



# City of North Port

4970 CITY HALL BLVD  
NORTH PORT, FL 34286

## Meeting Minutes - Final 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, City Clerk*

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Tuesday, October 11, 2016

10:00 AM

CITY COMMISSION CHAMBERS

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### **MINUTES APPROVED AT THE 11-22-2016 MEETING.**

#### **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; City Clerk Adkins; Recording Secretary Hale, and Police Chief Vespia.

**A moment of silence was observed and the Pledge of Allegiance was led by the Commission.**

#### **1. APPROVAL OF AGENDA – COMMISSION**

Commissioner Yates requested removing Agenda Item 6.B., from the agenda because it conflicts with, and is contradictory to, Commission's direction at the last meeting to rescind the Resolution No. 2015-R-28 on public forum policy. After City Attorney Moriarty clarified that item 6.B. was provided as an alternative option to 6.A., Vice-Mayor DiFranco stated she will not support removing the item from the agenda. Mayor Moore understood that item 6.B., stands in conflict with 6.A. by design, as a way to resolve the issue and she supported keeping it on the agenda.

***A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to approve the Agenda, removing Item 6.B., Resolution No. 2016-R-30, revising Resolution No. 2015-R-28, policy for the use of public facilities. The motion failed by the following vote with Mayor Moore and Vice-Mayor DiFranco dissenting for reasons stated. Commissioner Jones and Commissioner Cook did not provide reasons for dissenting:***

**Yes:** 1 - Mayor Yates

**No:** 4 - Mayor Moore, Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones

*A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Jones to approve the Agenda as presented. The motion carried by the following vote with Commissioner Cook dissenting because agenda item 6.C., is an inappropriate attempt by a Commissioner, who is a candidate, to introduce an item that will benefit that individual's election.*

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

**No:** 1 - Commissioner Cook

## **2. ANNOUNCEMENTS**

**A. [16-0579](#) Current Vacancies for Boards and Committees.**

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

**B. [16-0580](#) Upcoming Expiration Dates for Boards and Committees.**

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

## **3. PUBLIC COMMENT:**

Public comment was held from 10:08 a.m. -- 10:13 a.m.

## **4. CONSENT AGENDA:**

*A motion was made by Vice-Mayor DiFranco, seconded by Commissioner Yates, to approve the Consent Agenda with Item 4.C., pulled for discussion. The motion carried by the following vote:*

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

**A. [16-0578](#) Approval of Minutes for the September 1, 2015 Special Recognition Meeting.**

**B. [16-0507](#) Use of Automated Integration for network integration equipment and services for water treatment plant and wastewater treatment plant instrumentation and control systems in an estimated amount of \$187,900.**

**C. [16-0523](#) Purchase for replacement of City Hall Complex site lighting from Synergy Lighting Supply in the amount of \$232,010.15**

City Manager Lewis provided reasoning for the replacement of outdoor lighting at the City Hall complex. There was no public comment.

Questions ensued: (1) the 120 light poles were found to be oxidizing from the inside out and must be replaced; (2) the new poles are aluminum with LED fixtures and were not purchased from the same company; (3) the warranty for the present lights was for 10 years and has expired.

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

*to approve the purchase for replacement of City Hall Complex site lighting from Synergy Lighting Supply in the amount of \$232,010.15. The motion carried by the following vote:*

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

- D. [16-0552](#) Acceptance of a Property and Evidence Association of Florida, Inc. Grant in the amount of \$500.00.

## **5. PUBLIC HEARINGS:**

- A. [16-0568](#) Ordinance No. 2016-23, Second Reading, Petition No. CPA-16-100 Adopting a Revision to the Capital Improvement Element of the City of North Port Comprehensive Plan, Ordinance No. 89-3, as Amended, to Add in a Fifth Year with Projects to Address Levels of Service.

City Clerk Adkins read Ordinance No. 2016-23 into the record by title only, and City Manager Lewis introduced Neighborhood Development Services Director Williams who presented a review of the Capital Improvement Program (CIP) item, adding a fifth year and accompanying projects. Planner Galehouse was present to answer questions. There was no public comment. There were no questions from the Commission and confirmation was provided that the two pages referenced at the first hearing were corrected and updated in this Ordinance.

