



City of North Port

4970 CITY HALL BLVD
NORTH PORT, FL 34286

Meeting Minutes - Draft City Commission Regular Meeting

CITY COMMISSIONERS

Debbie McDowell, Mayor

Jill Luke, Vice Mayor

Christopher Hanks, Commissioner

Pete Emrich, Commissioner

Vanessa Carusone, Commissioner

APPOINTED OFFICIALS

Peter Lear, City Manager

Amber L. Slayton, City Attorney

Heather Taylor, City Clerk

Tuesday, October 27, 2020

6:00 PM

City Commission Chambers

CALL TO ORDER

Mayor McDowell called the meeting to order at 6:00 p.m.

ROLL CALL

Present: 5 - Mayor Debbie McDowell, Vice Mayor Jill Luke, Commissioner Christopher Hanks, Commissioner Vanessa Carusone and Commissioner Pete Emrich

Also Present:

City Manager Peter Lear, City Attorney Amber Slayton, City Clerk Heather Taylor, Recording Secretary Susan Hale; Human Resource Director Christine McDade, Human Resources Manager Deborah Hope; Planning Division Manager Nicole Galehouse, Planner Alison Christie; Police Chief Todd Garrison, Assistant Public Works Director Jennifer Desrosiers, and Public Works Director Julie Bellia.

The Pledge of Allegiance was led by Ms. Hanks.

1. APPROVAL OF AGENDA

Discussion ensued regarding items to be pulled and reordered.

A motion was made by Vice Mayor Luke, seconded by Commissioner Carusone, to approve the agenda moving Item CC GEN-20-162 after CC-PLF-20-100, and 20-2803 after Announcements. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

2. PUBLIC COMMENT:

Margie Hathon: Sunshine laws and Commissioner representation.

Stephanie Gibson: Public records requests regarding Mr. Lear's investigation and resignation.

Joan Morgan: Expressed support of City and appreciation of outgoing Commissioners.

Conni Brunni: U.S. Constitution and the powers of government.

Greg Culy: Separation of employment of the City Manager.

Jeffrey Scott: Concerns regarding abuse of power by the Commission.

Jennifer Precht: Expressed appreciation of Mayor McDowell's participation with Girl Scout Troop.

Ms. Taylor read the following virtual public comment into the record:

Robert Schotte: Recent Charter Review Advisory appointment, ABCD group, and thanked Commissioners who are leaving.

Anonymous: Ms. Brunni's disparaging comments, and the ABCD group.

City Employee: Appreciation for public comments now being offered anonymously.

3. ANNOUNCEMENTS

- A. [20-2792](#) Current Vacancies and Upcoming Expiration Dates for Boards and Committees

Ms. Taylor read the announcements into the record.

7. GENERAL BUSINESS:

- A. [20-2803](#) Discussion and Possible Action Regarding the Special Event Assistance Program Request for Trunk or Treat Halloween Event by Kiwanis

Mr. Lear provided an overview of the item.

Discussion ensued regarding time constraints in approving the request.

Mr. Lear responded to questions regarding insurance in a City right-of-way for this event, and Kiwanis obtaining insurance.

Ms. Bellia spoke to safety measures for the event.

Elaine Allen-Emrich and Justin Willis, organizers of the event, spoke to City employees participating off-duty, and appreciation for the City participation and for granting the Special Event Assistance Program funds.

A motion was made by Commissioner Carusone, seconded by Commissioner Emrich, to approve the Special Event Assistance Program Request for Trunk or Treat Halloween Event by Kiwanis in the amount of \$265.68. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

4. CONSENT AGENDA:

Mr. Lear noted there were no items to be pulled from the consent agenda for discussion.

