ordinance No. 2016-17 by title only. The motion carried by the following vote:

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

Mr. Marty Black, Chairman of the West Villages Improvement District (WVID), provided a review of the petition for the Village Index Map Amendment and changes were noted on an overhead map. Planning Division Manager Norton of Neighborhood Development Services, presented additional items from staff's review of Matamay's request and conditions of approval. There was no public comment and no questions or comments from the Commission.

A motion was made by Commissioner Yates, seconded by Commissioner Cook,

to continue Ordinance No. 2016-17 to the September 13, 2016 Commission Regular Meeting for second reading. The motion carried by the following vote:

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

D. [16-0396](#)

Ordinance No. 2016-22, First Reading, Petition No. CPAL 15-157, Costamar at West Villages Comprehensive Plan Future Land Use Map Amendment and Amendment to Figure 13.1.n of the Land Use Element of the City of North Port Comprehensive Plan.

As a quasi-judicial hearing Interim City Clerk Adkins swore in all those wishing to provide testimony on the item.

Mayor Moore and Commissioner Yates disclosed ex parte communication with staff.

A motion was made by Commissioner Yates, seconded by Commissioner Jones, to read Ordinance No. 2016-22 by title only. The motion carried by the following vote:

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

Interim City Clerk Adkins read Ordinance No. 2016-22 into the record by title only and Mr. Marty Black, Chairman of the West Villages Improvement District (WVID) continued with a review of the Comprehensive Plan Map Amendment which will provide full regulatory authority over the property to the City of North Port. Planning Division Manager Norton introduced Planner Whitaker, the project planner, who provided additional information pertaining to the amendment and recommended transmitting the approved Ordinance to the Florida Department of Economic Opportunity for review. There was no public comment.

Following a question, Planning Division Manager Norton affirmed that the amendment adds the Sarasota Memorial Hospital property into the WVID and no densities or intensities change in either the Comprehensive Plan Amendment or the Rezone.

A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to continue Ordinance No. 2016-22 to the September 27, 2016 Commission Regular Meeting for second reading and transmit Ordinance No. 2016-22 to the Florida Department of Economic Opportunity for review. The motion carried by the following vote:

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

E. [16-0397](#)

Ordinance No. 2016-16, First Reading, Petition No. REZ-15-158, West Villages Rezone.

As a quasi-judicial hearing Interim City Clerk Adkins swore in all those wishing to provide testimony on the item.

Commissioner Yates disclosed ex parte communication with staff.

A motion was made by Commissioner Jones, seconded by Commissioner Cook, to read Ordinance No. 2016-16 by title only. The motion carried by the following vote:

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

Interim City Clerk Adkins read Ordinance No. 2016-16 into the record by title only, after

which Mr. Marty Black, Chairman of the West Villages Improvement District (WVID) provided a brief overview of the request for rezoning, including the parts of West Villages that were rezoned. Planning Division Manager Norton provided additional information regarding the rezoning efforts to WVID and Zoning Coordinator Willette-Grondin reported that the agenda item was advertised per Florida Statutes, the City Charter and the City's Unified Land Development Code. Public notices were also provided. City Attorney Moriarty reviewed and approved the document as to its form and correctness. There were no public comments and no questions or comments by the Commission.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Yates, to continue Ordinance No. 2016-16 to the September 13, 2016 Commission Regular Meeting for second reading. The motion carried by the following vote:

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

F. [16-0399](#)

Ordinance No. 2016-20, First Reading, Petition No. TXT-16-088 Amending Chapter 14, Earthmoving, Dredge and Fill Regulations, Sections 14-1 through 14-21 of the City of North Port Unified Land Development Code and Amending Chapter 61, Definitions, Section 61-3 Definitions and Word Usage

A motion was made by Commissioner Jones, seconded by Vice-Mayor DiFranco, to read Ordinance No. 2016-20 by title only. The motion carried by the following vote:

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

Interim City Clerk Adkins read Ordinance No. 2016-20 into the record by title only, and Planning Division Manager Norton presented a review of the legislation and thereafter, Planner Galehouse provided the details of the amendment which will modify ULDC Chapter 14. There was no public comment.

Discussion ensued: (1) exemptions that were carried over into the new Ordinance were cited, and the new exemption that was added is found in Section 14-17 and 14-18; (2) Commissioner Yates did not agree with the approach taken because it does not give the Commission and the public enough time to deliberate the content and because the requirements tie into many other sections of the Code and it is being presented ahead of the process to overhaul the entire ULDC.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to continue Ordinance No. 2016-20 to the September 13, 2016 Commission Regular Meeting for second reading. The motion carried by the following vote with Commissioner Yates dissenting for reasons previously stated:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 1 - Commissioner Yates

G. [16-0398](#)

Ordinance No. 2016-21, First Reading, TXT 16-090 Amendment to Section 17-09 the City of North Port Unified Land Development Code, Flood Damage Prevention Chapter

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Jones, to read Ordinance No. 2016-21 by title only. The motion carried by the following vote:

