City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes

City Commission Regular Meeting

CITY COMMISSIONERS
Jill Luke, Mayor
Pete Emrich, Vice Mayor
Barbara Langdon, Commissioner
Debbie McDowell, Commissioner
Alice White, Commissioner

APPOINTED OFFICIALS
Jerome Fletcher, City Manager
Amber L. Slayton, City Attorney
Heather Taylor, City Clerk

Tuesday, October 12, 2021 | **10:00 AM** | **City Commission Chambers**

CALL TO ORDER

Mayor Luke called the meeting to order at 10:00 a.m.

ROLL CALL

Present: 5 - Mayor Jill Luke, Vice Mayor Pete Emrich, Commissioner Barbara Langdon, Commissioner Debbie McDowell and Commissioner Alice White

Also Present

City Manager Jerome Fletcher, City Attorney Amber Slayton, City Clerk Heather Taylor, Recording Secretary Amanda Baker, Fire Chief Scott Titus, Police Chief Todd Garrison, Acting Assistant City Manager Julie Bellia, Assistant City Manager Jason Yarborough, Interim Planning and Zoning Division Manager Alison Christie, Parks and Recreation Director Sandy Pfundheller, Parks and Recreation Assistant Director Tricia Wisner, Aquatic Supervisor Patricia Sturgess, Assistant Utilities Director Jennifer Desrosiers, Acting Public Works Director Chuck Speake, Utilities Engineering Division Manager Mike Acosta, and Neighborhood Development Services Assistant Director Derek Applegate

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Neighborhood Development Services Assistant Director Derek Applegate.

1. APPROVAL OF AGENDA

A motion was made by Vice Mayor Emrich, seconded by Commissioner Langdon, to approve the Agenda as presented. The motion carried on the following vote:

Yes: 5 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon, Commissioner McDowell and Commissioner White

2. PUBLIC COMMENT:

Ms. Taylor read the following e-comment into the record:

Robin SanVincente: Ordinance amendment affecting scrub-jays

Public Comment:

Jeffrey Scott: Carlton Park Reserve, and City Charter and City Commission governance

3. ANNOUNCEMENTS

A. 21-1547 Current Vacancies and Upcoming Expiration Dates for Boards and Committees

Ms. Taylor read the announcements into the record.

4. CONSENT AGENDA:

Mr. Fletcher noted items to be pulled from the Consent Agenda for discussion.

A motion was made by Vice Mayor Emrich, seconded by Commissioner Langdon, to approve the Consent Agenda, pulling Item No. 21-1497 for discussion. The motion carried on the following vote:

Yes: 5 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon, Commissioner McDowell and Commissioner White

A. 21-1408 Approve the Letter of Agreement and Contract Between the City of North Port and University of North Florida Training and Services Institute, Inc., d/b/a Institute of Police Technology and Management, a Direct Support Organization of the University of North Florida, Not to Exceed $3,903.03 for Providing High Visibility Enforcement Operations in Areas with a High Rate of Pedestrian/Bicycle Crashes.

This item was approved on the Consent Agenda.

B. 21-1456 Approve the Second Amendment to the City of North Port, Florida and Sabal Trace Development Partners, LLC. Water and Wastewater System Developer's Agreement.

This item was approved on the Consent Agenda.

C. 21-1480 Approve the Florida Telecommunications Accreditation Commission Accreditation Agreement and Involved Fees for a Cost of $1,500.00.

This item was approved on the Consent Agenda.

D. 21-1495 Approve Construction Contract No. 2021-47 - Myakkahatchee Creek Water Treatment Plant (MCWTP) Structural Rehabilitation Project - Phase 2 with Innovative Masonry Restoration, LLC, in the Amount of $1,194,307.00, with a Contingency Amount of $119,430.00 for a Total Cost of $1,313,737.00.

This item was approved on the Consent Agenda.

E. 21-1497 Approve Work Assignment 2021-12 With Black & Veatch Corporation for $499,650.00, for the City of North Port Water Master Plan and Water Supply Facilities 10-Year Work Plan Updates

Mayor Luke announced the item.