A motion was made by Vice Mayor Luke, seconded by Commissioner Carusone, to approve the Consent Agenda. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

- A. [20-2583](#)** Approve the Single/Sole Source/Standardization for the Budgeted Purchase of Automatic License Plate Readers (ALPRs) and Installation from Vetted Security Solutions for Implementation Throughout the City in the Amount of \$459,530.48
- This item was approved on consent.***
- B. [20-2677](#)** Approve Contract Nos. 2020.41.001 through 2020.41.003 for Inflow and Infiltration Rehabilitation with Engineered Coating Solutions, Instituform Technologies, LLC and Hinterland Group, Inc. in Accordance with Unit Prices and on an As-Needed Basis; and Authorize the City Manager to Authorize Work Assignments As-Needed, Based on the Approved Budget
- This item was approved on consent.***
- C. [20-2710](#)** Approve the Utilization of Temporary Staffing Agencies, Including but not Limited to, Ad-Vance Recruiting, LLC, for Employment Services on an 'As Needed Basis' for an Estimated Amount of \$233,160 in Fiscal Year 2021
- This item was approved on consent.***
- D. [20-2737](#)** Approve the Utilization of the Sourcewell Contract No. 012418-TPM to Purchase Three Replacement Thompson Pumps for the Utilities Department in the Estimated Amount of \$122,252
- This item was approved on consent.***
- E. [20-2738](#)** Approve the Second Amendment to the Cooperative Funding Agreement 17CF0000449 Between the Southwest Florida Water Management District and the City of North Port for Aquifer Storage and Recovery Permanent Facilities
- This item was approved on consent.***
- F. [20-2741](#)** Approve Contract No. 2020-43 with Spectrum Underground, Inc. in the Amount of \$255,647.00, with a Contingency Amount of \$38,347.00, for a Total Project Cost of \$293,994.00 for the South Biscayne Drive & Pan American Boulevard Bridge Pipeline Replacements Project
- This item was approved on consent.***

- G. [20-2748](#) Approve Contract No. 2020-40 with Bryx, Inc. for Fire Station Alerting System in the Amount of \$150,000.00
This item was approved on consent.
- H. [20-2743](#) Approve the Federal Fiscal Year (FFY) 2019 Edward Byrne Memorial Justice Assistance Grant (JAG) Program-Florida JAG Direct Application in the Amount of \$10,000
This item was approved on consent.
- I. [20-2746](#) Approve Memorandum of Understanding (MOU) Between the City of North Port and the American Federation of State, County, and Municipal Employees Local 3432, (AFSCME)
This item was approved on consent.
- J. [20-2740](#) Approve the Authorization to Execute the Notice Incorporating the Injection Well, Monitoring Wells, and Related Improvements into the Property Warranty Deed for the Southwest Wastewater Reclamation Facility
This item was approved on consent.
- L. [20-2715](#) Accept Cash Receipts Summary Report for August 2020
This item was approved on consent.
- M. [20-2778](#) Rescind the December 11, 2018 Motion to Approve the November 19, 2018 Commission Special Meeting Minutes as Presented and Approve the Amended November 19, 2018 City Commission Special Meeting Minutes as Attached
This item was approved on consent.
- N. [20-2801](#) Approval of Minutes for the September 8, 2020 Commission Regular Meeting, September 17, 2020 Commission Special Meeting, September 22, 2020 Commission Regular Meeting, and October 1, 2020 Commission Special Meeting.
This item was approved on consent.

5. RECOGNITIONS:

- A. [20-2773](#) Devin Epps, Teen Court: Present Plaque in Recognition of Commissioner Hanks

Devin Epps, Teen Court South County Client Coordinator, presented this recognition to Commissioner Hanks' for being the driving force to open an office in the City in support of the Teen Court Program.

6. PUBLIC HEARINGS:**RESOLUTIONS:****A. [RES NO 2020-R-38](#)**

A Resolution of the City Commission of the City of North Port, Florida, Designating a Brownfield Area for Rehabilitation and Redevelopment to be Known as the "Sabal Trace Redevelopment Area" Pursuant to Section 376.80, Florida Statutes; Enabling the Environmental Rehabilitation and Economic Development of +/- 207.0 Acres Located at 5456 Greenwood Avenue within the City of North Port, Florida; Providing for Notice; Providing for Conflicts; Providing for Severability; Providing for Codification; and Providing an Effective Date.

Laurel Lockett, co-counsel with Carlton Fields P.A., joined the meeting by telephone.

Ms. Taylor read the resolution by title only.