*A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to approve Ordinance No. 2016-23, Petition No. CPA-16-100 Adopting a Revision to the Capital Improvement Element of the City of North Port Comprehensive Plan, Ordinance No. 89-3, as Amended, to add in a Fifth Year with Projects to Address Levels of Service. The motion carried by the following vote:*

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

- B. [16-0570](#) Ordinance No. 2016-35, first reading, amending the Fiscal Year 2015-2016 Non-District Budget.

*A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to read Ordinance No. 2016-35 by title only. The motion carried by the following vote:*

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

City Clerk Adkins read Ordinance No. 2016-35 into the record by title only, and City Manager Lewis provided a review of the budget amendment for additional restorative trees along Sumter Boulevard from the Tree Fund, and for the pilot project at Warm Mineral Springs pertaining to extended summer hours. It was also reported that the Biscayne Drive landscaping project is underway and the curbing piece will go out for bid today. There was no public comment and no questions or comments from the Commission.

*A motion was made by Commissioner Yates, seconded by Commissioner Jones, to continue Ordinance No. 2016-35 to the October 25, 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 Mayor Yates

C. [16-0542](#) Petition No. DMP 14-177 Gateway at Cocoplum Development Master Plan Amendment (Phase II) (Quasi-Judicial)

City Clerk Adkins, as a Notary Public, swore in all those wishing to provide testimony on the agenda item.

Exparte communication was disclosed by Commissioner Jones, Mayor Moore, and Commissioner Yates. For the record, Commissioner Yates provided the City Clerk an email response from the City Manager.

Mr. Pentecost and Mr. Murray, representing the applicant, provided a brief review of the petition and requested approval to move forward with Phase 2 in conjunction with Phase 1 of the development, and reported that the Florida Department of Transportation (FDOT) plans to extend the U.S. 41 widening to Sumter Boulevard and it was explained how this will affect the Salford Boulevard intersection and their property. Director Williams presented staff's report and recommended approval of the project. Planner Whittaker was present to answer questions. There was no public comment.

Questions ensued: (1) the majority of the infrastructure is located in Phase 1 and will be finished with that phase, including the roadways and the water/sewer lines under the roadway. Individual parcels will join these lines with lateral service connections which are not considered part of the overall infrastructure; (2) the right-in, right-out by RaceTrac will be removed but there will be another ingress 120-feet further down U.S. 41; (3) there will not be a cross-access ability from the Cocoplum businesses and the Gateway at Cocoplum. The access points on Salford Boulevard and Cranberry Boulevard were explained; (4) subsequent to a point of order requesting the Commissioner to move on, a motion was proffered.

***A motion was made by Commissioner Yates, seconded by Mayor Moore, to extend the question period for five minutes. The motion carried by the following vote with Vice-Mayor DiFranco and Commissioner Cook dissenting. No reasons were provided:***

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

**No:** 2 - Vice-Mayor DiFranco and Commissioner Cook

Questions continued: (1) the Shoppes at Cocoplum have a full-motion intersection which may be used to return to the Gateway at Cocoplum and the developer along with City staff agreed the access points in and out of the development were the best solution that could be obtained; (2) signage is allowed on the side of the building but not on the back.

***A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to approve Petition No. DMP 14-177 Gateway at Cocoplum Development Master Plan Amendment (Phase II), Heron Creek Town Center North.***

Planner Whittaker clarified that the petition is not part of the Heron Creek development and the motion and second were withdrawn.

***A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to approve Petition No. DMP 14-177 Gateway at Cocoplum fka/Cocoplum Center Development Master Plan Amendment (Phase II).***

Vice-Mayor DiFranco requested that staff's conditions be included in the motion. The motion and second were withdrawn. Thereafter, appreciation was expressed to those involved in this new development.

***A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to approve Petition No. DMP 14-177 Gateway at Cocoplum fka/Cocoplum Center***

***Development Master Plan Amendment (Phase II) with conditions. The motion carried by the following vote:***

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

**D. [16-0556](#)**

Petition No. PLF-16-141, Partial Re-Plat/Final Plat for Islandwalk Phase 1-D (Quasi-Judicial)

City Clerk Adkins, as a Notary Public, swore in all those wishing to provide testimony on the agenda item.

