

#5

**MINUTES**  
**CITY OF HOLMES BEACH CITY COMMISSION REGULAR MEETING**  
**PATRICIA A GEYER COMMISSION CHAMBERS**  
**5801 MARINA DR, HOLMES BEACH, FL 34217**  
**OCTOBER 25, 2016 - 6:00 P.M.**

**PLEDGE OF CONDUCT:** We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

**1. CALL TO ORDER; PLEDGE TO THE FLAG; MOMENT OF SILENCE**

Chair Titsworth called the meeting to order at 6:00 p.m.

**2. ROLL CALL**

**Present:** Commissioner Grossman, Commissioner Morton, Vice-Chair Peelen, Commissioner Soustek, and Chair Titsworth.

**Also present:** Mayor Johnson, City Clerk Johnston, City Attorney Petruff, Chief Tokajer, and Building Official McGuinness.

**3. COMMISSION REPORTS AND/OR ANNOUNCEMENT OF EX-PARTE COMMUNICATIONS**

Commissioner Peelen

Commissioner Peelen attended candidate political events on October 12 and 14. On October 17, she attended the Democratic luncheon, the BIEO meeting on October 19 where the first annual Home Sweet Home Report was presented, and on October 20, she chaired the Home Sweet Home meeting.

Commissioner Soustek

Commissioner Soustek attended the candidate forum held at The Center. She felt it was very well organized.

On October 19, Commissioner Soustek attended the BIEO Meeting held in Longboat Key. She had discussions with Longboat Key relating to their recent fish cleanup. She felt the fish cleanup issue should be placed on a future Holmes Beach meeting agenda, and that money is set aside in the City's budget for handling future cleanup events.

*Chief Tokajer* said the Code Enforcement Officer had reached out to Manatee County who has informed that in the future their Work Release group would be available to clean the City's beach ends and canals at no cost to the City. He explained the workers would utilize rakes to remove the fish, and then take the dead fish to the dump.

Chief Tokajer also reached out to Longboat Key and found the contractors they utilized were pricey.

*Commissioner Soustek* reported she had received many calls relating to the dead fish and smell in the canals. She originally thought legal permission would be needed in order to go into the canals. However, she later found out they are public.

*City Attorney Petruff* informed most of the City's waterways were dedicated on plats. There are a few where some areas may be private.

*Commissioner Soustek* asked that a procedure relating to the dead fish cleanup be put into place.

*Mayor Johnson* acknowledged since it has been approximately two weeks now since the fish began to die, and with the amplified winds out of the east from storm on the east coast, staff began to recognize the situation was not disappearing and was compounding itself over time. After checking to find a way to relieve the situation, it was found best to leave be and allow the fish to decay. After further checking, staff has now come up with a viable solution for the future.

*Commissioner Soustek* attended The Center's October 24 meeting. She informed they have been shuffling some of their programs and are focusing on improving communication with the community. Along with after-school daycare, new programs will include tennis, travel soccer, and wrestling. An update on The Center's financial situation will be presented January 2017 for their last six months of activity.

Commissioner Morton

*Commissioner Morton* agreed anything to address the dead fish situation would be great.

**4. MAYOR'S REPORT**\* **a. PROCLAMATION – "FARM-CITY WEEK"**

Noting the Farm-City Week representative had not yet arrived, *Chair Titsworth* postponed the Mayor's reading of the Proclamation.

Department Reports

*Mayor Johnson* had sent the Commission copies of the updated Building Department, Police Department, and Code Enforcement reports. Mayor Johnson noted the reports indicate the increase of remodels vs. new construction.

*Commissioner Peelen* felt the increase of remodels should be discussed throughout the community. She felt the residents would like to know how the Commission action to reduce the size of houses has directly led to fewer teardowns. She said the Commission should be proud of that fact.

Auditors

*Mayor Johnson* announced the auditors began their initial review of the City's financial records the previous week.

**5. CONSIDER APPROVAL OF THE OCTOBER 11, 2016 CITY COMMISSION REGULAR MEETING AND WORK SESSION MEETING MINUTES**

*Chair Titsworth* pointed out the letters "BVN" should be removed on page 1 of the Work Session minutes.