Mr. Lear introduced the item.

Ms. Galehouse introduced Charlie Bailey, Attorney representing Sabal Trace, and spoke to the item.

Ms. Slayton spoke to the procedural requirements.

Mr. Bailey responded to questions regarding the study, approval of mitigation by Florida Department of Environmental Protection (FDEP), and contaminated soil removed from development areas.

Ms. Bellia provided information regarding arsenic reporting requirements and monitoring by the City.

Ms. Lockett spoke to meeting applicable standards for vertical development.

Ms. Slayton responded to questions regarding telephone accessibility issues during the community meeting.

Mr. Bailey confirmed the workshop was held in pursuant to Executive Order 2020-069, and spoke to options for the public to provide follow-up questions.

Ms. Slayton spoke to public comment being held at this meeting and at second reading.

PUBLIC COMMENT:

Conni Brunni: Inability to access community meeting, support of team responding to questions, and support of resolution.

Mr. Bailey spoke to providing a record of participants at the workshop with a transcript of the meeting.

Ms. Galehouse clarified the meeting was different from the required neighborhood meeting where a Development Master Plan is submitted to the City.

A motion was made by Vice Mayor Luke, seconded by Commissioner Carusone, to

continue Resolution No. 2020-R-38 for adoption on November 10, 2020. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

B. [RES NO 2020-R-37](#)

A Resolution of the City of North Port, Florida, Amending City Commission Policy No. 2020-02 Related to the Issuance of Ceremonial Items, Including Certificates, Keys to the City, Proclamations, and Challenge Coins; Providing for Conflicts; Providing for Severability; and Providing an Effective Date

Ms. Taylor read the resolution by title only, and spoke to prior Commission direction.

Discussion ensued regarding including citizens who do commendable actions outside the city, and prior motion verbiage stating "but not limited to" giving leeway to recipients.

A motion was made by Commissioner Hanks, seconded by Commissioner Emrich, to approve Resolution No. 2020-R-37 as presented. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

ORDINANCE: First Reading

C. [ORD. NO. 2020-41](#)

An Ordinance of the City of North Port, Florida Supplementing Ordinance No. 92-30, as Previously Amended and Supplemented, which Ordinance No. 92-30, Among Other Things, Authorizes the Issuance From Time to Time of City of North Port, Florida Utility System Revenue Bonds; Authorizing the Issuance by the City of not Exceeding \$16,500,000 Principal Amount of a City of North Port, Florida Utility System Revenue Bond, Series 2020 In Order to Refinance all the City's Outstanding Loans with the Florida Department Of Environmental Protection in Order to Achieve Debt Service Savings; Providing Parameters for Certain Terms and Details of Such Bond and Authorizing the Negotiated Sales of Said Bond to TD Bank, N.A. Pursuant to its Proposal and in Accordance with Such Parameters; Delegating Certain Authority to the City Manager and Other Officers of the City for the Authorization, Execution, and Delivery of the Series 2020 Bond and Various Other Documents with Respect Thereto; Providing Certain Other Provisions with Respect to such Series 2020 Bond; Providing for Conflicts; Providing for Severability; and Providing an Effective Date

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to read the Ordinance No. 2020-41 by title only. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Ms. Taylor read the ordinance by title only.

Mr. Lear introduced the item and responded to questions regarding benefits to City's Utility customers and rate savings.

Ms. Desrosiers spoke to the positive effect the loan restructuring will have on Utility customers, and off-setting the cost of future unexpected emergencies.

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to continue the Ordinance No. 2020-41 to second reading on November 10, 2020. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

D. [ORD. NO. 2020-42](#)

An Ordinance of the City of North Port, Florida, Amending the Code of the City of North Port, Florida, Chapter 58 – Planning and Development, Article III. – Impact Fees; Providing for Severability; Providing for Conflicts; Providing for Codification; and Providing an Effective Date

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to read Ordinance No. 2020-42 by title only. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Ms. Taylor read the ordinance by title only.

Mr. Lear introduced the item.

Ms. Galehouse spoke to justification for other municipalities repealing impact fees.

