



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes City Commission Regular Meeting

CITY COMMISSIONERS

Christopher B. Hanks, Mayor
Debbie McDowell, Vice-Mayor
Vanessa Carusone, Commissioner
Peter Emrich, Commissioner
Jill Luke, Commissioner

APPOINTED OFFICIALS

Peter Lear, City Manager
Amber L. Slayton, City Attorney
Kathryn Peto, City Clerk

Tuesday, November 27, 2018

6:00 PM

CITY COMMISSION CHAMBERS

CALL TO ORDER/ROLL CALL

The North Port City Commission Regular Meeting was called to order at 6:01 p.m. in City Commission Chambers by Mayor Hanks.

Present: Mayor Hanks; Vice-Mayor McDowell; Commissioners Luke and Emrich, City Manager Lear; City Attorney Slayton; City Clerk Peto, Police Chief Garrison and Fire Chief Titus.

Absent: Commissioner Carusone.

The Pledge of Allegiance was led by Vice-Mayor McDowell followed by the invocation provided by Mayor Hanks.

1. APPROVAL OF AGENDA – COMMISSION

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to approve the Agenda as presented and pulling items 6.C. and 6.D. The motion carried by the following vote, with Commissioner Carusone absent:

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

Discussion ensued: (1) it was suggested that item 6.D. be set for discussion on a Special or Workshop Meeting to allow time for discussion; (2) a suggestion was made to include items 6.C. and 6.D. on the December 6, 2018 agenda starting at 1:00 p.m.

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to have the City Manager place items 6.C. and 6.D. on the December 6, 2018 meeting, starting at 11:00 a.m. or 1:00 p.m. The motion carried by the following vote, with Mayor Carusone absent:

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

After a request by the Mayor, the Commission determined that they would like to pull Consent Agenda items 7.B. and 7.E. for discussion.

2. ANNOUNCEMENTS

A. [18-852](#) Current Vacancies for Boards and Committees.

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

B. [18-853](#) Upcoming Expiration Dates for Boards and Committees.

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

3. PUBLIC COMMENT:

Public comment was held 6:10 p.m. - 6:42 p.m.

Frederick Cohane: trash along U.S. 41.

Discussion ensued: (1) a suggestion was made to have City Manager reach out to Mr. Cohane to answer his questions; (2) it was suggested that Mr. Cohane may be interested in serving on the Beautification Committee.

Anthony McChesney: plastic recycling.

Discussion continued: (1) it was suggested to have Solid Waste contact Mr. McChesney regarding recycling of plastics.

Samantha Gentrup, Nadine Baker, Brian Kelly and Joan San Lwin: Hands Along the Water and red tide.

Tim Ritchie: storm water technology.

Commissioner McDowell suggested that the City Manager obtain Mr. Ritchie's contact information so that she may reach out to him to discuss Mosaic.

Edie Driest: red tide.

Moir Powell: Florida Department of Child and Families (DCF) closing North Port office.

Discussion continued: (1) a suggestion was made for staff to: [a] reach out to Ms. Powell for further discussion; [b] inquire if the Department of Health (DOH) on Pan American Boulevard will also be closed; [c] research where residents must go for DCF services; [d] report findings to the Commission.

Allain Hale: converting plastics to fuel.

4. PRESENTATIONS

- A. [18-845](#) Presentation on "The Evolving Role of Stormwater Management in reducing the nutrient fuel for Harmful Algae Blooms"

Commissioner Luke gave an overview of the item and introduced Hydrologist and Watershed Manager Stephen M. Suau who provided a PowerPoint presentation.

Discussion ensued: (1) Commissioner Luke shared a draft resolution with the Commission for their review and noted that it will be brought back at another meeting for further discussion; (2) it was suggested that a resolution be adopted and sent to the state encouraging them to reinstate the manual; (3) a suggestion was made that Mr. Suau provide this presentation to the Charlotte Harbor National Estuary Program and the Regional Planning Council. There was no public comment.

5. PUBLIC HEARINGS:

- A. [18-830](#) Ordinance No. 2018-51, second reading, amending the Fiscal Year 2017-2018 Non-District Budget.

