



City of Palm Coast

Palm Coast
Community Center
305 Palm Coast Pkwy., NE
Palm Coast, FL 32137
palmcoastgov.com

Meeting Minutes

City Council

Mayor Jon Netts
Vice Mayor Jason DeLorenzo
Council Member David Ferguson
Council Member William Lewis
Council Member Bill McGuire

Tuesday, April 1, 2014

6:30 PM

Palm Coast Community Center

City Staff

Jim Landon, City Manager

William Reischmann, City Attorney

Virginia A. Smith, City Clerk

>Public comment on issues on the agenda or public participation shall be limited to 3 minutes.

>If any person decides to appeal a decision made by the City Council with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made.

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>Other matters of concern may be discussed as determined by City Council.

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>City Council Meetings are televised on Bighthouse Networks Channel 199.

>All pagers and cell phones are to remain OFF while City Council is in session.

A. Call to Order

Mayor Netts called the meeting to order at 6:30 p.m.

B. Pledge of Allegiance to the Flag

C. Roll Call

City Clerk Virginia Smith called the roll. All members were present.

Present: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Approval of Minutes

- 1 [14-118](#) MINUTES OF THE CITY COUNCIL'S:
 A. March 18, 2014 City Council Business
 B. March 25, 2014 City Council Workshop

Attachments: [March 18, 2014 Business Meeting](#)
 [March 25, 2014 Workshop](#)

A motion was made by Council Member McGuire, and seconded by Council Member Ferguson, that the Minutes be approved as presented. This motion was approved by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Proclamations and Presentations

- 2 [14-115](#) PROCLAMATION RECOGNIZING APRIL 21ST THROUGH THE
 27TH AS VOLUNTEER APPRECIATION WEEK

Attachments: [Proclamation-Volunteer Week- 2014](#)

VM DeLorenzo presented the Proclamation to all volunteers of the City of Palm Coast. Mr. Chick Horowitz received the Proclamation on behalf of all volunteers.

The Proclamation was Received and Filed.

- 3 [14-102](#) PROCLAMATION RECOGNIZING THE RELAY FOR LIFE OF
 FLAGLER EVENT AT CENTRAL PARK IN TOWN CENTER ON
 APRIL 4, 2014

Attachments: [Proclamation-Relay for Life 2014](#)

CM Ferguson presented the Proclamation to representative for Relay for Life.

The Proclamation was Received and Filed.

- 4 [14-92](#) PROCLAMATION RECOGNIZING MAY AS MOTORCYCLE
 AWARENESS MONTH

Attachments: [Proclamation-Motorcycle Awareness Month-May](#)

CM McGuire presented the Proclamation to representatives of the ABATE.

The Proclamation was Continued.

ORDINANCES, RESOLUTIONS, AND PUBLIC HEARINGS

Order of Business for Public Hearings (Council may make inquiries at any stage):

Open Hearing
Staff Presentation
Applicant Presentation (if applicable)
Council Questions of Applicant (if applicable)
Public Comments/ Presentations
Rebuttal by Applicant (if applicable)
Close Hearing
Council Discussion
Council Action

Second Reading

- 5 [14-82](#) ORDINANCE 2014-XX OFFICIALLY NAMING OR RENAMING CERTAIN STREET SEGMENTS AT THE REQUEST OF FLAGLER COUNTY EMERGENCY SERVICES

Attachments: [Ordinance Street Renaming](#)
[Exhibit A Street Name Change](#)

City Attorney Reischmann read the title into the record. Mr. Landon gave a brief summary of the item.

*Public Comment:
There were no public comments.*

A motion was made by Council Member McGuire, and seconded by Council Member Ferguson, that the Ordinance be adopted on Second Reading. The motion was adopted by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Resolutions

- 6 [14-109](#) RESOLUTION 2014-XX APPROVING AN INTERLOCAL AGREEMENT WITH THE SUPERVISOR OF ELECTIONS FOR THE 2014 CITY OF PALM COAST ELECTIONS

Attachments: [Resolution IA SOE](#)
[DRAFT INTERLOCAL AGREEMENT SOE \(COFB redline\)](#)
[SOE Draft 2014 City of Palm Coast Municipal Election Interlocal Agreement](#)

Attorney Reischmann gave an overview of this item.

