

## MINUTES

The South Daytona City Council met in a regular session on Tuesday, October 10, 2017 at 6:00 p.m. in the Council Chamber at City Hall, 1672 S. Ridgewood Avenue, South Daytona, Florida.

Present: Mayor William C. Hall  
Vice-Mayor Brandon Young  
Councilwoman Nancy Long  
Councilwoman Lisa O'Neal  
Councilman Ralph Schoenherr  
City Attorney Scott Simpson  
City Manager Yarbrough

The audience joined the Council in the pledge of allegiance to the flag, followed by an invocation by City Manager Yarbrough.

**APPROVAL OF MINUTES;** of the regular meeting on September 26, 2017 was approved as written on a motion by Councilwoman O'Neal, seconded by Councilman Schoenherr.  
**VOICE VOTE: ALL YES (5)**

**CITIZENS TO BE HEARD;** Janet Kisner, 1639 Golfview thanked the police, fire and public works employees for the excellent job that was done before, during and after the hurricane. She said that the code enforcement officers should not be giving out citations immediately after a hurricane but should give people a chance to complete the cleanup. Ms. Kisner reported wires at Ridge and US 1 down since the hurricane.

Kathy Stafford, 2201 S. Palmetto Avenue reported the problems that occurred during Hurricane Irma whereby water entered her home along with effluent. She said that the problem continued for several hours and the family lost everything in the home due to the sewage backing up.

Paul Klockenga, 2131 S. Palmetto reported the same problems. He suggested that the City look into purchasing vacant lots on the west side of Palmetto to use as retention areas. He said that he was still puzzled as to how surface water gets into the sewer system.

Councilman Schoenherr explained the area north of Big Tree Road and S. Palmetto dries out quicker. The elevation of S. Palmetto going south is 4' and the river came in at 5.6'. In effect, the river came in at the lowest point. Big Tree Road is level with the canal, as well as the park and the neighboring property and the water came in and traveled down Palmetto Avenue. The water will enter the front of the home due to the lower elevation and there are no swales between the homes in that area. Mr. Klockenga stated that it was not surface water but sewage. Mr. Schoenherr stated when the water rises to 5.6' that is 1.5' over the manhole covers. The sewer backflow preventers will help. Years ago, the City put in manhole seal rings. But, there is only so much that can be done when the water gets up

1.5' over the road. Mr. Schoenherr stated that Hurricane Irma has been the worst storm ever and that he had lived on the water for 45-years.

David Butler, 2185 S. Palmetto stated his family moved into their home in 1963. The biggest issue that the City has is the west side of Palmetto was always swamp land. The flooding was caused by the culverts being closed-in that previously were open ditches. Once work was completed on Reed Canal the problems began with flooding on S. Palmetto and water started coming into garages. Mr. Butler stated that the residents want a 10-year plan from the City Council to show how repairs can be made to stop the flooding issues.

**CITY MANAGER'S/CITY ATTORNEY'S REPORT;** City Manager Yarbrough addressed the concerns that were brought before the City Council. First, the utility wires do not belong to the City. However, contact will be made again with the appropriate utility company. The City lost power during Hurricane Irma and the problem that the City experienced was the higher than normal tides backing up into the stormwater system. He cannot rec all the City experiencing a 5.6' storm surge. The sewer system has been relined and it is pretty tight. Unfortunately, the water flooded some of the older homes. City staff ordered sewer backflow preventers and will begin installing once the debris removal process has been completed. City staff is aware of the reported homes that had effluent backup and will begin the process of checking the elevation levels. Once the sewer backflow preventers are installed it should significantly reduce the problem. Also, the City has ordered and installed new lift station pumps.

City Manager Yarbrough requested to add item 10e to the agenda as ratification of the PBA contract. No objections were heard. He gave a status report of Hurricane Irma stating that four more haulers are working in the City and should complete the debris removal by Thursday. The City has not received reimbursements from FEMA or the State of Florida as of this date for Hurricane Matthew.