City Clerk Peto read Ordinance No. 2018-51 into the record by title only. City Manager Lear gave an overview of the item.

There were no questions from the Commission and no public comment.

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to approve Ordinance No. 2018-51 amending fiscal year 2017-2018 non-district budget. The motion carried by the following vote, with Commissioner Carusone absent:

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

- B. [18-829](#) Ordinance No. 2018-58, second reading, amending the Fiscal Year 2018-2019 Non-District Budget.

City Clerk Peto read Ordinance No. 2018-58 into the record by title only. City Manager Lear gave an overview of the item.

There were no questions from the Commission and there was no public comment.

A motion as made by Vice-Mayor McDowell, seconded by Commissioner Luke, to approve Ordinance No. 2018-58 amending fiscal year budget 2018-2019. The motion carried by the following vote, with Commissioner Carusone absent.

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

- C. [18-839](#) Ordinance No. 2018-33, first reading, amending the Code of the City of North Port, Chapter 58 - Planning and Development, Article III - Impact fees, allowing for deferral of payment of impact fees, modifying the timeline for and interest paid on refunds, and removing outdated language

A motion was made by Commissioner Luke, seconded by Vice-Mayor McDowell, to read Ordinance No. 2018-33 by title only. The motion carried by the following vote, with Commissioner Carusone absent:

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

City Clerk Peto read Ordinance No. 2018-33 into the record by title only. City Manager Lear gave an overview of the item.

Discussion ensued: (1) it was clarified that line 99-102 contains outdated language and should be removed; (2) it was explained that impact fees that are deferred are not set at a guaranteed rate; (3) the amount of the impact fee is determined when a certificate of occupancy (CO) is obtained, the deferral would extend the payment time frame but it wouldn't change the amount; (4) it was noted that if the Commission chooses to update impact fees, consideration could be given to allow a "grandfather rate" for projects that may take time to complete; (5) the deferment would only apply to North Port impact fees, not Sarasota County; (6) a suggestion was made to correct line 116 to state City not County; (7) it was suggested to add language providing that the owner is responsible to pay the fee for release of lien in addition to the fee for filing the lien; (8) it was noted that staff will research priority of liens as it relates to a deferred impact fee, and the possibility of adding a deferred impact fee as a non-ad valorem tax for payment; (9) concern was expressed that a lien for a deferred impact fee may not be sufficient to collect payment because commercial property is seldom sold; (10) a suggestion was made that the ordinance include parameters to qualify for a deferred impact fee, possibly including: [a] type of development; [b] value of development; [c] maximum amount to be deferred; [d] state a maximum term for deferral of payment. There was no public comment.

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to have City Attorney make the changes recommended at lines 116, 99-102, and adding language at 122 for release of lien prior to second reading, prior to second reading have City Attorney do research on the priority of lien payment in respect to deferred impact fees, and also research the ability to have deferred impact fees be paid through non-ad valorem tax assessments, and to continue this item to a time uncertain pending research.

A motion was made by Commissioner Luke, seconded by Vice-Mayor McDowell, to amend the motion to have City Attorney and staff to incorporate within the ordinance parameters, that may include the type of development that qualifies, defining the value of the development, establishing a maximum amount of the impact fees to be deferred or setting a maximum term limit for deferral. The motion carried by the following vote, with Commissioner Carusone absent:

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

A vote was taken on the main motion, as amended, to have City Attorney make the changes recommended at lines 116, 99-102, and adding language at 122 for release of lien prior to second reading, prior to second reading have City Attorney do research on the priority of lien payment in respect to deferred impact fees, and also research the ability to have deferred impact fees be paid through non-ad valorem tax assessments, and to continue this item to a time uncertain pending research, and to have City Attorney and staff incorporate within the ordinance parameters that may include the type of development that qualifies, defining the value of the development, establishing a maximum amount of the impact fees to be deferred or setting a maximum term limit for deferral. The motion carried by the following vote, with Commissioner Carusone absent:

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

D. [18-818](#)

Ordinance 2018-43, Petition TXT-18-171, Prohibition on Well Stimulation (Fracking) for Oil and Natural Gas Exploration

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to read Ordinance 2018-43 by title only. The motion carried by the following vote, with Commissioner Carusone absent:

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

City Clerk Peto read Ordinance No. 2018-43 into the record by title only. City Manager Lear and Neighborhood Development Services Director Miles gave an overview of the item.