VM DeLorenzo-The addendum "A" in the Flagler Beach (FB) redline, is that the same addendum as in the Supervisor of Elections (SOE's) proposal? Ans: Mr. Reischmann-Word for word.

VM DeLorenzo-Is it safe to say the FB redline is changes in names and dates is the exact as others in Flagler County and Addendum "A"? Ans: Mr. Reischmann-Correct.

CM McGuire-Does this Interlocal Agreement, the FB redline provide for referenda?

Ans: Mr. Reischmann-Correct.

VM DeLorenzo-Has staff been able to meet with the SOE in person to discuss? Ans:

Mr. Landon-There was one time Virginia went down and waited for an hour to an hour and a half to try to work and meet with her to discuss it. No details were discussed.

Other than that she has refused to discuss any of the provisions here with anyone here on City staff or our attorney.

VM DeLorenzo-Staff to staff, she has not been available to meet and elected body to elected official, she has not been available to meet either, correct? Ans: Mr.

Landon-We have invited her, the Mayor has invited her to meet at a Council meeting to discuss this, correct. Which is why we are recommending we provide her with two options, since we are not able to sit down with her to discuss language that would be of any concern to City Council.

CM Lewis-Does the FB redline address the right of the SOE to selectively choose a facility of her choosing? Ans: Mr. Landon-It indicates that if something happens and a polling place is not available at the last minute or unexpectedly, the States will work together to try to find an alternate location. It does not mandate a particular location, but it states we will work together and the City will assist in finding that location. It should not be objectionable to anybody as it states we will work together.

CM Ferguson-We are trying to figure out how to get out of the controversy by sending 2 options? Ans: Mr. Landon-That is our recommendation.

CM Ferguson-Is April 2 the drop dead deadline? Ans: Mr. Reischmann-That is the date she gave us.

Mayor Netts-Is that a statutory deadline? Ans: Mr. Reischmann-It is not. I cannot tell you why that date was chosen by the Supervisor.

Public Comments:

Courtney Chaplin-Trying to understand what is being said here? What does this mean to the voter?

Jack Carall-Secretary of State's letter to SOE, how does that affect whatever you are doing?

William Venne-What happen for the last 10 years that allowed us to have elections and what happened to make that change to have a different agreement?

Dennis McDonald-Voters deserve a fair and equitable election.

Cecelia Pugliese-Supports SOE Weeks.

Louis McCarthy-Change from odd to even years approved by over 70% of the voters. There is a give and take on everything.

Responses to Public Comment:

Analysis-Mayor Netts-In 2010 leading to the 2011 elections, there was discussion with the SOE about the possibility, feasibility, desirability of moving the Palm Coast elections from the odd number year, when they would be the so called stand-alone elections, the only thing that would be on the ballot would be Palm Coast; it would require the mobilization of all the staff, all the poll workers and all the equipment to hold an election that would be just for the City of Palm Coast. As has been pointed out by any number of people of the recent years, voter turn out at these stand-alone elections are relatively small; so in discussion with the SOE, there were two advantages suggested for moving the election to the even years and piggybacking on a State, Federal and County election. 1. The mobilization costs would be shared; contrary to Mr. McDonald's allegation that the City is looking for a free ride, the intent