Mr. Yarbrough noted that a schedule of events for the remainder of the year has been provided. He said that he was surprised how quickly the cleanup of Reed Canal Park took place on the previous Saturday. The next City Council meeting will be November 14.

#### **TABLED ITEM**

**ORDINANCE NO. 17-07;** repealing Ordinance No. 16-10 which established a twelve month moratorium on the growing, processing, manufacturing, distributing, dispensing and selling of medical marijuana within the city limits. **(Tabled during the second reading/public hearing on August 8, 2017).** Not removed from table.

#### **OLD BUSINESS**

**ORDINANCE NO. 17-10;** amending Section 16-19 (Local Business Tax Receipt Prerequisites) to provide a presumption of a rental agreement requiring a business tax receipt when a non-owner resides in a residential structure that the owner is not residing in the same residence at the same time was read by title by the city attorney. A motion was

made by Councilman Schoenherr, seconded by Councilwoman O'Neal to adopt Ordinance No. 17-10 on second and final reading. There were no citizens' comments during the public hearing.

**VOICE VOTE: ALL YES (5)**

## **NEW BUSINESS**

**ORDINANCE NO. 17-12;** amending Section 10-1.2 to provide a waiver of right to contest a city citation and a presumption that violations exist if violator fails to pay fine or requests special magistrate hearing was read by title by the city attorney. A motion was made by Councilwoman O'Neal, seconded by Councilwoman Long, to approve Ordinance No. 17-12 on first reading. City Manager Yarbrough stated that the current City Code allows for anyone that receives a citation the option of paying the fine amount or a hearing is automatically scheduled before the Special Magistrate. The proposed amendment to the Code allows for the payment of a citation, or the violator requesting a hearing before the Special Magistrate. There were no citizens' comments.

**VOICE VOTE: ALL YES (5)**

**RESOLUTION NO. 17-25;** award truck rental agreements to the lowest responsible bidders, P&S Paving, Masci General Contractors and Hap's Trucking Company, and authorizing the city manager to execute said agreements for the rental of trucks which are to be used by city crews to transport hurricane debris from the rights-of-way to the Tomoka Landfill thereby ensuring the public's safety pursuant to Section 2-148 of the City's Code of Ordinances regulating emergency purchases was read by title by the city attorney. A motion was made by Councilwoman O'Neal, seconded by Vice-Mayor Young to adopt Resolution No. 17-25 on first and only reading. City Manager Yarbrough

stated that the purpose for the resolution is to keep the City Council apprised and for documentation purposes for FEMA compliance. There were no citizens' comments.

**VOICE VOTE: ALL YES (5)**

**APPROVING A FINANCIAL MANAGEMENT SERVICES CONTRACT WITH TETRA TECH;** City Manager Yarbrough stated that as a result of Hurricane Irma the City is requesting staff from Tetra Tech to assist the City with FEMA documentation preparation and submission for any non-debris related expenses as well as with tracking and calculation of the City's debris related Force Account Labor and Force Account Equipment costs. The attached proposal from Tetra Tech provides FEMA filing services in order to maximize reimbursement from FEMA and the State of Florida. The proposal falls within a cooperative purchase agreement with a Volusia County contract for services to Tetra Tech. The overall cost of Tetra Tech for Hurricane Irma financial recovery services is estimated not to exceed \$43,965.00. After projected reimbursements, the City's share would be approximately \$5,000 plus any indirect costs. A motion was made by Councilman Schoenherr, seconded by Councilwoman O'Neal to approve Resolution No. 17-25 on first and only reading. There were no citizens' comments.