**Motion: Move that the October 11, 2016 City Commission Regular Meeting Minutes be approved as written, and the October 11, 2016 Work Session Minutes be approved as corrected.**

**Action: Approved. Moved by Vice-Chair Peelen, Seconded by Commissioner Grossman.**

**Vote: Motion carried by unanimous roll call vote.**

**6. QUESTIONS AND COMMENTS FROM THE PUBLIC AND PRESS – None.**NEW BUSINESS**7. RESOLUTION NO. 16-06 – FIRE CHIEF SOUSA**

**"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLMES BEACH, FLORIDA, RECOMMENDING THAT MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS AMEND ARTICLE IV OF CHAPTER 2-13 OF THE MANATEE COUNTY CODE, ENTITLED LIFE SUPPORT TRANSPORTATION SERVICES, TO INCLUDE A PROVISION FOR NON-TRANSPORT ALS, AS DEFINED IN FLORIDA ADMINISTRATIVE CODE 64J.1.003 (6) ALS NON TRANSPORT; PROVIDING FOR A WAIVER OF THE APPLICATION SUBMISSION REQUIREMENTS AND PROCEDURES UNDER THE MANATEE COUNTY CODE OF ORDINANCES 15-37.**

*Chair Titsworth* read the Resolution title.

*West Manatee Fire and Rescue District Fire Chief Sousa* addressed the Commission informing State Statute requires anyone providing Enhanced Emergency Care must apply for a license through the State. The Statute that was first written in 1969 has since been changed once governments began taking over the Ambulance Transport Service.

Chief Sousa explained for a private entity, a Certificate of Public Convenience and Necessity (COPCN) is required. The County would not have to have a COPCN if they are operating the service themselves. Since 1993, Manatee County had an Ordinance in place that allowed them to issue waivers to a private entity. The waiver states the Fire Department would not have to comply with all provisions as regulated by the County. In December 2015, that Ordinance was amended, and the waivers were removed. The Fire Department is now wanting to provide Non-Transport Advanced Live Support (ALS) services, and

asking each jurisdiction to adopt a Resolution of support. The Fire Districts will address Manatee County as a unified group requesting the Ordinance be amended. He noted during the hearing held by the County in December, the County Attorney had asked if they had advised the cities about the Ordinance. However, the County did not consult any municipalities about the Ordinance revision.

Explanation followed relating to the Fire Department's planned hiring program, one-year paramedic training program, program and residential tax costs at an additional \$7.82 per year, protocol requirements, liability, and quality assurance. A PowerPoint presentation with explanation followed.

Chief Sousa informed their services would be Paramedic/Fire Fighters serving as First Responders pending arrival of the Emergency Transport Unit. He informed the Fire Department does not have the revenue basis in order to provide transport services – and an additional 24 employees would be needed. There is not enough revenue within the transport district to offset the costs, and the Fire Department would be unable to purchase the ambulance unless subsidized by the County. He pointed out Manatee County receives no revenue unless the patient is transported.

According to Chief Sousa, the County would also have to vote on an issue the Fire Department a COPCN. The proposal will be to revisit the Certificate every two years. He noted Longboat Key only hires Firefighter/Paramedics. They, however, are aiming for minimum of 12 in Manatee County, and ideally having all 21 Firefighters with a Paramedic license.

**Motion: Move that Resolution 16-06 be approved for adoption.**

**Action: Approved. Moved by Vice-Chair Peelen, Seconded by Commissioner Morton.**

**Vote: Motion carried by unanimous roll call vote.**

**8. CONSIDER APPOINTMENT TO THE PLANNING COMMISSION TO FILL THE UNEXPIRED TERM OF ALLEN WURZBACH EXPIRING JULY 1, 2019.**

- **Motion: Move that Scott Boyd be moved from Alternate Planning Commission member to a full-time member to fill the unexpired term of Allen Wurzbach expiring July 1, 2019.**

**Action: Approved. Moved by Vice-Chair Peelen, Seconded by Commissioner Soustek.**

**Vote: Motion carried by unanimous roll call vote.**

- **Motion: Move that Jaynie Christenson be appointed to fill the unexpired term of Scott Boyd as Alternate Planning Commission member with term expiring July 1, 2019.**