Commissioner McDowell spoke to the item including a discrepancy in the contract regarding the completion date, project components ending after the completion date, and consequences if the contract is not fulfilled by the deadline.

Mr. Acosta spoke to the master plan being restarted, the regional water supply work plan completion, the project components that end after the contract deadline not being regulatory requirements, and answered questions regarding the legislative text pertaining only to the regional water supply plan and the water supply plan and master plan project schedules.

A motion was made by Commissioner White, seconded by Vice Mayor Emrich, to approve Item No. 21-1497 as presented. The motion carried on the following vote:

Yes: 4 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon and Commissioner White

No: 1 - Commissioner McDowell

Commissioner McDowell dissented due to her uncertainty that the explanation provided by staff matches the legal documents that were voted on.

F. 21-1504 Approve Construction Contract No. 2021-43 - 2021 Lift Station Rehabilitation Project With Innovative Fabricators of Florida, Inc. dba Innovative Contractors in the Amount of $699,900.00, with a Contingency of $69,990.00, for a Total Project Cost of $769,890.00.

This item was approved on the Consent Agenda.

G. 21-1519 Approve Work Assignment 2021-14 with CDM Smith, Inc. for $244,048.00, for the City of North Port Mechanical Integrity Testing for North Port Deep Injection Wells 1, 2 and the Southwest Water Reclamation Facility Deep Injection Well

This item was approved on the Consent Agenda.

H. 21-1520 Approve the First Amendment to the City of North Port, Florida, and Toledo Price Plaza, LLC. Water and Wastewater System Developer's Agreement.

This item was approved on the Consent Agenda.

I. 21-1521 Approve Polling Place Agreement (Precinct 313/331) and Polling Place Agreement (Precinct 309/311) between the City of North Port and the Supervisor of Elections of Sarasota County for the March 8, 2022, Special School Board Referendum (if called); August 23, 2022, Primary Election; and November 8, 2022, General Election.

This item was approved on the Consent Agenda.

J. 21-1525 Approve the Disposition of Surplus Assets in an Appropriate Fashion Pursuant to Chapter 2 Administration, Article VIII Procurement, Section 2-419, Disposition of City Assets and Property (d), (1) of the Code of the City of North Port, Florida.

This item was approved on the Consent Agenda.

K. 21-1542 Approve the City Attorney's Office Procurement of Legal and Professional Services from Multiple Firms for Fiscal Year 2021-2022 in the Budgeted Amount of $201,000

This item was approved on the Consent Agenda.

L. 21-1551 Approve Aetna Life Insurance Company Stop Loss Application and Schedule of Insurance for Fiscal Year 2021/2022 in the Budgeted Amount $1,402,730

This item was approved on the Consent Agenda.

M. 21-1492 Reappointments of Thomas Van Bergen as the Real Estate Representative and Nicholas Worden as the Financial Services Representative on the Community Economic Development Advisory Board; Both to Serve a Term of Two Years from October 12, 2021 to October 12, 2023.

This item was approved on the Consent Agenda.

N. 21-1597 Appointment of Gustavo Collazo as a Regular Member on the Zoning Board of Appeals, to serve a three-year term from October 12, 2021 to October 12, 2024.

This item was approved on the Consent Agenda.

O. 21-1553 Approval of Minutes for the September 7, 2021 Commission Joint Meeting with the Planning and Zoning Advisory Board, September 9, 2021 Commission Budget Meeting, September 14, 2021 Regular Meeting, and September 15, 2021 Special Meeting

This item was approved on the Consent Agenda.

5. PROCLAMATIONS AND RECOGNITIONS

A. 21-1522 Proclaim October 12, 2021, as Jason Yarborough Day, Presented to Jason Yarborough.

Commission presented the Proclamation.

6. PUBLIC HEARINGS:

Petition:

A. CC DMP-21-096 Development Master Plan, Paradise Ventures, DMP-21-096 Located at the Northwest Corner of U.S. 41 and River Road (QUASI-JUDICIAL).

Mayor Luke announced the item, stated this is a quasi-judicial hearing, and opened the public hearing.

Ms. Taylor read the Petition title and swore in those wishing to provide testimony.