**VOICE VOTE: ALL YES (5)**

**CONSIDERATION OF A T-MOBILE TOWER LEASE;** City Manager Yarbrough stated that the City has worked hand in hand with Attorney Gary Resnick due to his experience with municipally owned cell towers. The T-Mobile tower lease is ready for ratification and asked that it be conditionally approved awaiting an exhibit and final review and approval. By comparison the City received \$600 per month from Crown Castle. City Attorney Simpson stated that Crown Castle offered the City \$1,600 per month if the land lease was renewed. The lease with T-Mobile provides the City with \$3,000 per month. Councilman Schoenherr asked if T-Mobile would maintain the tower. Mr. Simpson stated that T-Mobile will maintain their aspect of the tower but the City will pay property taxes on the remainder of the tower; and, will provide maintenance on the tower structure. A motion was made by Councilman Schoenherr, seconded by Councilwoman O'Neal to approve the tower lease with T-Mobile.

There were no citizens' comments.

**VOICE VOTE: ALL YES (5)**

**RATIFICATION OF PBA LABOR AGREEMENT;** City Manager Yarbrough stated that the Collective Bargaining Agreement with the Coastal Florida Police Benevolent Association has been completed and all articles in the contract are proposed to be in effect for the next three years. The contract will be retroactive to the October 1, 2017 date. A motion was made by Councilwoman O'Neal, seconded by Councilwoman Long to approve the ratification of the PBA Labor Agreement for the next three years. There were no citizens' comments.

**VOICE VOTE: ALL YES (5)**

**UNSCHEDULED ITEMS: UNSCHEDULED ITEMS: UNSCHEDULED ITEMS:** Vice-Mayor Young noted that the Volusia Delegation will meet on November 3<sup>rd</sup>. City Manager Yarbrough commented that it would be meritorious if Mr. Young, as President of the Volusia League of Cities, could speak at the delegation meeting regarding the delay in hurricane reimbursements. Mr. Young asked how many backflow preventers were purchased? Public Works Director Gillis replied, 12. Mr. Young said that he had a conversation with the city attorney regarding the tabled moratorium ordinance. City Attorney Simpson said the moratorium will expire in December and there is not sufficient time to adopt any form of regulations prior to the end of the moratorium. Mr. Young asked if there are regulations on how many dispensing facilities can operate in a certain location? Mr. Simpson passed out a summary regarding the law and explained the breakdown. He said the retail establishments are owned by the license holder. The law requires that all aspects of the medical marijuana operation from growing to selling to be handled by a single entity. There is a limit to the number of dispensaries that are allowed in each region. The state is separated into five regions. The Health Department determines the maximum number allowed in each region based on a formula of the percentage of population in each region of the total state population. City Manager Yarbrough passed out a memo regarding the direction other municipalities in Volusia County are moving. Mayor Hall said based on the survey there are plenty of places that purchases can be made outside of the City. Councilman Schoenherr stated that he is not concerned with allowing the moratorium to expire. Mayor Hall said that he does not expect to change his viewpoint. Councilwoman O'Neal stated that the majority of city voters want it. City Attorney Simpson stated that the law makes no sense and it will have to change. Federally, marijuana is still illegal. Mr.

Simpson stated that there are only two meetings left and asked if the councilmembers wanted to extend the moratorium or let it expire. Mayor Hall inquired if it was possible to take a poll and commented that he did not see a reason to put staff through undue work. Councilwoman Long asked if the moratorium expires does it come back up for a vote? Mr. Simpson said no. Councilwoman Long spoke about the symposium that was held during the Florida League of Cities Conference in August. She said the fact being overlooked is that this is about medical marijuana not a hallucinogenic. During the symposium there were companies that produce the medicinal marijuana and there are so many safeguards. It was shown how it is produced, strained and purified. The medicinal purposes are for people that have cancer and other serious illnesses to reduce their pain. City Manager Yarbrough asked Councilwoman Long if she wanted to moratorium to expire and she replied, yes. Mr. Simpson said if the moratorium is allowed to expire that would mean that dispensaries would be allowed wherever a pharmacy is allowed and regulated like pharmacies. City Manager Yarbrough said that it looks like three councilmembers would like for the ordinance to expire and two would like to have something brought back at a later time.

