



City of Venice

401 West Venice Avenue
Venice, FL 34285
www.venicegov.com

Meeting Minutes City Council

Tuesday, November 27, 2018

9:00 AM

Council Chambers

CALL TO ORDER

Mayor Holic called the meeting to order at 9:00 a.m.

ROLL CALL

Present: 7 - Mayor John Holic, Council Member Jeanette Gates, Vice Mayor Bob Daniels, Council Member Richard Cautero, Council Member Charles Newsom, Council Member Margaret Fiedler and Council Member Helen Moore

Also Present

City Attorney Kelly Fernandez, City Manager Ed Lavallee, City Clerk Lori Stelzer, Recording Secretary Mercedes Barcia, and for certain items on the agenda: Fire Chief Shawn Carvey, Fire Marshal Jack Stevenson, Development Services Director Jeff Shrum, and Planning Manager Roger Clark.

INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Stelzer offered the Invocation followed by the Pledge of Allegiance led by Ms. Moore.

I. RECOGNITION

[18-3518](#)

Swearing in: Lieutenant Stephen Worobel Promoted to Battalion Chief and Firefighter/EMT Tyler Eaton Promoted to Lieutenant

Mayor Holic swore in Battalion Chief Stephen Worobel and Lieutenant Tyler Eaton.

[18-3625](#)

20-year Service Award, Stacy McKenzie-Grant, Office Manager

Mayor Holic presented this award to Stacy McKenzie-Grant.

II. AUDIENCE PARTICIPATION

Dana Toole, Attorney for DeJonge Excavating, commented on the Edmondson Road multi-use trail project contract to include the city's position and duties involved, and avoiding a dispute.

Douglas Kniff, 304 Bayshore Drive, spoke to storm drain issue on the utility easement.

There was consensus for the city manager to direct staff to investigate the and report back to council on the storm drain issue and on the non-payment to DeJonge Excavating.

Ms. Fernandez noted there has been many discussions between legal and staff regarding the Edmondson contract.

III. CONSENT SECTION:

A motion was made by Council Member Gates, seconded by Council Member Fiedler to approve items in the Consent Section with the exception of Item Nos. 18-3638 and 18-3639. The motion carried by voice vote unanimously.

A. MAYOR

[18-3626](#) Appoint Maryjo Floryjanski to the Public Art Advisory Board to Serve a Term from December 1, 2018 Until November 30, 2021

This Appointment was approved on the Consent Agenda.

[18-3627](#) Appoint C. Richard Hale to Planning Commission to complete the term of Helen Moore from November 27, 2018 Until January 31, 2019

This Appointment was approved on the Consent Agenda.

[18-3628](#) Appoint Nick Flerlage to the Code Enforcement Board to Serve a Term from November 27, 2018 Until November 30, 2021

This Appointment was approved on the Consent Agenda.

[18-3640](#) Appoint Elizabeth Mogford to the Economic Development Advisory Board to Complete the Term of Paul Mosely from November 27, 2018 until March 31, 2021

This Appointment was approved on the Consent Agenda.

C. CITY MANAGER

Engineering

[18-3629](#) Authorize the Mayor to Execute the State Revolving Fund Loan Agreement SW580460 between City of Venice and Florida Department of Environmental Protection Agency for the Live Oak Street Stormwater Improvements Project

This Agreement was approved on the Consent Agenda.

[18-3630](#) Authorize the Mayor to Execute the Subrecipient Agreement between Sarasota County and City of Venice for County CDBG Funding for the Ridgewood Avenue Sidewalk Project

This Agreement was approved on the Consent Agenda.

[18-3642](#) Authorize the Mayor to Execute Work Assignment No. 2019-05ENG with Atkins North America, Inc., in the Amount of \$314,767.00 for Design Services for the Capri Isles Bridge Replacement Project

This Work Assignment was approved on the Consent Agenda.

Fire

[18-3637](#) Approval of the Ranking of Proposers for RFQ 3089-18 for Professional Architectural and Engineering Services for the City of Venice Fire Station #1 and Authorize Staff to Begin Negotiations with the Top Ranked Firm

This Item was approved on the Consent Agenda.

Utilities

[18-3631](#) Authorize the Mayor to Execute Florida Department of Environmental Protection (FDEP) General Appropriations Grant Amendment 1, Increases the Original Grant of \$500,000 (FY16/17) by \$750,000 (FY18/19) Making the Total Grant Amount of \$1,250,000

This Grant Amendment was approved on the Consent Agenda.

IV. ITEMS REMOVED FROM CONSENT

B. CITY ATTORNEY

[18-3638](#) Approve Settlement Agreement Between City of Venice and Fibernet Direct Florida LLC

A motion was made by Council Member Gates, seconded by Council Member Fiedler, that Item No. 18-3638 be approved.