Commissioner McDowell disclosed an e-mail regarding an environmental report copied to the City Clerk for the record, reading an e-mail regarding landscape buffer, and reviewing the Planning and Zoning Advisory Board (PZAB) action report.

Commissioner White and Vice Mayor Emrich did not have any ex-parte communications.

Commissioner Langdon disclosed reading an e-mail regarding landscaping buffer and the PZAB action report.

Mayor Luke disclosed reading the PZAB action report and an e-mail regarding landscaping buffer, and posed a question regarding buffers.

Ms. Taylor noted there were no aggrieved parties.

Linda Stewart with Morris Engineering and Consulting, LLC, being duly sworn, provided a presentation including location, updated schedule of uses, site size, proposed land use, requested waivers, environmental report, transportation, utilities, and future land use for Activity Center 1.

Ms. Christie, being duly sworn, provided a presentation including location, zoning, number of included parcels, elevation examples, requested waivers, PZAB recommendation to include Condition 12 regarding enhanced landscaping, staff recommendations, and noticing requirements.

There was no rebuttal by the applicant or staff.

PUBLIC COMMENT:

Marty Black: being duly sworn, prior Development Plan approval, and property designation.

Commission questions took place regarding waivers in the backup material, advanced landscaping recommendation at the major site and development stage, community meeting, land use codes on the property appraiser website, setback requirements, lighting requirements, adjacent property information not included in the staff report, buffering in the setback, and installation of a wall or fence.

There were no closing arguments by staff or the applicant.

Mayor Luke closed the public hearing and requested a motion.

A motion was made by Commissioner Langdon, seconded by Commissioner McDowell, to approve DMP-21-096 with the following waivers and conditions, and find that, based on the competent substantial evidence, the Development Master Plan meets the standards in Section 53-7 of the Unified Land Development Code (ULDC):

Conditions:
1. The point(s) of discharge from the proposed stormwater management pond will need to be further evaluated in the later detailed drainage design along with floodplain impact and compensation analysis.
2. Fire hydrants in multi-family (three or more attached units), commercial and industrial subdivisions must be spaced not more than 400' apart and capable of delivering fire flows as outlined in with the Florida Fire Prevention Code, 7th edition (NFPA-1 Fire Code, 2018 Edition), § 1:18.4.5.3, Table 1:18.4.5.2.1 and § 1:18.5.
3. Commercial/Industrial Roadway turning radii must meet the requirements and points of measurement as outlined in § 37-38(A-B) of the City of North Port's Unified Land Development Code (ULDC).
4. Emergency Access Plans (EAP) for Fire Apparatus Access must be submitted for review and approval prior to commencement of all new construction as outlined in Florida Fire Prevention Code (FFPC), 7th Edition (NFPA-1 Fire Code, 2018 Edition), § 1:18.1.3 and § 60-10(A-C) of the City of North Port's Unified Land Development Code (ULDC).
5. It is the owner's responsibility to provide safeguards during building construction, alteration and demolition operations as outlined in Chapter 16 - SAFEGUARDS DURING CONSTRUCTION of the FFPC, 7th Edition.
6. Before FDEP permits will be signed, North Port Utilities requires the following:
a. Four complete sets of DEP permit applications (water and sewer) and four sets of construction plans both sets of items shall be signed and sealed by the engineer of record.
b. One engineer certified (sealed) estimate for the cost of utility construction.
c. A check for the Utility Construction Inspection Fee. The fee shall be 6.5% of the utility construction costs for projects $0 to $2 million, plus 2.5% of utility construction cost over $2 million. The minimum fee is $250.00.
7. Prior to commencement of utility site construction, three copies of shop drawings plus any copies required by the applicant shall be submitted to the Utility Department for review and approval.
8. Irrigation systems shall be designed and constructed to meet reuse standards.
9. Provide the Utility Department with floor plans and plumbing riser drawings for each building so meter sizes and capacity fees can be calculated. Meter and Capacity fees shall be paid prior to issuance of the building permit.
10. Prior to utility site construction the Development Order, Department of Environmental Protection (DEP) Permit and Development of Health (DOH) Permit shall be posted at the project site and provided at the preconstruction meeting.
11. A developer agreement shall be negotiated with the utility department and approved by the Utility Director and City Staff prior to DEP or DOH permits being signed and released.