has always been we would pay our proportionate fair share of the ballot, but the cost to the taxpayer would be less and at least in theory the voter turnout would be greater, because if you are not motivated to vote for a City Council you might be motivated to vote for a County Commissioner or a Governor or any of the other things that might be on the combined ballot. That was the intent, City Council put that on the ballot in 2011 and the vast majority approved it. We thought it was a done deal. Recently the SOE issued a demand to the City of Palm Coast that she be allowed to use this room, the room we are currently in for early voting and for the general elections. The problem that we have in Palm Coast is that this room is also used for Council meetings, Code Enforcement meetings, Planning Board meetings, and a number of other meetings as well as rented out to the public-any number of organizations hold meetings here. In years past, the two rooms at the far end of the corridor were set aside for elections. Both early voting and general elections. The City suggested that would be adequate for this 2014 election. The Supervisor expressed concerns that there might be delays, might be hold ups, people might be inconvenienced, the room might not be large enough to accommodate them. City Council offered a compromise. Since early voting tends not to be heavy or at least not as heavy as general election day, we would provide those two rooms for early voting and we will provide this room for the primary election and general elections. There was an agreement; we felt there was an agreement with the SOE. Then the issues arose from the SOE about the legality of the 2011 election. State laws says when you modify the charter, which is what that election did, you have to register that with the Secretary of State, there is no timeframe, you do not have to do that within 30 days, 60 days, 90 days, we did not do it until much later, we did it and the Supervisor still felt that it may not be valid. State law, state statutes provides 2 ways to change the charter on this kind of issue-one is by referendum, which is what we did in 2011 and the other way is by ordinance of the City Council. In an abundance of caution, City Council passed those ordinances. To me, this was belt and suspenders; the accomplished the same thing-if one was not valid the other is. There have been a number of opinions given, including that of the Secretary of State that what Palm Coast did is perfectly legal and acceptable. The Supervisor is concerned that there might be a challenge and therefore the City of Palm Coast said we would sign an ancillary agreement holding the SOE harmless. If there were a challenge, it would be the obligation of the City to defend that challenge. The most recent Interlocal Agreement, and I use the word agreement because the agreement implies two parties, there has to be an agreement, it is not unilateral. The most recent Interlocal Agreement that the Supervisor provided says that the City would be limited to two seats on the ballot. We have already had discussion that conceivably there might be 3 seats, I hope not gentlemen, we do not know whether the citizen initiated referendum will gather the sufficient signatures to be on the ballot but if they do then it has to go on the ballot. Obviously if the Supervisor says the ballot is this long and two names takes up this much, if you want a 3rd name or you want a referendum, then your proportionate fair share is going to be greater, which is perfectly acceptable with the City. Most recently we received a communication from the SOE that April 2, tomorrow is the deadline, that if we do not reach an Interlocal Agreement, she will not conduct our elections, that is why I asked our attorney if this was a statutory date or something else.

Secretary of State-Ans: Mayor Netts-The Secretary of State supervises the Division of Elections. There has been correspondence back and forth with the SOE and the Secretary of State; we thought the Secretary of State provided a reasonable analysis of the situation in that a) The City was correct in creating this Charter change and that it was reasonable that the City of Palm Coast be treated the same as the other cities. Obviously, Flagler Beach and Bunnell-stand-alone elections, this is a combined election but otherwise the terms and conditions ought to be similar; that was our understanding.

What has changed-Ans: Mayor Netts-What has changed is the working relationship with the SOE and City Council.

Council meeting with the SOE individually? Ans:Mayor Netts-Individuals cannot speak for the Council. This has to be a decision that all council members share.

Similarity between agreements City of Palm Coast and the SOE and City of Palm Coast and the Sheriff-Ans: Mayor Netts-We do not tell the Sheriff what to do but we do negotiate it to be a mutually agreed upon Interlocal Agreement. That is the goal with the SOE.

Community Center-Ans: Mayor Netts-We agree completely the Community Center is a polling location but where inside the Community Center is the issue.

Mayor Netts suggestion is to authorize execution of both of these agreements. Would like to submit to the Secretary of State both of these documents for his perusal.

CM McGuire-If both proposals are submitted and neither is acceptable to the SOE, do we have any mediation recourse? Ans: Mr. Landon-We should put that in the motion. Attorney Reischmann-There is precedence to that in Chapter 97.012, the Secretary of State is the Chief Election officer. This provides 16 different responsibilities for the Secretary of State as the Chief Elections Officer. The last one states "provide written direction and opinions to the Supervisor of Elections on their performance of their official duties with respect to the election code or rules adopted by the Secretary of State. There is no specific provision in the statute that speaks to arbitration by the Secretary of State or by mediation. I would submit to you that is something he would have the authority to do but whether he is willing to do that, I do not know.