Exparte communications with staff were disclosed by Mayor Moore, Commissioner Yates and Commissioner Jones.

Mr. Smith, representing DiVosta Homes, provided a brief overview of the project and requested approval. Director Williams introduced Planner McAllister, who presented an overhead map including a brief explanation of the areas under consideration for approval. There was no public comment.

Following a question, clarification was provided that there are 40 units within the red area indicated as the project.

***A motion was made by Commissioner Yates, seconded by Vice-Mayor DiFranco, to approve Petition No. PLF-16-141, Partial Re-Plat/Final Plat for Islandwalk Phase 1-D. The motion carried by the following vote:***

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

## **6. RESOLUTIONS**

**A. [16-0574](#)**

Resolution 2016-R-31 rescinding Resolution 2015-R-28 policy for the use of public facilities.

Mayor Moore requested but did not receive a consensus to combine discussion of the next three items, with separate motions to follow.

City Clerk Adkins read Resolution No. 2016-R-31 into the record by title only, and City Attorney Moriarty stated that the City Clerk adequately described the agenda item. There was no public comment.

Questions and discussion ensued: (1) a motion to approve this Resolution would cancel the former legislation allowing anyone to lease City-owned buildings; (2) Vice-Mayor DiFranco: [a] voiced concern that cancelling the Resolution will open City Hall for anyone to use; [b] recent mandates from the U.S. Supreme Court states that the content of their message cannot be controlled; and [c] City Hall facilities should provide services for the community and should not be used as a free-for-all; (3) a Workshop is scheduled to refine the legislation; (4) there is no current fee structure or a policy set up to provide rooms in City-owned buildings; (5) Commissioner Cook opposed rescinding the Resolution because [a] it eliminates a policy regarding the use of City-owned facilities; [b] it will allow everyone free access and ultimately will not be free to North Port's taxpayers; [c] the decision is not up to this Commission because three or four Commissioners will not be here after the November election; (6) clarification was provided for the record, that there is nothing in the Resolution that mentions January.

***A motion was made by Commissioner Yates, seconded by Mayor Moore, to approve Resolution No. 2016-R-31. The motion failed by the following vote, with Vice-Mayor DiFranco and Commissioner Cook dissenting for reasons stated.***

***Commissioner Jones did not provide reasons for dissenting:***

**Yes:** 2 - Mayor Moore and Mayor Yates

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

**B. [16-0575](#)** Resolution 2016-R-30 revising Resolution 2015-R-28 policy for the use of public facilities.

City Clerk Adkins read Resolution No. 2016-R-30 into the record by title only, and City Attorney Moriarty stated that because the last item failed, this agenda item is up for Commission consideration. The legislation removes signs from the policy and specifies that signs will be treated pursuant to City Code; the proposed policy contains clarified language, designating the round-about circles near City Hall as public forum locations. Other typographical errors in Exhibits A and B were clarified. Public comment was held.

Questions ensued: (1) City Attorney Moriarty explained why agenda items 6.B., and 6.C. were included on this agenda: [a] legality; anything asked of the City Attorney should be legal; [b] context; clarity was needed whether only sign regulations were to be rescinded or the entire policy; [c] exposure; when new case law is encountered (Reed v. Gilbert) the City Attorney should make the Commission aware of its potential influence on City policy; and [d] Charter Language; which states that nothing gets approved until it receives the City Attorney's signature; (2) for the record, it was stated that this policy is a separate issue and does not resolve anything pertaining to political signs; (3) other problematic issues of the policy for use of public facilities include "Commission-owned" facilities, City Hall complex is not defined, and the public forum of City Hall is being labeled a non-public forum, but City Attorney Moriarty was not aware of any legal infirmities in the policy. The language "non-public forum" was taken from the Supreme Court ruling; (4) clarification was provided that the original language using "display" was to designate the area for everything and when a city says no to a petition, a compelling reason of why must be provided. Resolution No. 2015-R-28 goes to great lengths to say yes; (5) the policy does not temporarily suspend sections of City Code but in adopting the Resolution, it allowed for signs at this public property location; (6) City Attorney Moriarty stated there was no definition regarding content of signs because when a category is created, it is presumptively unconstitutional; (7) if no action is taken on agenda item 6.B., signs will be allowed in the circle; (8) subsequent to a question regarding the Supreme Court's ruling for not controlling the message, the legality of the Commission's discussion on election signs would be determined by a jury; (9) City Attorney Moriarty cited the City Charter, Section 14.05, the City Attorney's Duties which stated "No legal document with this municipality shall take effect until his approval is so endorsed thereon" and reported that it would be gross malfeasance to not sign a document that was approved by the Commission; (10) City Attorney Moriarty stated that he is obligated to disclose to the Commission any potential legal exposures to the City.