Discussion ensued: (1) it was explained that the language starting on line 96 does not allow fracking underground within the corporate limits of the City that could originate from outside of the City limits. There was no public comment.

A motion was made by Commissioner Luke, seconded by Vice-Mayor McDowell, to continue Ordinance No. 2018-43 for second reading on December 11, 2018. The motion carried by the following vote, with Commissioner Carusone absent:

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

E. [18-817](#) Ordinance 2018-40, Petition TXT-18-165, Prohibition on Phosphate Mining

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to read Ordinance No. 2018-40 by title only. The motion carried by the following vote, with Commissioner Carusone absent:

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

City Clerk Peto read Ordinance No. 2018-40 into the record by title only. City Manager Lear and Neighborhood Development Services Director Miles gave an overview of the item.

Discussion ensued: (1) there are 72 properties consisting of mostly regular sized lots that are scattered throughout the City where the mineral rights have been separated from the property; (2) it was explained that fracking is a method to extract minerals from underground and that there are different methods available; (3) phosphate mining requires thousands of acres of property, single tracts of land are not economically feasible for fracking; (4) it was opined that it is better to regulate mining activities rather than implement a ban which could create legal concerns. There was no public comment.

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Emrich, to approve and continue Ordinance No. 2018-40 to second reading on December 11, 2018. The motion carried by the following vote, with Commissioner Carusone absent:

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

F. [18-819](#) The Preserve, Phase 2 (PLF-18-197), Replat of Phase 1 Tracts 700, 701, 702 (QUASI-JUDICIAL)

Interim City Clerk Peto swore in those wishing to provide testimony.

Ex parte communications were disclosed: (1) Commissioner Luke stated she had an agenda briefing with both Assistant City Managers and the Assistant City Attorney and that they answered brief questions, and she read emails regarding questions from other

Commissioners; (2) Vice-Mayor McDowell stated she had an agenda briefing with both Assistant City Managers, the Assistant City Attorney and received an email responses to her questions on the item; (3) Commissioner Emrich stated he had an agenda briefing with both Assistant City Managers and the Assistant City Attorney without discussion; (4) Mayor Hanks stated he had an agenda briefing with both Assistant City Managers and the Assistant City Attorney without discussion.

Bobbi Claybrooke of AM Engineering, Inc. agent for the Applicant provided a presentation of the item. City Interim Planning Manager Galehouse provided an overview of the item. There were no aggrieved parties and there was no rebuttal from the Applicant or staff. There was no public comment.

Discussion ensued: (1) the location of tracts 700, 701 and 702 were identified on the maps for Phase I and II; (2) a suggestion was made to correct the date of approval in the legislative text to March 7, 2017; (3) the access road will come out to River Road and is made of crushed concrete, a fence will be placed for emergency vehicle access only; (4) it was explained that because the land had already been cleared during the previous permitting process an additional wildlife survey was not needed.

There were no closing arguments from the Applicant or staff.

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Luke, to approve Phase 2 PLF-18-197. The motion carried by the following vote, with Commissioner Carusone absent:

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

6. GENERAL BUSINESS:

Recess 8:05 p.m. - 8:15 p.m.

A. [18-820](#)

Discussion and possible action regarding approval of a 2019 Special Meeting Schedule.

City Manager Lear gave an overview of the item.

Discussion ensued: (1) using the description "special meeting" may not be necessary but concern was expressed that regular meetings are defined in the Charter; (2) it was opined to describe a meeting as "special" may be misleading to the public; (3) there was discussion regarding regular meetings, special meetings and workshops; (4) concern was expressed for too many items heard on the same day and it was suggested to have special meetings start at 1:00 p.m. rather than 4:00 p.m.; (5) the July meeting date was changed to the second Thursday due to the holiday.