CM Lewis-We need to bring this to a resolution. We have to bring in someone to mediate.

Motion made by Council Member McGuire and seconded by Council Member Lewis to approve the two agreements to be presented to the SOE and if neither is acceptable, we attempt to secure mediation by the Secretary of State. This motion was approved by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

7 [14-87](#)

RESOLUTION 2014-XX SUPPORTING LEGISLATION THAT RESTORES HOME RULE TO LOCAL GOVERNMENT RELATING TO THE REGULATION AND ZONING OF SHORT TERM VACATION RENTALS

Attachments: [Resolution-Short Term Rentals Regulations](#)
[Resolution City of Flagler Beach Short Term Rentals](#)

Mr. Landon gave a brief overview to this item.

CM McGuire-This has no effect on any Palm Coast Ordinances, it simply states our support for homerule powers.

Public Comments:

Dave Sullivan-Supports homerule powers but the latest editions in Tallahassee are changing.

Cecelia Pugliese-Supports County and City to support homerule powers legislation.

Responses to Public Comments:

Support of current legislation-Ans: Mayor Netts-My goal is not to support the current legislation. My goal is to support Flagler County in its efforts to have rescinded the legislation that preempted local government.

VM DeLorenzo-Suggested to strike bill #'s and one of the whereas clauses or include words of original language of the bill since the language changes quickly. Council concurred to amend the language in the Resolution.

A motion was made by Vice Mayor DeLorenzo, and seconded by Council Member Ferguson, that the Resolution be adopted as amended. This motion was approved by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

Consent Agenda

In accordance with Section 286.0114 Florida Statutes, any member of the public interested in speaking on any item on the Consent Agenda, shall come to the podium, state their name and will have up to three (3) minutes to speak.

A motion was made by Council Member McGuire, and seconded by Council Member Lewis, to approve the Consent Agenda. The motion was approved by the following vote: This motion passed unanimously

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

- 8 [14-80](#) RESOLUTION 2014-XX APPROVING THE SECOND AMENDMENT TO THE GRANT AGREEMENT FOR THE PALM COAST HISTORICAL SOCIETY

Attachments: [Resolution-Grant Award 2nd Amendment](#)
 [Historical Society Second Amendment](#)

The Resolution was Adopted on Consent.

- 9 [14-99](#) RESOLUTION 2014-XX APPROVING THE PARTIAL RELEASE OF DECLARATION OF RESTRICTIONS FOR FUTURE WELL SITES AND RELEASE OF OPTION TO PURCHASE WELL SITE

Attachments: [Resolution-Partial Release LW-27](#)
 [LW-27 Palm Coast Land Partial Release](#)

The Resolution was Adopted on Consent.

- 10 [14-106](#) RESOLUTION 2014-XX APPROVING THE PURCHASE OF A 2015 MACK TRUCK PIGGYBACKING THE FLORIDA SHERIFFS ASSOCIATION CONTRACT #13-11-0904 WITH NEXTRAN TRUCK CENTER OF JACKSONVILLE

Attachments: [Resolution-Purchase Water Truck-Nextran](#)
[Engagement Letter - Nextran Jacksonville](#)
[Sheriff Contract and Spec for Water Truck](#)
[Quote - 2015 Mack Truck](#)

The Resolution was Adopted on Consent.

- 11 [14-104](#) RESOLUTION 2014-XX APPROVING A ONE-YEAR PRICE AGREEMENT WITH HARRIS CULVERT, INC. TO PURCHASE VARIOUS TYPES OF DRAINAGE PIPES

Attachments: [Resolution-Harris Culvert Price Agreement for Pipe](#)
[Contract Summary - Harris Culvert](#)
[Bid Opening Tab](#)
[Intent to Award](#)

The Resolution was Adopted on Consent.