***A motion was made by Commissioner Cook, seconded by Vice-Mayor DiFranco, to take no action on agenda item 6.B. The motion carried by the following vote:***

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

Recess 11:55 a.m. -- 12:08 p.m.

**C. [16-0576](#)** Resolution 2016-R-32 allowing signs on city property

City Clerk Adkins read Resolution No. 2016-R-32 into the record by title only, and City Attorney Moriarty provided a PowerPoint overview, citing City Code statutes and Florida Statutes and the effect of Resolution 2016-R-32 will have on City policies. There was no public comment.

Questions ensued: (1) political signs in the right-of-way is inclusive for the entire City; (2) there will be no application fees for signs; (3) private property is not affected by these restrictions; (4) concern was expressed that there will be difficulty enforcing how many signs are placed in the public right-of-way; (5) there is nothing in City Codes prohibiting extending signs from a defined location to the polling place; (6) for the record, Commissioner Yates distributed a list of questions she asked during the question time; (7) taking political signs out of the exemptions and leaving exemptions for other categories is a constitutional issue to be decided best by a jury; (8) sign definitions and inconsistencies are being addressed in the Unified Land Development Code update; (9) clarification was provided that the legislation allows signs applicable to campaigns and political purposes to be located at polling locations and does not affect anyone's right to put anything on their property; (10) if adopted, Resolution No. 2016-R-32 will allow parties to place signs beyond the circle on election day at the Mullen Center, at the Morgan Family Community Center, or on public property.

***A motion was made by Commissioner Yates, seconded by Mayor Moore, to extend the questions for five minutes. The motion failed by the following vote with Vice-Mayor DiFranco, Commissioner Cook and Commissioner Jones dissenting. No one provided reasons for dissenting:***

**Yes:** 2 - Mayor Moore and Mayor Yates

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

Discussion ensued: (1) Commissioner Yates provided the following reasons to take no action on this Resolution: [a] there is no code that the City has that would trump the Constitution or the State Statutes; [b] the same policy in place for signs at City Hall could be applied to polling locations; [c] the Supervisor of Elections cannot prohibit or make any campaign-free zones beyond the 100-foot area at polling locations; [d] there are protections in place that on election day, the City would not be able to enforce any of the issues that were brought up today; [e] removing the exemptions would eliminate any opportunity to apply and receive a special event permit because the process takes 60-days, therefore, it is not practical to institute a policy whose conditions make it impossible to achieve; [f] staff was asked to demonstrate where the City Code allows private residents to put signs on their property; (2) Vice-Mayor DiFranco stated that the answer is not to take action, but that a viable solution was to extend the areas where signs could be posted from a defined location to the polling place and it is up to the Commission to find a solution today.

***A motion was made by Commissioner Yates, seconded by Commissioner Cook, to take no action on Resolution No. 2016-R-32. The motion carried by the following vote with Vice-Mayor DiFranco and Commissioner Jones dissenting. Vice-Mayor DiFranco provided reasons for dissenting and Commissioner Jones did not:***

**Yes:** 3 - Mayor Moore, Commissioner Cook and Mayor Yates

**No:** 2 - Vice-Mayor DiFranco and Commissioner Jones

***A motion was made by Commissioner Yates, direct City Attorney to review the draft Resolution language provided by Commissioner Yates that allows any signs to be allowed at public polling locations and to bring a property constructed Resolution to our next meeting. The motion failed for lack of a second.***

Commissioner Cook declined to support a motion written by another Commissioner.

City Manager Lewis explained that City Code specifies that no signs are allowed on public property unless authorized by the Commission and without a mechanism directing the City Manager to approve signs at different public polling locations, no signs



will be allowed to be posted on Election Day unless they concur with State law.