Councilwoman Long thanked everyone for getting the City cleaned up after the hurricane. She commended the fire and police for the quick response to the mobile home fire at Candlelight Mobile Home Park. Mrs. Long stated that she was bothered by the individuals that spoke earlier. City Manager Yarbrough said that it would be good to do another video of the collection system to see how porous it has become. Several years ago Insituform was used to seal up the underground pipes with a new liner. The new pumps will move the water faster but the secret is to keep it from backing up into the homes. The backflow preventers will keep the sewer from getting into homes when it is inundated. Councilman Schoenherr said it was a good move. Councilwoman Long asked how many homes received the effluent and where would the backflow preventers be installed? City Manager Yarbrough said that the City registered four or five homes. Elevations will tell staff which homes are prone to have sewer backup. The backflow preventers will be attached to where home sewer lines are connected into the City's collection system. Each backflow preventer will have a valve attached that allows the flow to go only one way. The tides are higher than and the water is coming in between these homes. The homes were built at an elevation that worked for many years but with the river and water rising it won't work for the next couple of generations. Councilman Schoenherr said the backflow preventers are a good idea but there is no way to hold the river back.

Mayor Hall asked if there was any merit to the comment about the sewage from the condominiums flowing down S. Palmetto and causing the problem? City Manager Yarbrough replied no that the system can handle it easily. Community Development Director Dillard stated that there are two pumping stations between the condos and lift station #1. - Staff believes that the northern area became flooded on S. Palmetto and the whole system was inundated but the pump station upstream was still pumping and pressurized the whole system and it wasn't moving out fast enough. Mr. Dillard stated that the backflow preventers will solve that issue. Councilwoman O'Neal inquired how many calls were received from residents on Palmetto Avenue? Public Works Director Gillis stated only four claims were reported. Councilman Schoenherr said that there was flooding in the Golfview area. Mr. Gillis stated there was one residence on Golfview and one on Violet

reporting sewer backup. City Manager Yarbrough said that staff is unsure what happened in that location because the system was working. He stated that the elevations will show staff what properties are prone for possible sewer problems. The newer homes are built higher and water seeks the lowest elevation. Mr. Yarbrough said approximately 60 homes experienced river flooding. Councilwoman Long said there is a big denial about the sea level rising but thinks that city staff is wise to think about ways that it may be controlled. Everyone knows that the river rising and the flooding is becoming more common.

Councilman Schoenherr said that it is heartbreaking and can relate on a personal level with the flooding of his daughter's home. There is no good way to hold the river back when there is a wind field like this last hurricane. It was huge and persisted for so long and it just kept pushing the water in. Mr. Schoenherr said that he wanted to relay that a number of people were saying that Publix did a fantastic job getting backup and operational and being able to supply food when people were able to get out of the homes.

Mayor Hall thanked everyone that came out for the Reed Canal Park cleanup. Movie night at Reed Canal Park was a great success with at least three hundred people attending. Mayor Hall said that he was for medical marijuana and making people more comfortable with their pain but the concern is what happens afterwards. As examples, look at Seattle and Denver and see what is coming down the road. Lastly, at the mayor's roundtable meeting it was brought up that former mayor Glenn Ritchey and his wife have stepped up to donate \$100,000 dollars in matching money for the Council on Aging (COA). Mr. Yarbrough provided a figure of how many individuals in South Daytona are affected or benefit on a daily basis. The number shows 45 people a day receive benefits from COA and another 20 meals are delivered. City Manager Yarbrough commented that he was in attendance with Mayor Hall and explained that the COA office was flooded on Beach Street during the hurricane and they are in the process of relocating. COA provides a lot of other services to the area residents. If there are no objections, staff will draft a letter and pledge \$5,000. No objections were noted. Mayor Hall said that it will be money well spent.

The meeting was unanimously adjourned at 7:12 p.m.

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Deputy City Clerk

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Mayor