Mr. Lear responded to gasoline inconsistencies in the ordinance to be corrected between first and second reading.

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to continue Ordinance No. 2020-42 to second reading to a date to be determined after advertisement.

Mayor McDowell passed the gavel to Vice Mayor Luke.

A motion was made by Mayor McDowell, seconded by Commissioner Carusone, to amend the motion to have staff correct the gasoline/service and station convenience mart numbers.

Ms. Galehouse replied that the gasoline service figures aren't in the Ordinance.

Mr. Lear spoke to not needing an amendment to correct scrivener's errors between first and second reading.

The motion to amend was rescinded.

A motion was made by Mayor McDowell, seconded by Commissioner Carusone, to amend the motion to direct staff to review all numbers to ensure their accuracy. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

The main motion as amended carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Vice Mayor Luke passed the gavel back to Mayor McDowell.

E. [ORD. NO. 2020-39](#)

An Ordinance of the City of North Port, Florida, Amending the Unified Land Development Code, Chapter 53, Article XIV, Section 53-6, Section 53-15, Sections 53-178 Through 53-186, and Section 53-240 to Remove the Neighborhood Commercial High Intensity (NC-HI) District, Remove the Neighborhood Commercial Low Intensity (NC-LI) District, Establish the Neighborhood Commercial (NC) District and Modify that District's Requirements for Permitted Principal Uses and Structures, Prohibited Uses and Structures, Special Exceptions, Design Standards, Buffer Zone and Landscaping, Bicycle and Pedestrian Amenities; Amending Section 61-3, Definitions and Word Usage; Providing for Conflicts; Providing for Severability; Providing for Codification; Providing an Effective Date

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to read Ordinance No. 2020-39 by title only. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Ms. Taylor read the ordinance by title only.

Mr. Lear introduced the item.

Recess was taken from 7:23 p.m. to 7:38 p.m.

Ms. Galehouse and Ms. Christie provided an overview of the petition including changes, combining low intensity and high intensity into one, permitted and prohibited uses, special exception uses, revised design standards, setback line vs. build-to lines, property constraints relating to buffering widths and costs, consistent with State requirements and the City's Comprehensive Plan, consistent with the Unified Land Development Code, reviewed by City Attorney regarding form and correctness, and spoke to where standards are being applied within the City, grandfathering situations to be added, and direction requested regarding a conflict between setback lines and build-to lines.

Commissioner Emrich arrived at 7:41 p.m.

Ms. Bellia responded to typical standard lot easement and setback sizes, and tracts and waterways differing.

Ms. Galehouse spoke to scenarios for collector and arterial roads, City-owned lots being unknown within the Neighborhood Commercial Zoning Districts, partnership with a business regarding a Public-Private Partnership (P-3) to develop the property, and working with Economic Development.

Ms. Christie responded to questions regarding permitted uses, prohibited uses and special exceptions sections of the ordinance, special exceptions being considered on a case-by-case basis, and there being no neighborhood commercial zones within activity centers.

Ms. Galehouse spoke to definition of build-to lines, placement of entrance being variable,

and the appeal process for exceptions to build-to lines.

There was a consensus to define build-to lines within the document.

Ms. Galehouse spoke to current businesses that are "grandfathered," differences in building processes of projects, improving oversight with projects that are languishing in development, and a development master plan expiring in two years.

There was a consensus to improve grandfathering language.

Ms. Galehouse spoke to additional/other language to buffer walls until maturity.

There was a consensus to direct staff to work with the City Arborist to address visibility issues for second reading with arborist's suggestions for species or any other solution to be added into the ordinance.

Ms. Galehouse spoke to changing "per use" to "per business", modifying "business" definitions and incorporating language for next reading, and building coverage percentages being calculated by lot coverage.

There was a consensus to redefine business and incorporate the language for discussion at second reading.

Ms. Galehouse responded to concerns regarding the display of items outside of business hours.

There was a consensus to clarify business hours in the ULDC definitions.

Ms. Galehouse spoke to language of businesses' wares outside of the building.

Discussion ensued regarding outside cafes vs. wares displayed outside of a business, and 24-hour vending machine issues.