Discussion ensued: (1) subsequent to a concern that item 6.C., was laid to rest yet discussion on the issue continued, City Attorney Moriarty stated that as long as it is a new item, the motion is proper. If the body determines the question has been asked and answered, then it's out of order. Mayor Moore favored a resolution that will allow candidates to place their signs anywhere on Election Day only; (2) City Manager Lewis voiced concern regarding several sections of the City Code, identified in the proposed Resolution, which addresses the application of the sign regulations; (3) confirmation was provided that the City cannot enforce an action that is Constitutionally illegal to enforce.

***A motion was made by Commissioner Yates, to direct the City Attorney to revise the current Public Forum Policy to include Butler Park. The motion failed for lack of a second.***

Mayor Moore passed gavel to Vice-Mayor DiFranco.

Discussion ensued: (1) following a concern, City Attorney Moriarty stated that a jury would have to determine whether the City would encounter negative legal exposure if the rules were suspended for one specific day; (2) Commissioner Cook stated that: [a] Resolution 2016-R-30 was a temporary solution which the Commission voted down; [b] the issue was discussed at length last Commission meeting; [c] allowing signs on Election Day is controlling the content of signs; [d] the City is exposing itself to potential law suits; (3) following a point of information regarding the propriety of the Supervisor of Elections ability to place signs outside the 100-foot barrier on public property, City Manager Lewis quoted a portion of the ULDC, Chapter 29 and summarized that it is likely that "Vote Here" signs posted by the Supervisor of Elections falls under the provision that that signs erected by a public authority for public purposes are prohibited except those signs authorized in writing by the City Commission or erected by a governmental agency or required to be erected by a governmental agency; (4) after it was suggested to use that ULDC provision to allow signs at the City-owned polling locations, City Manager Lewis stated that would resolve his concerns regarding sending enforcement staff out, but would not necessarily alleviate the legal concern.

***A motion was made by Mayor Moore, seconded by Commissioner Jones, to suspend sign-related rules at public polling places on November 8, 2016. The motion carried by the following vote with Commissioner Cook dissenting for reasons previously stated:***

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

**No:** 1 - Commissioner Cook

Vice-Mayor DiFranco passed the gavel back to Mayor Moore.

Recess 1:24 p.m. -- 2:26 p.m.

## **7. GENERAL BUSINESS:**

### **A. [16-0483](#)**

Discussion regarding the exchange/purchase of real property, located within the Myakkahatchee Greenway project, described as Lot 2, Block 616, 14th Addition to Port Charlotte Replat, PID # 0968-06-1602 in exchange for City owned property on Norvell Avenue, PID 0984-04-8222 plus a cash amount of \$1,100.

Assistant City Manager Schult provided a PowerPoint review of the projects of 7A and 7B together. The two properties are being purchased in exchange for vacant



City-owned property plus a cash payment. There was no public comment.

Questions ensued: (1) various amounts and various ways of purchasing property along the Myakkahatchee Creek were offered by the City to acquire property, with the goal to get property back on the tax rolls; (2) clarification was provided that using the 2015 just value, the value of the Eureka Avenue property and the cash exchange would equal, dollar for dollar value, the City's \$2,600 offer.

***A motion was made by Commissioner Yates, to approve the exchange/purchase of real property, located on the Myakkahatchee Greenway project, described as Lot 2, Block 616, 14th Addition to Port Charlotte Replat, PID # 0968-06-1602 in exchange for City owned property on Norvell Avenue, PID 0984-04-8222 plus a cash amount of \$300. The motion failed for lack of a second.***

Discussion ensued: (1) Commissioner Yates voiced concern that: [a] the public's property is worth more than the negotiated price; [b] she cannot justify devaluing the public's property; [c] the 2016 just value should be used for the public property as well as the private property; and [d] the City's offer is paying more than the dollar for dollar calculation; (2) it was noted that currently, the price for lots is increasing and the City's acquisition of this property for \$3,400, should be considered a bargain.