Discussion followed regarding the settlement agreement, installation by Fibernet, and conduit.

Steven Chase, Attorney, Shumaker, Loop & Kendrick, LLP, commented on mediation, settlement negotiations, Fibernet's position, injunction, alternatives, and continued use of conduit.

Discussion continued on settlement, litigation expenses, upcoming new technology, and resolving the agreement.

The motion carried by voice vote with Mayor Holic opposed.

[18-3639](#) Approve License Agreement Between City of Venice and Fibernet Direct Florida LLC

A motion was made by Council Member Gates, seconded by Vice Mayor Daniels,

that Item No. 18-3639 be approved.

Discussion followed regarding longevity of the license agreement.

The motion carried by voice vote with Mayor Holic opposed.

V. NEW BUSINESS

A. ORDINANCES

[ORD. NO. 2018-42](#)

An Ordinance of the City of Venice, Florida, Amending Chapter 34, Environment, Article III, Nuisances, Division 1, Generally, to Add Section 34-62, Burning of Land Clearing and Tree Cutting Debris; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability; and Providing for an Effective Date

Ms. Stelzer read the ordinance by title only.

Jeffery Boone, Boone Law Firm, noted support of the ordinance, commented on burning and future chipping by Neal Communities, language change to Section 34-62 regarding interpretation of air curtain incinerator and suggested inserting language "forced air burning process that reduces smoke".

Randy Olson, Neal Communities Manager, spoke to chipping, open burn box, air monitoring, and the suggested language change.

Ms. Fernandez commented on researching language change.

Discussion followed on air curtain reducing or eliminating smoke.

Mr. Boone noted he will engage with Ms. Fernandez on recommended language.

Discussion ensued on the ordinance to include nuisance protocol and Sarasota County's Code.

A motion was made by Vice Mayor Daniels, seconded by Council Member Gates, that Ordinance No. 2018-42 be approved on first reading and scheduled for final reading.

A motion was made by Council Member Cautero, seconded by Council Member Fiedler, to amend the motion to add language regarding nuisance definition and criteria and protocol for reporting violations.

Ms. Fernandez spoke to codes applicable to the city, meeting with Jack Stevenson, and the process when there is an issue within the city that falls under the county's code.

Mr. Stevenson spoke to enforcement process of the county's code and

responded to council questions regarding reporting open burning violations, nuisance and land clearing operations.

Discussion continued on land clearing burning and developers having an agreement with Venice Area Beautification Inc. (VABI), nuisance fire, air curtain incinerators, purpose for the city enacting ordinance, and obtaining more clarification on the county's ordinance on nuisance protocol and criteria.

Ms. Fernandez spoke to addressing the issues before second reading, the air curtain incinerator resolving some of the issues, and obtaining further information on the procedure for the county working with the city on open burning nuisances.

Mr. Cautero withdrew his amendment.

Discussion took place regarding obtaining clarification on citizen's protocol for nuisances and any needed ordinance language changes.

The motion carried by the following vote:

Yes: 7 - Mayor Holic, Ms. Gates, Vice Mayor Daniels, Mr. Cautero, Mr. Newsom, Ms. Fiedler and Ms. Moore

VI. PUBLIC HEARINGS

A. ORDINANCES - FIRST READING

[ORD. NO.](#)
[2018-41](#)

An Ordinance Amending the Official Zoning Atlas of the City of Venice, Florida, Pursuant to Zoning Map Amendment Petition No. 17-16RZ, Relating to Property in the City of Venice Located at the Southeast Corner of N. Auburn Road and Border Road Owned by SSD Land Holdings, LLC, Rezoning the Property from Sarasota County Open Use Estate (OUE) to City of Venice Planned Unit Development (PUD); Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability; and Providing for an Effective Date (Quasi Judicial)

Mayor Holic announced this is a quasi-judicial procedure and the rezone and conditional use hearings will be done together with two separate motions.

Ms. Stelzer read the ordinance by title only.

Mayor Holic opened the public hearing.

Ms. Fernandez queried council members on conflicts of interest and ex-parte communications. Mr. Newsom disclosed attendance at public workshop and planning commission hearings and one sided communication with residents. Ms. Fiedler disclosed site visits and one

sided communication with residents. Mayor Holic disclosed one sided communication with residents. Ms. Moore disclosed attendance and participation at planning commission meeting, opinions stated, and stated she has no conflicts of interest.

Ms. Fernandez commented on the quasi-judicial process, council's guiding principle and procedure for affected party determination.

Jeffery Boone, Boone Law Firm, representing Fox Lea Farm, being duly sworn, spoke to letter on behalf of client puts forth request for affected party status and to the proximity to proposed development.