There was a consensus to not allow 24-hour vending machines of any type in Neighborhood Commercial areas.

Discussion ensued regarding defining operational hours.

There was a consensus to reword the definition for operational hours on line 133, so that operations are not allowed outside the hours of 5:00 a.m. to 10:00 p.m. or language that is appropriate.

Discussion took place regarding buildings on parcels when three sides of a commercial building abut a road.

There was a consensus that the 15-foot build-to line only applies to arterial and collector roads.

Discussion continued regarding points of ingress and egress for build-to parcels adjacent to residential areas, and required buffering in parking lot landscaping pursuant to Chapter 45.

There was a consensus that the 15-foot build-to is required for properties with three or more sides on collector or arterial roads only.

There was consensus to expand the clause in the build-to line definition, adding with the exception of "line-of-sight."

There was consensus to have the Economic Development Department reach out to developments to market neighborhood development areas.

There was a consensus regarding page 5, line 88 removing "commercial" and including a cap on how much residential use is allowed by the development.

There was a consensus to add the word "attached" between line 88 and 91.

Discussion followed regarding special exceptions language missing "on cases by case basis, and must be approved by Commission", adult uses being a prohibited use in Neighborhood Commercial, drive-thru/curb side service defined, requirements for landscaping within parking lot, line 163 ingress/egress access points, line 195 and buffering required by lot coverage size, and vested rights of a development.

There was a consensus for staff to bring back language to reflect the phased approach as well as the subdivisions and sale of those properties to not conflict with the original intent.

Discussion ensued regarding separating the subject matter in line 200.

There was a consensus to reformat verbiage between lines 197 and 203.

Discussion continued regarding needing a second illustration concerning buffering options between residential areas and Neighborhood Commercial areas.

There was a consensus to add a second illustration on line 216 depicting fencing options.

Discussion continued regarding line 293 requiring water features.

There was a consensus to require re-fill fixtures for water bottles at water fountains.

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to continue Ordinance No. 2020-39 for second reading to a date to be determined including all consensuses by January 1, 2021.

PUBLIC COMMENT:

Steve Barnhardt: Concern with extensive restrictions to developer, and most parcels do not have City sewer.

Ms. Taylor read the following Public Comment into the record:

Maria Leslie: Support of the ordinance.

John Leslie: Support of the ordinance.

The motion carried by the following vote:

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

No: 1 - Commissioner Carusone

Commissioner Carusone opposed the petition due to desire for more leniency to individual parcels.

Recess was taken from 9:31 p.m. to 9:48 p.m.

A motion was made by Vice Mayor Luke, seconded by Mayor McDowell, to hear CC PLF-20-100 followed by CC GEN-20-162 in front of ORD NO. 2020-47. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

PETITIONS:**G. [CC](#)
[PLF-20-100](#) Approve Petition No. PLF-20-100, Plat of Wellen Park Downtown Phase 1 (QUASI-JUDICIAL)**

Ms. Taylor read the petition into the record and swore in all those wishing to provide testimony.

Ex parte communication was disclosed by Mayor McDowell of a site visit. No other Commissioners reported having ex parte communications.

John Luczynski, Wellen Park LLLP, being duly sworn, provided a presentation including tract details.

Ms. Galehouse, being duly sworn, provided staff's report regarding the development, including terminating two force main easements and retaining a lift station easement to be completed prior to recording of the plat and transfer of land.

Mr. Luczynski added the public roadway is owned and maintained by West Villages Improvement District (WVID) as well as maintenance of the grand lake.

Ms. Galehouse stated staff had no rebuttal.

Ms. Slayton spoke to no virtual public comment because they have to be sworn.

There was no public comment.

Mr. Luczynski spoke to cost of removing the trees and no organization offered to help mitigate the cost, no bonds being used for development, wetlands are being preserved, heritage trees being saved, extra amenity pond being included, moving the 96-inch tree, and road maintenance stated on the plat map page 1 of 13.

There were no aggrieved parties.

A motion was made by Commissioner Emrich, seconded by Vice Mayor Luke, to reopen the public hearing to hear additional public comment. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

PUBLIC COMMENT:

Steve Barnhardt: Transplanted trees along the Talon Bay property line, and saving trees.