A motion was made by Vice-Mayor McDowell to approve the schedule for the Thursday meetings changing the start time to 1:00 p.m. and changing the name to Commission Meeting. The motion failed for lack of a second.

Discussion continued: (1) it was clarified that the 1:00 p.m. starting time can be cancelled if there isn't a need for meeting and continue with proclamations and recognitions at 4:00 p.m.; (2) it was suggested that proclamations and recognitions should be time certain at 4:00 p.m. There was no public comment.

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Emrich, to approve the schedule for Thursday meetings as presented, changing the time from 4:00 p.m. to 1:00 p.m. for the Special Meeting schedule 2019.

A motion was made by Commissioner Luke, seconded by seconded by Vice-Mayor McDowell, to amend the motion that the proclamation portion of the first Thursday meetings be time certain at 4:00 p.m. The motion carried by the following vote, with Commissioner Carusone absent:

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

A vote was taken on the main motion, as amended, to approve the schedule for Thursday meetings as presented, changing the time from 4:00 p.m. to 1:00 p.m. for the Special Meeting schedule 2019, and that the proclamation portion of the first Thursday meetings be time certain at 4:00 p.m. The motion carried by the following vote, with Commissioner Carusone absent:

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

B. [18-821](#)

Discussion and possible action regarding the Districts and Commission Regular Meeting Schedule for 2019.

City Manager Lear gave an overview of the item.

Discussion ensued: (1) a suggestion was made to move the March 26 meeting to March 19 or eliminate it due to Florida League of Cities Legislative Days being held on the same day; (2) it was suggested to move the March 26 District meeting to April 9; (3) a suggestion was made to keep the first Tuesday meetings at 6:00 p.m., and start the second Tuesday meetings at 10:00 am with Districts staying at 4:00 pm so that staff will not have to stay after 5:00 p.m.; (4) after concern was expressed for eliminating the March 26 date it was explained that an additional date may be added later if needed. There was no public comment.

A motion was made by Vice-Mayor McDowell, seconded by Commissioner Emrich, to approve the schedule as presented with the following changes, moving the District meetings for March 26 to April 4, eliminating the Commission meeting for March 26 in its entirety, and changing only the second Tuesday of the month meetings to 10:00 a.m., leaving the District and Commission meetings for the fourth Tuesday of the month at 4:00 p.m. and 6:00 p.m. respectively.

A motion was made by Commissioner Luke, seconded by Vice-Mayor McDowell, to amend the motion making a second Regular Commission meeting on March 19. The motion carried by the following vote, with Commissioner Carusone absent:

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

A vote was taken on the main motion, as amended, to approve the schedule as presented with the following changes, moving the District meetings for March 26 to April 4, eliminating the Commission meeting for March 26 in its entirety, and changing only the second Tuesday of the months meetings to 10:00 a.m., leaving the District and Commission meetings for the fourth Tuesday of the month at 4:00 p.m. and 6:00 p.m. respectively, and making a second Regular Commission meeting on March 19. The motion carried by the following vote, with Commissioner Carusone absent:

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

Discussion continued: (1) it was noted that the changes will take effect starting in January; (2) a suggestion was made to have a schedule showing the Mondays that are on hold for Special meetings and Workshops.

There was a unanimous consensus to place a hold on the first Monday of each month for Special meetings or Workshops if needed

- C. [18-822](#) Discussion and possible action regarding Commission Board and Committee assignments for the Year 2018/2019.

THIS ITEM WAS PULLED FROM THE AGENDA.

- D. [18-835](#) Discussion and possible action regarding establishing a Youth Council

THIS ITEM WAS PULLED FROM THE AGENDA.

7. CONSENT AGENDA:

A motion was made by Commissioner Luke, seconded by Vice-Mayor McDowell, to approve Consent Agenda items A, C, D, F, G and H. The motion carried by the following vote, with Commissioner Carusone absent:

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

- A. [18-850](#) Approval of Minutes for the September 11, 2018 Commission Regular Meeting, October 1, 2018 Commission Special Meeting, October 4, 2018 Commission Special Meeting, October 9, 2018 Commission Regular Meeting, October 23, 2018 Commission Regular Meeting, November 1, 2018 Commission Special Meeting, November 5, 2018 Commission Special Meeting.