**Action: Approved. Moved by Commissioner Grossman, Seconded by Commissioner Soustek.**

**Vote: Motion carried on vote of 4 to 1.**

**Yes: Commissioner Grossman, Commissioner Morton, Vice-Chair Peelen, and Commissioner Soustek.**

**No: Chair Titsworth.**

**\* a. PROCLAMATION – "FARM-CITY WEEK"**

*Mayor Johnson* provided details relating to Farm-City Week, and the events that will take place this year. He noted the emphasis this year is on young people and becoming more educated on farming in Manatee County.

Mayor Johnson read and presented the Proclamation to Martha Glen, Palmetto.

**Martha Glen**, Commercial Horticulture, UF/IFAS Extension Manatee County, presented the Commission with information and a 2016 Farm-City Week mug. She announced agriculture is the second largest industry in Manatee County next to tourism with \$2.36 billion in economic value in Manatee County.

Details relating to the 2016 events followed. She informed there are over 8,000 students involved in agriculture in Manatee County. Great citizens are being produced through the agriculture programs – and the programs are not just about raising animals.

Ms. Glen invited the Commission to the 25<sup>th</sup> annual farm tour, which serves as their largest fundraiser.

## **9. AUTHORIZE MAYOR TO NEGOTIATE OPTION CONTRACT FOR PURCHASE OF REAL PROPERTY.**

*City Attorney Petruff* explained the agenda item relating to the negotiation of an option contract for the purchase of real property as authorized pursuant by F.S. Sec. 166.045. Once the option contract has been agreed upon, it would then have to come back before the Commission for action within 30 days.

City Attorney Petruff informed the City is pursuing a couple of pieces of property that would be of benefit to the citizens.

- **Motion: Move to authorize the Mayor to Negotiate an Option Contract for the Purchase of Real Property in accordance with F.S. Section 166.045.**

**Action: Approved. Moved by Commissioner Soustek, Seconded by Commissioner Morton.**

**Vote: Motion carried by unanimous roll call vote.**

*City Attorney Petruff* explained Section B. of F.S. Sec. 166.045 states the governing body may exempt the requirements of an appraisal if the purchase price of \$100,000 or less. She said there might be instances where some of the properties being looked at may fall under the \$100,000 amount. If that is the case, until directed otherwise, the City does not intend to get an appraisal. She stated the Commission could vote for the Mayor to move forward without an appraisal. However, when coming back with a specific Option Contract that is less than \$100,000, the Commission will be asked to waive that section.

City Attorney Petruff asked that the Commission take such action that they understand some of the properties they will be pursuing.

- **Motion: Move that the City Commission recognize that Florida Statute allows for exempting property purchases in an amount less than \$100,000 or less from the requirements of obtaining an appraisal.**