Mr. Luczynski had no rebuttal.

Ms. Galehouse had no rebuttal.

A motion was made by Vice Mayor Luke, seconded by Commissioner Hanks, to approve Petition No. PLF-20-100 as presented. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

4. CONSENT AGENDA continued

- K. [CC GEN-20-162](#) Approve Termination and Release of Easement in Favor of Main Street Ranchlands, LLLL Related to the Utility Easements in the Wellen Park Downtown Development

Mr. Lear introduced the item.

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

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to approve GEN-20-162 as presented. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

6. ORDINANCE: First Reading continued.

- F. [ORD. NO. 2020-47](#) An Ordinance of the City of North Port, Florida, Renaming the Neighborhood Development Services Department to Building and Code Enforcement Services and the Activation of the Department of Development & Environmental Affairs; Providing for Conflicts; Providing for Severability; Providing for an Effective Date

A motion was made by Vice Mayor Luke, seconded by Commissioner Emrich, to read the Ordinance by title only. The motion carried by the following vote:

Yes: 5 - Mayor McDowell, Vice Mayor Luke, Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Ms. Taylor read the ordinance by title only.

Mr. Lear provided an overview of the item.

Ms. Slayton spoke to Charter language regarding creating or dividing a department.

There was no public comment.

A motion was made by Vice Mayor Luke, seconded by Commissioner Carusone, to continue Ordinance No. 2020-47 to second reading on November 10, 2020. The motion carried by the following vote:

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

No: 1 - Mayor McDowell

Mayor McDowell stated reasons for dissenting included the rush to reorganize the department prior to the separation of employment by the City Manager, other departments utilize one director, the decision should not be made at this time, and input from the new City Manager is needed.

Discussion took place regarding the need for dividing the departments, and prior Commission discussion.

Ms. Slayton spoke to the requirements to deactivate the Planning Department, and language in the City Charter referencing deactivating a department.

Discussion continued concerning hindering the progress of the department, Commission ability to create departments vs. City Manager ability to create a division within a department.

Ms. Slayton clarified the process of adoption of the ordinance at second reading.

Mr. Lear spoke to the Planning Director in budget but not funded, and creating a natural resource division.

7. GENERAL BUSINESS continued

B. [20-2802](#) Discussion and Possible Action Regarding Separation Agreement with the City Manager

Mr. Lear provided an overview of the item.

PUBLIC COMMENT:

Steve Barnhardt: City's Code of Conduct, Commissioners meeting with City Manager during his absence, and restoring ethical leadership to the City.

Conni Brunni: City Manager's resignation.

Ms. Taylor read the following public comment into the record:

City Employee: City Manager's continued employment.

Anonymous: The ABCD group.

Nichole Raphial: Expressed concern regarding City Manager.

Maria Leslie: Proposed severance for the City Manager.

John Leslie: Supported amending the severance.

Anonymous: Florida Statutes regarding severance pay.

Concerned Citizen Employee: Expressed concerns regarding immoral turpitude.

Anonymous: Expressed concerns with City government.

Anonymous: Expressed concerns regarding the City Manager.

Anonymous: Opposition to separation agreement.

Kevin M. Shaughnessy: Opposition to separation agreement.

Anonymous: Opposition to separation agreement.

Jamie Pratt: Opposition to separation agreement.

Anonymous: City employee concerns with Mr. Lear's employment.

Anonymous: Concerns with costs to the City.

Ms. Slayton provided additional context to the separation of agreement, the agreement was reviewed by an outside employment contract attorney, and clarified the resignation clause of the employment contract.

Discussion ensued regarding removing portions of the Employment Agreement, that Consolidated Omnibus Budget Reconciliation (COBRA) coverage be shortened to four months, and placing Mr. Lear on paid administrative leave until the separation date.

Mr. Lear spoke to International City/County Management Association (ICMA) not being a regulatory agency.

Ms. Slayton responded to questions regarding the separation agreement provisions, signing waiver of release not preventing from suing certain individuals to the extent that they are in the course and scope of City employment, the non-disparagement provision cannot be waived, and the waiver and release relate to things that happen before the effective date of the contract.