Waivers:
1. Allow for two multi-tenant signs where ULDC Sec. 29-10C. only allows one multi-tenant sign per complex.
2. Allow a 10-foot buffer on the western property boundary where ULDC Sec. 53-113A. requires a 40-foot buffer where abutting single-family platted lots.

Discussion took place regarding amending the motion to require staff to have enhanced landscaping that was not included in the staff report.

A motion to amend was made by Commissioner McDowell, seconded by Vice Mayor Emrich, to add a Condition 12 requiring enhanced landscaping as required by staff at the Major Site and Development (MAS) stage for the western boundary. The motion to amend carried on the following vote:

Yes: 4 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon and Commissioner McDowell

No: 1 - Commissioner White

Commissioner White dissented due to her disbelief that the buffer waiver be included at all.

Discussion took place regarding the previous approval for the buffer waiver and protecting the residential properties.

Commissioner Langdon stated the development plan has already passed through staff and she trusts staff to make the necessary decisions to protect the neighboring residential developments.

Vice Mayor Emrich stated he agreed with Commissioner Langdon regarding staff's and PZAB's decisions and recommendations.

Mayor Luke stated she also trusts staff with their decisions and recommendations.

A motion to amend was made by Commissioner McDowell, seconded by Commissioner White, to require a 40-foot buffer on the property to the west along the residential property line. The motion to amend failed on the following vote:

Yes: 2 - Commissioner McDowell and Commissioner White

No: 3 - Mayor Luke, Vice Mayor Emrich and Commissioner Langdon

Commissioner Langdon, Vice Mayor Emrich, and Mayor Luke all dissented for reasons stated.

Discussion took place regarding a compromise pertaining to the buffer, whether additional feet could be added or diminished to the buffer at the Major Site and Development (MAS) stage, noise and light pollution, and obligating the developer to add a buffer due to the road being widened.

A motion was made by Commissioner McDowell, seconded by Commissioner Langdon, to reopen the public hearing. The motion carried on the following vote:

Yes: 5 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon, Commissioner McDowell and Commissioner White

Discussion took place regarding buffering concerns and the impact an additional 20-25 foot of buffer would make on the development.

Mr. Black offered an alternative to retain the enhanced buffer to match the setback, which would provide the flexibility to work with staff, and stated there are no homes adjacent to the property.

Discussion ensued regarding the 20-foot buffer/setback overlay, placing the enhanced landscape within the overlay, the location of the proposed gas station on the property, and if enhanced landscaping is defined in the ULDC.

There was no public comment.

Mayor Luke closed the public hearing.

A motion to amend the amendment was made by Commissioner Langdon, seconded by Vice Mayor Emrich, to strike "10-foot" for Condition 12 and replace it with "20-foot". The motion carried on the following vote:

Yes: 4 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon and Commissioner White

No: 1 - Commissioner McDowell

Commissioner McDowell dissented due to the extended buffer not being enough to protect the residents.

The main motion as amended carried on the following vote:

Yes: 4 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon and Commissioner White

No: 1 - Commissioner McDowell

Commissioner McDowell dissented for reasons stated.

Ordinance - First Reading:

B. ORD. NO. 2021-40 An Ordinance of the City of North Port, Florida, Providing for the Levy and Collection of a Public Service Tax on the Purchase of Electricity Within the City; Providing for Findings; Providing for Exemptions: Providing for Recordkeeping; Providing for Violations and Penalties; Providing for Enforcement: Providing for Conflicts; Providing for Severability; and Providing an Effective Date.

Mayor Luke announced the item and requested a motion to direct the City Clerk to read the Ordinance by title only.

A motion was made by Commissioner McDowell, seconded by Commissioner Langdon, to direct the City Clerk to read the Ordinance by title only. The motion carried on the following vote:

Yes: 5 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon, Commissioner McDowell and Commissioner White

Ms. Taylor read the Ordinance by title only.