- B. [18-787](#) Purchase one (1) replacement Ford F-350 for an estimated total of \$38,515.99 from Beck Auto Sales, Inc.

Discussion ensued: (1) Vice-Mayor McDowell expressed concern regarding the inconsistencies of the repair history logs and the validity of the score sheets and because she is not 100% sure that the vehicles need immediate replacement she cannot support the request for replacement. There was no public comment.

A motion was made by Commissioner Luke, seconded by Commissioner Emrich, to accept Consent Agenda item B. The motion carried by the following vote with Commissioner Carusone absent and Vice-Mayor McDowell dissenting for reasons stated:

Yes: 3 - Mayor Hanks, Commissioner Luke and Commissioner Emrich

No: 1 - Vice-Mayor McDowell

- C. [18-803](#) Appointment of David Pankiw as a Regular Member to the Beautification & Tree/Scenic Highway Committee.

D. [18-805](#) Appointment of Moira Powell as a Regular Member to the Art Advisory Board.

E. [18-823](#) Appointment of Arthur P. Landry II as a Non-voting Member to the Public Utility Advisory Board.

Discussion ensued: (1) concern was expressed that the seat the Applicant has applied for is a non-voting position on the board; (2) it was noted that some boards have non-residents that may have the ability to vote; (3) it was explained that there will be changes to the advisory boards that will be coming to the Commission in January, and the Commission can decide at that time if this position will be allowed to vote. There was no public comment.

A motion was made by Commissioner Luke, seconded by Vice-Mayor McDowell, to approve Consent Agenda item E. The motion carried by the following vote, with Commissioner Carusone absent:

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

F. [18-806](#) Appointment of Fernando Ramirez as a Regular Member to the Zoning Board of Appeals.

G. [18-811](#) Accept the Federal Emergency Management Agency (FEMA) Phase 35 Emergency Food and Shelter Program (EFSP) allocation in the amount of \$11,279

H. [18-775](#) Aftermath K9 Grant

8. PUBLIC COMMENT:

There was no public comment.

9. COMMISSION COMMUNICATIONS:

Commissioner Emrich: nothing to report.

Vice-Mayor McDowell: (1) reported attending the Homeless to Home lunch; (2) property owners are stating they are not able to sell their houses due to the road widening project signs on Price Boulevard and it was suggested to have a discussion regarding possibly taking the signs down.

Discussion ensued: (1) the intent of putting up the signs was to notify the public and to make current and potential property owners aware; (2) it was opined that the signs are working as intended and should remain up.

There was a unanimous consensus to leave the signs up on Price Boulevard.

Commissioner Luke reported attending: (1) classes at the National League of Cities (NLC) conference; (2) Florida League of Cities (FLC).

Mayor Hanks: (1) reported attending training at the Florida League of Cities (FLC).

Commissioner Carusone: absent.

10. ADMINISTRATIVE AND LEGAL REPORTS:

C. [18-824](#) City Clerk update regarding Commission Direction.

City Clerk Peto: nothing to report.

B. [18-844](#) City Attorney Report - Commission-Directed Actions

City Attorney Slayton: nothing to report.

A. [18-838](#) City Manager - Commission Update

City Manager Lear: (1) after discussion it was suggested that Mayor Hanks and City Manager Lear give the presentation at the Sarasota voting delegation in January, staff will notify the Commission of the date when it becomes available; (2) applications have been received for the Deputy City Clerk position, background checks are in process and testing is being scheduled; (3) discussion ensued regarding the interview process with the City Clerk and the Commission.

There was a unanimous consensus that the City Clerk will conduct pre-interviews for the Deputy City Clerk position and the top three or four candidates will then come before the Commission.

11. ADJOURNMENT:

Mayor Hanks adjourned the North Port City Commission Regular Meeting at 8:58 p.m.

City of North Port, Florida

By: _____
Christopher B. Hanks, Mayor

Attest: _____
Kathryn Peto, City Clerk

Minutes approved at the City Commission Regular Meeting this ____ day of _____, 2019.