- 12 [14-107](#) RESOLUTION 2014-XX AUTHORIZING LOW LEVEL FLIGHTS IN CONNECTION WITH OPERATIONS OF THE EAST FLAGLER MOSQUITO CONTROL DISTRICT

Attachments: [Resolution-East Flagler Mosquito Control Low Flying Authorization](#)
[East Flagler Mosquito Control Authorization Request](#)

The Resolution was Adopted on Consent.

D. Public Participation

In accordance with Section 286.0114 Florida Statutes, after the Mayor calls for Public Participation, each member of the audience interested in speaking on any topic or proposition not on the agenda or which was discussed or agendaed at the previous City Council Workshop, shall come to the podium, state their name and will have up to three (3) minutes to speak. The Mayor will advise when the three (3) minutes are up and the speaker will be asked to take a seat and wait until all public comments are finished to hear answers to all questions. Once all members of the audience have spoken, the Mayor will close public participation and no other questions/comments shall be heard. Council and staff will then respond to questions posed by members of the audience. Should you wish to provide Council with any material, all items shall be given to the City Clerk and made part of the record. If anyone is interested in discussing an issue further or ask additional questions, individual Council Members and staff will be available after the meeting to discuss the matter and answer questions.

*Resident at 18 Birchshire Lane-Swale issue
Heidi Shipley-Swale issues and residents are complaining. Fanshawe Lane
Jimmy Epps-Holland Park, dog park-talks for over a year-it is dirty and it is not
healthy.
Emily Burke-Holland Park, dog park.*

Responses to Public Comments:

Holland Park and the dog park-It has been budgeted this year. Renovation is scheduled to occur in 2014. It is scheduled for the beginning of July.

E. Discussion by CITY COUNCIL OF MATTERS NOT ON THE AGENDA

CM Lewis-Swales-ITT put this together from a swamp land; water runs from west to east to the Atlantic. The water is always going to be there until it settles into the main flow.

CM McGuire-Senior games September 13-20, 2014. This is when the Sr. Games are conducted in the City. More games and more competition.

F. Discussion by CITY ATTORNEY OF MATTERS NOT ON THE AGENDA

Presented item 13.

13 [14-110](#) RESOLUTION 2014-XX APPROVING THE SETTLEMENT AGREEMENT BETWEEN PALM COAST PLANTATION AND THE CITY OF PALM COAST

Attachments: [Resolution - Palm Coast Plantation Settlement Agreement](#)
[Settlement Agreement](#)

City Attorney provided an overview to this item.

CM Ferguson-Can you please explain this is laymans terms? Ans: Mr. Reischmann-Yes. Mr. Reischmann provided an overview to the lawsuit and the settlement.

Public Comments:

Jack Carall-What is it going to cost the City and why do they want to be part of the City?

Responses to the Public Comments:

Cost-Ans: Mayor Netts-It will not cost the City anything. If you live in the City, you receive those services If you live outside of the City, there is an upcharge of 25% to receive those services.

A motion was made by Council Member Lewis, and seconded by Vice Mayor DeLorenzo, that the Resolution be Adopted. This motion was approved by the following vote:

Approved: 5 - Mayor Netts, Vice Mayor DeLorenzo, Council Member Ferguson, Council Member Lewis, and Council Member McGuire

G. Discussion by CITY MANAGER OF MATTERS NOT ON THE AGENDA

*Senior Games-credit to CM McGuire for bringing these games here.
State Cup Soccer Tournament-60 teams
LaCrosse next weekend. We are back in full swing with events.*

H. Adjournment

The meeting was adjourned at 8:12 p.m.

Respectfully submitted,

Virginia Smith, City Clerk

[14-116](#)

ATTACHMENTS TO MINUTES

Attachments: [Meetings Calendar](#)
 [Agenda Worksheet](#)

[14-120](#)

ATTACHMENTS TO MINUTES

Attachments: [Item 2 Volunteer Appreciation](#)
 [Item 5 Exhibit A-Street name changes](#)