***A motion was made by Commissioner Cook, seconded by Commissioner Jones, to approve the exchange/purchase of real property, located within the Myakkahatchee Greenway project, described as Lot 2, Block 616, 14th Addition to Port Charlotte Replat, PID # 0968-06-1602 in exchange for City owned property on Norvell Avenue, PID 0984-04-8222 plus a cash amount of \$1,100. 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 - Mayor Yates

**B. [16-0564](#)**

Discussion regarding the exchange/purchase of real property, located within the Myakkahatchee Greenway project, described as Lot 4, Block 623, 14th Addition to Port Charlotte Replat, PID # 0969-06-2304 in exchange for City owned property at 3202 Sawmill Avenue, PID # 0958-11-3815 plus a cash amount of \$900.00.

Assistant City Manager Schult stated the cash difference for this property is \$900. There was no public comment.

***A motion was made by Commissioner Cook, seconded by Commissioner Jones, to approve the exchange/purchase of real property, located within the Myakkahatchee Greenway project, described as Lot 4, Block 623, 14th Addition to Port Charlotte Replat, PID # 0969-06-2304 in exchange for City owned property at 3202 Sawmill Avenue, PID # 0958-11-3815 plus a cash amount of \$900.00.***

Commissioner Yates did not support the amount for the following reasons: [a] the 2016 value of the private property was set at \$2,700 and the 2015 value for the public property was set at \$1,800 plus the \$900 cash; [b] the 2016 public property adjusted value was \$2,800; [c] the \$900 cash incentive would raise the amount to \$3,700 in exchange for their valued property at \$2,700; [d] it is not an equitable exchange and there is no urgency to purchase these properties; and [e] properties that were previously purchased were not offered this type of cash incentives.

***A motion was made by Commissioner Yates, to amend the motion, to remove the cash payment amount of \$900.00. There was no second and the motion failed.***

It was noted that a brief property comparison for a quarter-acre lot at market value is currently \$7,000, even though the property appraiser's assessed value is lower.

***A vote was taken on the motion, to approve the exchange/purchase of real property, located within the Myakkahatchee Greenway project, described as Lot 4, Block 623, 14th Addition to Port Charlotte Replat, PID # 0969-06-2304 in exchange for City owned property at 3202 Sawmill Avenue, PID # 0958-11-3815 plus a cash amount of \$900.00. 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 - Mayor Yates

**C. [16-0572](#)**

Termination of the Facilities Management Agreement - North Port Pool between the City of North Port and the Charlotte County Family Young Men's Christian Association, Inc. (YMCA)

City Manager Lewis presented a brief review of the Commission's direction to close the swimming pool at the YMCA and requested direction regarding the termination agreement with the YMCA which requires a 30-day written notice. Public comment was held.

Questions ensued: (1) City Manager Lewis stated that; [a] depending on how long it stays open, there are other mechanical repairs needed on the pool; [b] the other tests required cannot be performed without replacing the flow meter first; [c] there are other additional health code requirements that must be met; [d] there was no perceived, specific blockages of the pipes under the pool when examined at the end of 2015; [e] the high-end quote to resurface the pool was \$60,000; and [f] the estimated cost to decommission the pool was \$100,000; (2) Vice-Mayor DiFranco opined: [a] that much more funding will be required for the pool than the \$8,000 for the flow meter; [b] after a site visit, it needs to be resurfaced as well; [c] the \$2.3 million previously allocated to rehabilitate the YMCA pool was reassigned, leaving funding sources for the repairs questionable; [d] the \$8,000 is just the beginning of what will be needed to keep the YMCA pool open; (3) City Manager Lewis met with Mr. Modzelewski, CEO and President of the Venice YMCA, where scenarios were discussed and interest to help was expressed; (4) the YMCA pump received the City Manager's authorization to be ordered prior to the Commission's decision to reallocate the funding to a 50-meter pool. To proceed with ordering the pump, a Budget adjustment would be needed with funding to be taken from the Contingency Account; (5) Commission could also direct staff to reach out to other entities for help in this community effort to keep the pool open; (6) Commissioner Cook expressed concern regarding where funding would be taken for the YMCA rehabilitation and agreed with Vice-Mayor DiFranco regarding the underestimation of the final cost to fix the YMCA pool; (7) City Manager Lewis stated that funding would come from the Capital and Equipment Account out of Property Maintenance or Capital and Equipment Account out of Parks & Recreation; (8) clarification was provided that the Commission modified the staff's Capital Improvement Program submittal from reconstructing the YMCA pool at the existing location, to construct a 50-meter pool at Butler Park, thus eliminating the funding for the YMCA pool; (9) a suggestion was proffered to limit the repair amount for the YMCA pool to \$10,000.