**Action: Approved. Moved by Vice-Chair Peelen, Seconded by Commissioner Morton.**

**Vote: Motion carried by unanimous roll call vote.**

**UNFINISHED BUSINESS** - None.

## **10. ANNOUNCEMENTS**

- THURSDAY – OCTOBER 27 – 11:30 A.M. – POLICE RETIREMENT BOARD MEETING
- WEDNESDAY – NOVEMBER 2 – 10:00 A.M. – PARKS & BEAUTIFICATION COMMITTEE MEETING
- WEDNESDAY – NOVEMBER 2 – 7:00 P.M. – PLANNING COMMISSION MEETING
- SATURDAY & SUNDAY – NOVEMBER 5 & 6 – ARTS & CRAFTS SHOW @ CITY FIELD – BENEFITING BUTTERFLY PARK
- TUESDAY – NOVEMBER 8 – ELECTION DAY – COMMISSION MEETINGS RESCHEDULED
- FRIDAY – NOVEMBER 11 – VETERANS DAY – CITY OFFICES CLOSED
- FRIDAY – NOVEMBER 11 – 8:30 A.M. – ISLANDER VETERANS DAY SALUTE
- FRIDAY – NOVEMBER 11 – 9:00 A.M. – 3:00 P.M. – BEACH CLEAN-UP
- FRIDAY – NOVEMBER 11 – 5:00 P.M. – 8:00 P.M. – ARTWALK IN HOLMES BEACH
- TUESDAY – NOVEMBER 15 – 6:00 P.M. – CITY COMMISSION REGULAR MEETING WITH WORK SESSION TO FOLLOW
- THURSDAY – NOVEMBER 17 – 6:00 P.M. – NEIGHBORHOOD WATCH TRAINING
- MONDAY – NOVEMBER 21 – 9:00 A.M. – MAYOR AND CITY COMMISSION SWEARING-IN CEREMONY & ORGANIZATIONAL MEETING – EXACT DATE TO BE DETERMINED BASED ON ELECTION RESULTS
- THURSDAY & FRIDAY – NOVEMBER 24 & 25 – THANKSGIVING HOLIDAY – OFFICES CLOSED
- WEDNESDAY – NOVEMBER 30 – 2:00 P.M. – BIEO – LONGBOAT KEY

## **11. QUESTIONS AND COMMENTS FROM MAYOR AND CITY COMMISSION**

City Boat Ramp – New Boatlift Covers

*Commissioner Morton* reminded the Commission had authorized new boatlifts for the Fire and Police Departments at the City Boat Ramp. He asked if the City could waive the code requirements and allow the two boatlifts to have a canopy due to being public entities. He pointed out the boats are very expensive.

*Chair Titsworth* noted boat canopies are not allowed in the Residential District. She referred to Mr. Spott's previous request.

**Action: City Attorney Petruff will look into and report back.**Campaigning on County Properties

*Commissioner Peelen* informed Manatee County Administrator Hunzeker had sent out a memo to all Manatee County candidates and employees, stating there will be no campaigning on County properties on election days or at all. Those sites would include the County sites, libraries, Convention Center, etc.

During the County Commission meeting both the Republican Chair and Democratic Chair spoke and were outraged a County official would encourage voter repression. As a result, the Manatee County Commission voted to rescind Administrator Hunzeker's memo.

New Contract - Manatee County Beach Concessions

*Commissioner Peelen* announced the Manatee County Commission entertained a new contract with the operators of the Manatee County Beach concessions. The item was pulled from the consent agenda by County Commissioner Whitmore. The contract arrangements between the County and concessionaire have been changed.

*City Attorney Petruff* read a memo into the records she received. The memo was from the Purchasing Official to the County Administrator noting the County's portion – based on last year's revenues - would be increased by approximately \$43,000 if the amendment were approved.

Beach Concessionaire – Wheelchair Availability

*Commissioner Peelen* informed the concessionaire would now be responsible for making a wheelchair available. There were no details on the process.

Use of Manatee County Beach Concession Funds

*Commissioner Peelen* voiced concern about the concession monies in the event the County sales tax does not pass. She encouraged the three Island Cities to agree on a project so the concession funds could be utilized on something that would benefit the Island. She asked the Mayor to get with the other Island Mayor's to come up with a proposal.

*Chair Titsworth* reminded all three Island Cities had agreed to utilize the concession funds for the recent ULI study.

Home Sweet Home Update

*Commissioner Peelen* announced the reason Home Sweet Home became a non-profit and incorporated is to solicit for old houses to become as affordable rentals. She said the group will be a huge hunt for private and State grants, and was glad the City will be part of the Community Development Block Grant program (CDBG).

*City Attorney Petruff* informed the CDBG would not be an available option due to the income levels on the Island.

Ugly Grouper Site Plan

*Commissioner Grossman* referred to the changes that had been made at the Ugly Grouper (former Tiki Bar). He questioned if a Landscaping Site Plan was required when there had been a major renovation.

*Building Official McGuinness* announced a new Site Plan for the Ugly Grouper would be presented to the City within the next week. The parking and landscape are being reconfigured.

*Commissioner Grossman* noted a lot of work has been done at the Ugly Grouper location. Bushes, etc. have been removed. He felt the business was unsightly and asked about buffering.

*Building Official McGuinness* stated buffers are normally required between property lines.