Mr. Fletcher introduced the item.

Ms. Slayton responded to questions regarding language relative to exemptions.

There was no public comment.

Mayor Luke closed public hearing and requested a motion.

A motion was made by Commissioner Langdon, seconded by Vice Mayor Emrich, to continue Ordinance No. 2021-40 to second reading on October 26, 2021. The motion carried on the following vote:

Yes: 5 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon, Commissioner McDowell and Commissioner White

C. ORD. NO. 2021-41

An Ordinance of the City of North Port, Florida, Repealing Section 42-22(c) of the Code of the City of North Port, Florida, Relating to Impinging Growth on an Abutting Lot; Providing for Conflicts; Providing for Severability; Providing for Codification; and Providing an Effective Date.

Mayor Luke announced the item and requested a motion to direct the City Clerk to read the Ordinance by title only.

A motion was made by Commissioner Langdon, seconded by Vice Mayor Emrich, to direct the City Clerk to read the Ordinance by title only. The motion carried on the following vote:

Yes: 5 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon, Commissioner McDowell and Commissioner White

Ms. Taylor read the Ordinance by title only.

Mr. Fletcher introduced the item.

Ms. Bellia responded to questions regarding the allocated funds to take care of the pending cases regarding dangerous impinging growth.

Ms. Slayton spoke to removing laws from the Code if the City does not intend to enforce them, and noted there is common civil law that speaks to impinging growth on neighboring properties.

There was no public comment.

Mayor closed public hearing and requested a motion.

A motion was made by Commissioner McDowell, seconded by Vice Mayor Emrich, to continued Ordinance No. 2021-41 to second reading on October 26, 2021. The motion carried on the following vote:

Yes: 5 - Mayor Luke, Vice Mayor Emrich, Commissioner Langdon, Commissioner McDowell and Commissioner White

7. GENERAL BUSINESS:

A. 21-1523

Discussion and Possible Action Regarding Opening the North Port Aquatic Center on Friday Nights for a Friday Nights Under the Pool Lights Event.

Mayor Luke announced the item.

Commissioner White introduced the item.

Discussion took place regarding cost of lifeguards, participation, extending hours to enhance participation, budget, alternate adult and youth events, special events, and involving staff to explore options.

Ms. Sturgess responded to questions regarding hours of operation throughout the year and maximum capacity.

Ms. Pfundheller responded to questions regarding subsidized budget and the declining deficit, and stated staff can bring back promotional ideas during budget.

Discussion ensued regarding reviewing other municipalities who offer alcohol and possible liabilities.

A motion was made by Commissioner McDowell, seconded by Commissioner Langdon, to direct the City Manager to work with Parks and Recreation and Aquatic Center staff, North Port Police Department, and Risk Management to gather information about a special event involving alcohol, using Cape Coral's guidelines to ensure safety, and to look at other program ideas to defray costs for a further discussion in February.

Discussion took place regarding timeline for gathering information, bringing ideas that do and do not involve alcohol, and the language in the motion pertaining to using Cape Coral's guidelines.

A motion to amend was made by Commissioner Langdon, seconded by Commissioner McDowell, to include review of special events without alcohol and to review the guidelines at Cape Coral's facility as an example for ideas on guidelines and structure. The motion to amend carried on the following vote:

Yes: 4 - Mayor Luke, Commissioner Langdon, Commissioner McDowell and Commissioner White

No: 1 - Vice Mayor Emrich

Vice Mayor Emrich dissented due to the redundancy of staff already reviewing ideas and guidelines.

The main motion as amended carried on the following vote:

Yes: 4 - Mayor Luke, Commissioner Langdon, Commissioner McDowell and Commissioner White

No: 1 - Vice Mayor Emrich

Vice Mayor Emrich dissented due to not wanting alcohol offered at the Aquatic Center.

Recess was taken from 12:08 p.m. to 1:00 p.m.

B. 21-1548 Discussion and Possible Action Regarding Advisory Board Vacancies, Possible Reasons for Vacancies, and Possible Solutions to Increase Participation

Mayor Luke announced the item.

Commissioner White spoke to the ongoing concerns regarding the number of vacancies in the advisory boards.