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

Interim City Clerk Adkins read Ordinance No. 2016-21 into the record by title only, after which City Manager Lewis introduced Planning Division Manager Norton who provided a brief report that this is the final step in Big Slough Study and the FEMA Flood Update for Sarasota County. Planner Whitaker provided a review of the Ordinance and the Flood Plain Management Regulations and how it affects North Port. Concerns posed at the Commission meeting in March were answered: (1) the 1981 FEMA Maps did not include the entire City and these updates are based on more accurate land data hydraulic modeling, quality control; (2) 272 lots were added in the new map update that will require flood insurance; (3) in many instances the floodplain touches the property but does not touch the insurable structure; (4) in many cases, there were no structures on a property located within a floodplain. Public comment was held.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to continue Ordinance No. 2016-21 to the September 13, 2016 Commission Regular Meeting for second reading. The motion carried by the following vote:

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

6. RESOLUTIONS

A. [16-0410](#)

Resolution 2016-R-19, Notice of Intent to Adopt Regulation Relating to the Use of the City's Rights-of-Way for Above-Ground Communications Facilities

Interim City Clerk Adkins read Resolution No. 2016-R-16 into the record by title only, after which City Manager Lewis introduced Planning Division Manager Norton and Planner Galehouse who provided a review of the legislation. An Ordinance is forthcoming. There was no public comment.

Questions and discussion ensued: (1) Section 3 notifies an applicant that if funds are expended prior to finalization of City action, they do so at their own risk and the City is held harmless; (2) Commissioner Yates articulated concern regarding putting things on hold because: [a] it stifles the progress of the community; [b] permits may be reviewed and rejected if there is a health/safety/welfare issue; (3) City Manager Lewis stated that the moratorium can be shortened upon Commission direction.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to approve Resolution No. 2016-R-19, providing a Notice of Intent to Adopt Regulation Relating to the Use of the City's Rights-of-Way for Above-Ground Communications Facilities. The motion carried by the following vote with Commissioner Yates dissenting for reasons stated:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 1 - Commissioner Yates

B. [16-0409](#)

Resolution 2016-R-18 calling for a special election for Commission Seat 4

Interim City Clerk Adkins read Resolution No. 2016-R-18 into the record by title only. Public comment was held.

Mayor Moore provided the dates of her filing and letter of resignation.

Following a concern, that a date on page 2 was not corrected, the correct date of May 9, 2017 was duly noted and the Resolution may proceed to be approved.

Commissioner Jones reiterated that he is only interested in elections for Seats 1, 2, and 3; that Seat 4 will not come up until 2018.

A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to approve Resolution No. 2016-R-18, calling for a special election for Commission Seat 4. The motion carried by the following vote with Commissioner Jones dissenting for reasons previously stated:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook and Commissioner Yates

No: 1 - Commissioner Jones

7. GENERAL BUSINESS:

A. [16-0366](#) Florida Low Income Housing Tax Credit Program (LIHTC)-North Port Process & Budget Allocation

City Manager Lewis provided a brief overview of the program, as recommended by staff and directed by the Commission. Planning Division Manager Norton presented the proposed City policy for Commission consideration and possible action. There was no public comment.

Questions and discussion ensued: (1) the language was changed in the application and the instructions to reflect the City's "contribution" may be monetary or in-kind; (2) City Manager Lewis has prepared a Service Level Adjustment (SLA) for Commission consideration during the Budget Workshop on Thursday, to address whether or not to include the \$50,000 in the Fiscal Year 2016-17 Budget; (3) the Florida Low Income Housing Tax Credit Program agenda item may be approved without including the \$50,000 portion of it; (4) this is not a contract and the Commission cannot be bound by this and what is subsequently approved in the budget.

A motion was made by Commissioner Yates, seconded by Commissioner Cook, to approve the 2016-2017 City of North Port contribution reservation process for the State of Florida Low Income Housing Tax Credit Program. The motion carried by the following vote:

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

Recess 3:15 p.m. -- 3:25 p.m.

B. [16-0413](#) Employment Contract with Patsy Adkins to be the City Clerk.

City Attorney Moriarty provided a review of the recommended directions from the Commission regarding the proposed Employment Contract for Patsy Adkins as the City Clerk. Commissioner Yates provided the City Attorney, the Interim City Clerk and all Commissioners, additional suggestions made at the previous Commission meeting which lists her concerns. Public comment was held.

Discussion ensued: (1) Commissioner Yates did not support the Contract due to the following reasons: [a] reiterated the contractual concerns presented at the last Commission Meeting; [b] articulated concern that the Performance Evaluations did not having a clear time period when it will be done; [c] any decision pertaining to salary increases should only be done by the Commission not controlled by the City Manager; [d] the compensation language must be clear that only one annual salary increase shall

be given per year; [e] the Contract clause regarding "removal without good cause" conflicts with the City Charter; (2) City Attorney Moriarty stated that the City Charter takes precedence over any Contractual provision and the benefit of this Contract is that it limits the City's financial exposure. In the event a legal action is taken against the City by the City Clerk due to a perceived violation of the Charter, she cannot sue the City for more than 20 weeks of monetary compensation under the terms of the Contract; and for the record, a major reason for opposing the Contract is due to the provision under 6.C., stating that "removal without good cause" is found in the Charter but it is not; (3) City Attorney Moriarty stated that the Contract is between the City Commission and Ms. Patsy Adkins; sets forth the contractual term of her employment; does not subvert the City Charter, and citizens cannot sue the City on the presumption that the City Charter was not followed; (4) Mayor Moore opposed the Contract because the City Clerk is a Charter officer and should receive the deferred compensation option.