*Chair Titsworth* informed lightning had struck the mobile kitchen, so the kitchen will be moved inside. Her husband was originally involved as contractor, however, there is a new contractor now. She will be happy to see the Site Plan on a future agenda, where the City Commission can add stipulations.

#### Parking on Marina and Palm

*Commissioner Grossman* informed cars are parking the wrong direction on the 60-ft. right-of-way on Marina and Palm. He had contacted Dispatch earlier that day and was told it was private property.

*Chief Tokajer* will look into.

#### Australian Pines

*Chair Titsworth* said she received a call that day from a person who lives at the Holmes Beach/Anna Maria City limits. Holmes Beach has an easement on his property where he informed there are Australian Pines he wants removed. Chair Titsworth recommended the individual speak to the Mayor. According to the property owner, he was told approximately a year ago the Public Works Department would remove them.

*Mayor Johnson* said he received the call and is currently researching the issue.

*Building Official McGuinness* stated he met with Mr. Wylie that day, and the three large 3-ft. to 5-ft. diameter trees are clearly located on his property.

Comments followed relating to being a life-safety issue. Building Official McGuinness said he asked Mr. Wylie for a copy of the actual survey of the house in relation to the trees – and that he will go out with Public Works Foreman Benton to determine if there is a life safety issue. However, to his knowledge, Mr. Wylie will be responsible for their removal.

*City Attorney Petruff* advised that even if there were a life-safety issue, removal of the trees would not be the City's responsibility. If the City were to remove the trees, a lien needs to be placed on the property. She said she was not aware of any City that has taken down trees on private property at the request of property owner. She cautioned the City needs to be very careful with respect to this issue.

## **12. QUESTIONS AND COMMENTS FROM CITY ATTORNEY**

#### Treehouse Case

*City Attorney Petruff* announced Judge Smith entered an order dismissing the Treehouse appeal of the order imposing fine. In her opinion, the order cannot be appealed. She noted the Appellants failed to file within the required time. As a result, the per day fine will continue to run.

#### DR430

*City Attorney Petruff* asked for Commission consensus that she be authorized to write a letter to ask the Property Appraiser to send out courtesy letters to Realtors, title companies, and attorneys providing them with information that any DR430 form is required to be filed with the County.

She noted when an LLC that owns real estate has been transferred, and a DR430 has been issued, filing it with the County is how the Property Appraiser knows a piece of property within an LLC has been transferred. In those type cases, a deed is not recorded.

**Action: There was Commission consensus for City Attorney Petruff to move forward.**

Bert Harris Claims

The City has received approximately 13 Bert Harris cases. City Attorney Petruff informed she and Mayor Johnson has requested a meeting with the League of Cities to discuss how to move forward.

626 Key Royale Lawsuit

Trial begins on November 9 through November 17 relating to the 626 Key Royale lawsuit. City Attorney Petruff stated she has been called to serve as a witness.

Legislative Change Needed

*City Attorney Petruff* informed the Florida Division of Hotel and Motels will issue a Rental License to anyone that meets their standards. Unlike when an alcoholic beverage license is applied for, rental properties do not require a zoning clearance letter from the local jurisdiction. The only way the law would be changed would be through a legislative change.

City Attorney Petruff asked that the issue be placed on an upcoming Work Session to discuss and address as a legislative issue.

**13. QUESTIONS AND COMMENTS FROM STAFF – None.**

**14. QUESTIONS AND COMMENTS FROM PUBLIC AND PRESS -- None.**

**ADJOURNMENT**

**Chair Titsworth adjourned the meeting at 7:33 p.m.**

---

**Stacey Johnston, MMC, City Clerk**

**Minutes approved:** \_\_\_\_\_

NOTE: THIS IS NOT A VERBATIM RECORD; A DIGITAL RECORDING HAS BEEN MADE OF THE FOREGOING PROCEEDINGS OF WHICH THESE MINUTES ARE A PART. THIS DIGITAL RECORDING WILL REMAIN ON FILE AT THE CLERK'S OFFICE IN THE CITY OF HOLMES BEACH FOR TWO (2) YEARS.