Discussion took place regarding alternates and property owners as board members, hybrid meetings, and possible reasons for lack of participation.

Ms. Taylor spoke to the process of board meeting times/dates, hybrid meetings, and term limits.

Discussion ensued regarding changing meeting times, staff liaison duties, Sunshine Law, board member training and experience, term limits, utilizing advisory boards, developing a plan to enhance advisory board involvement, process and procedure for board recommendations to Commission, getting feedback from former board members, and scheduling a joint meeting to include staff liaisons and board chairpersons.

There was consensus for staff to work toward a process for communication between advisory boards and Commission, including a process for onboarding of boards and staff liaisons.

C. 21-1549 Discussion and Possible Action Regarding Draft of the Unified Land Development Code Rewrite for the New Chapter 11 - Resource Protection Standards, Article 5. Tree Protection Regulations, Including Street Trees in Subdivisions and Clearing Land From the Right-of-Way to the Water's Edge When a Lot is Being Cleared for Development.

Mayor Luke announced the item.

Commissioner McDowell introduced the item.

Ms. Bellia spoke to the meeting with Commissioner McDowell regarding changes to be made in Chapter 11 of the Unified Land Development Code (ULDC), and stated there was one policy decision to be brought at the first reading of the Ordinance and legal review of the items.

Discussion took place regarding staff review and recommendation of the policy concerns, creating policies for street trees in subdivisions and clearing land from right-of-ways, and adding a provision requiring Commission approval for removal of street trees in any type of subdivision.

Ms. Bellia responded to questions regarding removal of street trees in Sabal Trace and Bobcat Trail subdivisions.

Ms. Slayton spoke to prior litigation and subsequent approval for street tree removal.

Discussion took place regarding permitting requirements, mediation requirements, removing trees that were a part of tree canopy requirements, creating a policy requiring Commission approval to remove street trees, landscape plans in the ULDC, clarifying the language in the ULDC, and regulations that are in place for permitting and mediation purposes.

There was consensus for staff to review this Section of Chapter 11 to provide clarification for residential communities.

Discussion continued regarding allowing private land clearing companies clearing residential lots connecting to drainage areas to clear to the water line, and erosion and liability concerns.

Mr. Speake spoke to waterway banks being overtaken with peppers, bank stabilizers, cost savings to the City, littoral zone requirements, and recommendation for stump cutting trees.

Discussion continued regarding green spaces, bank stabilization, liabilities, and preservation of rights-of-way.

PUBLIC COMMENT:

Chuck English: concern with encroachment and maintenance of clearance buffer

Discussion ensued regarding removing invasive species only from waterways, leaving native species, endangering protected species, mowing of banks, and differences between retention ditches and waterways.

There was consensus to direct staff to bring back further information during first reading of the ULDC regarding land clearing of lots to the waterways.

8. PUBLIC COMMENT:

There was no public comment.

9. COMMISSION COMMUNICATIONS:

Commissioner McDowell reported on hosting the upcoming North Port Government and You class.

Commissioner White reported on Kiwanis Scarecrow Walk, opening of a bagel shop, and Gabby Petito Memorial.

Vice Mayor Emrich reported on Gabby Petito Memorial.

Commissioner Langdon reported on Gabby Petito Memorial.

Mayor Luke reported on Gabby Petito Memorial, possibility of a memorial park, attendance at First Responders Event, boxing match at Kelly Boxing, American Caribbean Cultural Fundraiser, and Habitat for Humanity Fundraiser.

10. ADMINISTRATIVE AND LEGAL REPORTS:

Mr. Fletcher reported on strategic planning sessions, Daryl Smith in Public Works assisting law enforcement with an apprehension, and recognition of Mr. Yarborough.

Ms. Slayton did not have anything to report.

Ms. Taylor did not have anything to report.

11. ADJOURNMENT:

Mayor Luke adjourned the meeting at 2:58 p.m.

City of North Port, Florida

By: ____
Pete Emrich, Mayor

Attest: ____
Heather Taylor, City Clerk

These minutes were approved on the ____ day of _______________, 20___.