***A motion was made by Commissioner Yates, seconded by Mayor Moore, to direct the City Manager to move forward with replacing the pump at the Dallas White Park pool and seek out any assistance that may be available through any interested parties, including conversations on ways to keep the pool operational as long as possible.***

Discussion ensued: (1) Vice-Mayor DiFranco stated that part of the \$2.3 million should have been left in the account to help with the YMCA pool renovation; (2) Commissioner Cook agreed that once repair work commences additional problems will surface, and she will only support an amendment if the funds are taken from the money already set aside for the pool fund.

***A motion was made by Commissioner Yates, seconded by Commissioner Jones, to amend the motion to add that City's expenditures be capped at \$10,000. The motion carried by the following vote with Vice-Mayor DiFranco and Commissioner Cook dissenting for reasons previously stated:***

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

**No:** 2 - Vice-Mayor DiFranco and Commissioner Cook

Subsequent to a point of information, City Manager Lewis confirmed that funding for Capital Improvement Projects comes from Surtax III monies as well as the Park Impact Fees, and the latter can only be used for new projects or to expand projects. Additionally, Surtax III monies are for infrastructure and cannot be used for ordinary maintenance expenditures such as are needed at the YMCA pool, and would not be used to replace the pump.

City Manager Lewis acknowledged that the Department of Health in Sarasota County as well as the Sarasota County Parks & Recreation staff were instrumental in keeping the YMCA pool operational over the years and was certain they will be amenable to continue those conversations. Others, who were mentioned during the meeting, will also be approached.

***A vote was taken on the main motion as amended to read, to direct the City Manager to move forward with replacing the pump at the Dallas White Park pool and seek out any assistance that may be available through any interested parties, including conversations on ways to keep the pool operational as long as possible; and that City's expenditures be capped at \$10,000. The motion carried by the following vote with Vice-Mayor DiFranco and Commissioner Cook dissenting for reasons stated:***

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

**No:** 2 - Vice-Mayor DiFranco and Commissioner Cook

## **8. PUBLIC COMMENT:**

Public comment was held 3:40 p.m. -- 3:42 p.m.

## **9. SCHEDULING OF WORKSHOPS:**

Commissioner Yates: requested a Workshop in January to review the extended summer hours for Warm Mineral Springs, and to begin planning for next summer's season.

Following a request for an update, City Manager Lewis stated that the items of clear cutting and food sustainability are on the rolling agenda as Level I Workshops and after backup materials are submitted, the workshop will be scheduled.

***A motion was made by Commissioner Yates, seconded by Mayor Moore, to schedule a Workshop in January or after, in regards to the Warm Mineral Springs operating hours. The motion carried by the following vote with Commissioner Cook dissenting because it should be left to the new Commission to schedule:***

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

**No:** 1 - Commissioner Cook

#### **10. COMMISSION REPORTS:**

Commissioner Yates reported: (1) attending the National Night Out on Tuesday, August 7, 2016; (2) the Florida League of Cities Policy Committee Meeting on Friday, September 30, 2016; (3) requested but did not receive a consensus regarding relocating some of the trees on U.S. 41 near the Myakkahatchee Creek and re-planting them at places instead of Butler Park; (4) requested but did not receive a consensus to enable the City, as a one-time deal, to provide maintenance of the vegetation overgrowth in the Panacea area.

Mayor Moore attended the Suncoast Technical College Library Ribbon Cutting Ceremony on Thursday, September 29, 2016 and the Florida League of Cities Growth Management/Economic Affairs Committee Meeting on Friday, September 30, 2016.

#### **11. ADMINISTRATIVE AND LEGAL REPORTS:**

Nothing to report.

#### **12. ADJOURNMENT:**

Mayor Moore adjourned the North Port City Commission Regular Meeting at 3:57 p.m.

City of North Port, Florida

By: \_\_\_\_\_  
Linda M. Yates, Mayor

Attest: \_\_\_\_\_  
Patsy C. Adkins, MMC, City Clerk

Minutes approved at the City Commission Regular Meeting this \_\_\_\_ day of \_\_\_\_\_, 2016.