A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Cook, to approve the City Attorney's original designed employment contract of Interim City Clerk Patsy Adkins, removing Item 9, Vehicle Allowance and removal of the City's contribution to the employee's Deferred Compensation. The motion carried by the following vote with Mayor Moore and Commissioner Yates dissenting for reasons stated:

Yes: 3 - Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 2 - Mayor Moore and Commissioner Yates

C. [16-0412](#)

Discussion and possible action regarding City Attorney Mark Moriarty's salary.

Commissioner Yates provided a brief overview of the agenda item, including facts that the City Attorney was given three raises within 16 days after his first year of employment.

Discussion ensued: (1) concern was expressed that the City Attorney cannot participate in the discussion and the Commission cannot meet without legal counsel, therefore, the agenda item should not be addressed until an outside attorney can be hired to represent the City's interests and City Attorney Moriarty can provide an attorney to represent his interests; (2) Commissioner Yates opposed tabling the agenda item for the following reasons: [a] City Attorney Moriarty could excuse himself for this discussion as was done in the past; and [b] because there is an Assistant City Attorney that could replace the City Attorney so the Commission may address this issue; (3) City Attorney Moriarty quoted Florida Bar: Rules of Professional Conduct 4-1.8, Conflict of Interest, paragraph (k) Imputation of Conflicts, "While lawyers are associated in a firm, prohibition in the foregoing subdivisions (a) through (i) that applies to any one of them, shall apply to all of them." Then in the Comment portion of the document, Imputation of prohibitions it states: "Under subdivision (k), a prohibition on conduct by an individual lawyer in subdivisions (a) through (i) also applies to all lawyers associated in a firm with the personally prohibited lawyer. For example, one lawyer in a firm may not enter into a business transaction with a client of another member of the firm without complying with subdivision (a), even if the first lawyer is not personally involved in the representation of the client."

Public comment was held.

A motion was made by Commissioner Cook, seconded for discussion by Vice-Mayor DiFranco, to table this item (7.C., 16-0412), until the City Commission can hire a Lawyer and budget for it. The motion carried by the following vote with Commissioner Yates dissenting for reasons previously stated:

Yes: 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

No: 1 - Commissioner Yates

- D. [16-0415](#) Discussion and possible action regarding Commission Regular Meeting start time for the remaining meetings in 2016 on the fourth Tuesday of the month.

THIS ITEM WAS PULLED FROM THE AGENDA.

8. PUBLIC COMMENT:

Public comment was held 4:30 p.m. -- 4:35 p.m.

9. SCHEDULING OF WORKSHOPS:

There were no requests to schedule a Commission Workshop.

10. COMMISSION REPORTS:

Vice-Mayor DiFranco attended a Community Health Action Team (CHAT) meeting on Wednesday, July 13, 2016.

Commissioner Cook attended: (1) a Community Health Action Team (CHAT) meeting on Wednesday, July 13, 2016; (2) the Dedication of the Sarasota County Transition House; (3) a Celebration of Life for City employee George Caines on Friday, July 15, 2016.

Commissioner Yates attended: (1) the Manasota League of Cities on Thursday, July 14, 2016; (2) the Candidate Forum for Senate District 73 on Tuesday, July 19, 2016.

Mayor Moore attended: (1) the Dedication for the Sarasota County Transition House; (2) went on a field trip with City Manager Lewis to the Panacea/Plantation area of North Port; (3) stated she would not support a budget amendment to obtain an outside attorney for the discussion regarding today's Agenda Item that was tabled.

Discussion ensued regarding giving direction to staff regarding how to resolve the landscape situation at Plantation: (1) City Attorney Moriarty stated that Property Standards presented the issue to the Code Enforcement Hearing Officer, who agreed that the CDD is responsible for the upkeep and for budgeting funds to that end. Citing Florida Statutes to that effect, the Hearing Officer took no remedial action against the CDD; (2) the City requested a re-hearing at the Code Enforcement meeting to insure that a lien may be filed if the City decides to take remedial action; (3) the next Code Enforcement Hearing is scheduled for August and the Commission will be apprised of any developments via a written communication.

Following an inquiry whether the City could move forward and mow the area in question with a future reimbursement settlement in mind, City Attorney Moriarty stated that the City is constitutionally prohibited from using taxpayer funds to the benefit of a private property.

Subsequent to a request, a consensus failed to direct staff to bring back an update concerning the Panacea landscape issue at the next Commission meeting. Vice-Mayor DiFranco, Commissioners Cook and Jones dissented.

11. ADMINISTRATIVE AND LEGAL REPORTS:

Nothing to report.

15. ADJOURNMENT:

Mayor Moore adjourned the North Port City Commission Regular Meeting at 4:49 p.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.