Ms. McDade and Ms. Hope confirmed nothing in Mr. Lear's file of a disparaging nature since being employed.

Ms. Slayton responded to a general statement of the employment, cancellation of contract Section 7A must give 30 days' notice prior to separation, the employment agreement being replaced with the separation agreement, Section 7A does not include an implied notice of resignation, waiver and release language, consideration and revocation period requirements, severability clause in regard to released parties, standard severability language relating to release of claims, circumstances that would require a new contract, agreement release language, required pay for releasing without cause vs. the new separation agreement, the option of paid administrative leave, changing the provision of releasing claim to the workplace investigation, and it being inaccurate to change the date.

Mr. Lear spoke to intent of email to employees on October 21, 2020.

Ms. Slayton replied that Section 7A is determined by an official resignation, certain provisions are offered in the termination agreement that aren't in the employment contract, both parties must agree to any changes to the separation agreement, separation agreements are considered on a case by case basis, and the cost of terminating Mr. Lear's employment tonight without cause vs. approving the Separation Agreement including all financial entitlements.

Discussion continued regarding additional cost considerations to terminate the City Manager tonight.

Mr. Lear spoke to City cost savings for severance pay if terminated tonight vs. paying Social Security and Medicare for 2021, and if terminated tonight there being no release of liability.

Ms. Slayton clarified the severance amount is granted only if the release is signed, and potential negative effects if the release is not signed.

Discussion ensued regarding paying for administrative leave, and taking a break and bring

back numbers if terminated tonight without cause vs. the November 27 option.

Mr. Lear was amenable to the suggested changes.

Commissioner Carusone disagreed with the immediate paid administrative leave and the need for an Interim City Manager to be in place.

Recess was taken from 12:24 a.m. to 12:40 a.m.

Discussion ensued regarding changes in the document regarding COBRA, removing the 21 day and 7 day provision, immediate administrative leave, November 27, 2020 as the termination date, and 12 weeks' severance pay.

Ms. Slayton spoke to the administrative leave being effective the date of the resignation until the separation date, during which time the City Manager is not authorized to conduct any City Business except under Commission direction.

Mayor McDowell passed the gavel to Vice Mayor Luke.

A motion was made by Mayor McDowell, seconded by Vice Mayor Luke, to accept the City Manager's Separation Agreement effective November 27, 2020 with the following changes: four months of COBRA, removing all reference to 21-day and 7-day consideration for revocation, to place on paid administrative leave immediately, the date of separation is November 27, 2020, the document must be signed within 24 hours once it is produced, and 12 weeks of severance pay, and during the paid administrative leave he is not authorized to conduct City business unless authorized by Commission directive.

Ms. Slayton spoke to ambiguities in the motion due to the severance verbiage, and to accept the City Manager's resignation.

Commissioner Emrich disagreed with the motion with no administrative leave, and a transition period is needed.

Ms. Slayton spoke to not placing someone in a position without qualifying them, and flexibility to return City property.

Discussion ensued regarding difference between acting city managers vs. assistant city managers, and selecting an interim city manager from outside the city.

A motion was made by Mayor McDowell, seconded by Vice Mayor Luke, to amend the motion that the City Manager has until 5:00 p.m. Friday, October 30, 2020 to turn in all City properties. The motion failed by the following vote:

Yes: 2 - Mayor McDowell and Vice Mayor Luke

No: 3 - Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

The main motion failed by the following vote:

Yes: 2 - Mayor McDowell and Vice Mayor Luke

No: 3 - Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

Vice Mayor Luke passed the gavel back to Mayor McDowell.

A motion was made by Commissioner Carusone, seconded by Vice Mayor Luke, to

accept the Separation Agreement as drafted with the following amendments: to change COBRA from six months to four months coverage, to remove all references to the 21-day consideration as well as the 7-days, and to include the 24 hours to sign the Agreement. The motion failed by the following vote:

Yes: 2 - Vice Mayor Luke and Commissioner Carusone

No: 3 - Mayor McDowell, Commissioner Hanks and Commissioner Emrich

Commissioner Hanks voiced concern that this is not best for the City, a handful of people are attempting to drive the entire situation, and that Mr. Lear is the right man for the job.

Commissioner Emrich expressed that the compensation package was unfair to taxpayers.

Commissioner Carusone spoke to the potential legal fees if firing without cause, holding people responsible for their unfounded comments on social media, and allowing the City to move forward being fiscally responsible.

Mayor McDowell dissented because keeping him employed for 30 more days is too long.

Vice Mayor Luke agreed with Commissioner Carusone and making a compromise.

Mr. Lear agreed with the 10-day compromise and recommended 10 days with paid administrative leave giving Acting City Manager authority to contact him.

Ms. McDade spoke to the difficulty of expediting the appointment of an Interim City Manager.

Mayor McDowell voiced concern regarding an Acting City Manager vs. Interim City Manager.

A motion was made by Commissioner Carusone, seconded by Mayor McDowell, to approve the Separation Agreement with the following amendments: to remove references to the considerations of 21-days and 7-days; changing the COBRA from six months to four months; allowing the City Manager to sign the Agreement within 48 hours; to place the City Manager on paid administrative leave starting on November 13, 2020; with his final date of separation being November 27, 2020. The motion carried by the following vote:

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

No: 1 - Commissioner Emrich

Commissioner Emrich dissented for reasons previously stated.

A motion was made by Commissioner Carusone, seconded by Commissioner Emrich, to appoint Julie Bellia as Acting City Manager for duration of November 13, 2020 until such time as the new commission decides on an Interim City Manager, and giving authority to speak to Mr. Lear on issues that may arise.

Discussion ensued regarding candidates to serve as an Interim City Manager and an Acting City Manager.

Vice Mayor Luke disagreed with the motion for reasons that the current Assistant City Managers should step in to the position, that Mr. Lear would appoint someone, that the

City Manager's office would start the search for a city manager replacement, that the interim position should be someone outside North Port government, and Acting City Managers should be filling in not another department head who already has great responsibilities.

Mayor McDowell did not support the motion due to the Public Works Director already having a big department to oversee, the City already has two Assistant City Managers who can do the job, the need may only be for a short time, and questioned the need to compound the responsibilities of Ms. Bellia

Ms. Bellia stated she would be honored to serve as the Acting City Manager.

The motion carried by the following vote:

Yes: 3 - Commissioner Hanks, Commissioner Carusone and Commissioner Emrich

No: 2 - Mayor McDowell and Vice Mayor Luke

Commissioner Hanks expressed gratitude to Ms. Bellia for her service and City-knowledge.

8. PUBLIC COMMENT:

Conni Brunni: request for public records.

9. COMMISSION COMMUNICATIONS:

Commissioner Emrich: Nothing to report.

Commissioner Carusone: Nothing to report.

Mayor McDowell: Commented on length of the meeting.

Vice Mayor Luke: Nothing to report.

Commissioner Hanks: Requested consensus to present a Key to the City to Commissioner Carusone.

Ms. Slayton spoke to the request being submitted in writing and presented in a public meeting for Commission determination.

There was a consensus to offer a Key to the City to Commissioner Carusone for her services rendered over many years and be presented to Commissioner Carusone on November 14, 2020 prior to the new Commissioners assuming their seats.

There was a consensus to direct the City Manager to place the Key to the City on the agenda for Commission approval on November 5, 2020.

10. ADMINISTRATIVE AND LEGAL REPORTS:

A. [20-2780](#) City Manager Commission Update

Mr. Lear: Nothing to report.

B. [20-2793](#) City Attorney Report

Ms. Slayton: Nothing to report.

C. [20-2796](#)

City Clerk Report

Ms. Taylor: Nothing to report.

11. ADJOURNMENT:

Mayor McDowell adjourned the meeting at 1:41 a.m. (Wednesday)

City of North Port, Florida

By: _____
Gisele "Jill" E. Luke, Mayor

Attest: _____
Heather Taylor, City Clerk

Minutes approved at the Commission Regular Meeting this ____ day of _____, 2020.