A motion was made by Council Member Gates, seconded by Council Member Fiedler, that Fox Lea Farm be granted affected party status. The motion carried by voice vote unanimously.

Mr. Boone asked council members who disclosed one sided conversations if they have made up their mind on the application prior to today's meeting. There were none. Mr. Boone asked council members if anyone is not open minded on the matter presented today. There were none.

Dick Longo, representing Sawgrass Homeowners Association and the Central Venice Coalition, requested affected party status.

A motion was made by Council Member Gates, seconded by Council Member Fiedler, that Dick Longo representing the Sawgrass Homeowners Association and the Central Venice Coalition be granted affected party status.

Gregg Singleton, representing applicant, being duly sworn, stated there are no objections to the requested affected party status.

The motion carried by voice vote unanimously.

Recess was taken from 10:27 a.m. until 10:37 a.m.

Mr. Clark, being duly sworn, provided a presentation and spoke to zoning map amendment, property background, future comprehensive plan amendment to change land use, resident concerns, Planned Unit Development (PUD) rezoning, buffers, notice of proximity to Fox Lea Farm requirement, associated record documents, aerial photograph, surrounding properties, site photographs, property zoning, proposed binding master plan, PUD request, modifications, waiver and other request, consistency with 2010 and 2017 comprehensive plan policies, considerations for determining compatibility, mitigation techniques of Policy 8.2, Land Development Code (LDC), Technical Review Committee (TRC) compliance, proposed stipulation, findings of fact, and planning commission's report and recommendation to city council.

Mr. Shrum, being duly sworn, spoke regarding mobility fees, traffic studies,

project improvements identified and needed, capital improvement program, developers proportion of fair share, and addressed purpose for the vested rights determination.

Mr. Boone questioned Mr. Clark on the binding master plan to include retention pond depth and approval, and number of dwelling units.

Per Mr. Longo's request, Mr. Shrum provided clarification on the vested rights application and relevance to the 2010 and 2017 comprehensive plans.

Mr. Longo questioned Mr. Clark on open space.

Mr. Singleton spoke to the Murphy Oaks parcel, annexation, Joint Planning Agreement (JPA), constraints to include water well and extraordinary mitigation fees, application changes, lot reductions, area buffers, sidewalk relocation, Auburn Road left turn lane, entrance gates, emergency access reconfiguration, noise abatement structures, stormwater management system, ponds, proposed development standards, leaving 30 foot vegetation buffer, and drainage that runs to portion of the Fox Lea Drive right-of-way.

Mr. Boone cross examined Mr. Singleton regarding his presentation being completed, proposed development standards, whether language means modifications to the development standards or stipulations on the rezoning ordinance.

Mr. Boone requested recess to review proposed development standards presented by Mr. Singleton.

Ms. Fernandez clarified the request is for items 4, 9, and 11 to be addressed and all other items be disregarded.

Mr. Boone submitted Proposed Development Standards to be entered into the record as Exhibit 1.

In response to Mr. Boone, Mr. Singleton spoke to the purpose of item 4, stated item 4 can be withdrawn if it has already been addressed, suggested the exhibit be withdrawn, reiterated his testimony regarding the southern buffer area adjacent to the Fox Lea Drive right-of-way, and requested city council waive the requirement to remove native invasive species in that area before or during construction.

Mr. Boone inquired if Mr. Singleton is asking council to remove requirement from stipulations in the ordinance or the development

standard.

Ms. Fernandez clarified when Mr. Lawson will speak during rebuttal or closing statements.

Mr. Boone requested to recess for lunch.

Mr. Longo cross examined Mr. Singleton regarding land clearing schedule.

Recess was taken from 11:52 a.m. until 1:30 p.m.

Jeff Wright, Henderson, Franklin Law Firm, on behalf of applicant, being duly sworn, spoke to withdrawing Exhibit 1. There was no objection from Mr. Boone or Mr. Longo.

Mr. Boone cross examined Mr. Singleton regarding proposed concrete wall along I-75, proposed PVC fence along Fox Lea Drive, Fox Lea Farm noise concerns, fence drawing in the binding master plan and landscape plans, and Fox Lea Drive landscape buffer.

Mr. Boone cross examined Jonathan Romine, En Site, Inc. being duly sworn, regarding the Fox Lea Drive landscape buffer, tree life, removal of invasive exotic species and Saw Palmetto plantings, buffer footage along Fox Lea Drive, landscape area buffer footage, existing vegetation along Fox Lea Drive, and replacing destroyed vegetation.

Mr. Singleton was queried if he was agreeable to replacing existing vegetation along Fox Lea Drive.

Herb Lawson, applicant, being duly sworn, noted the area along Fox Lea Drive will not be disturbed, responded to questions on dust created by traffic, and noise, spoke to accommodations by the applicant to Fox Lea Farm and responded to additional questions regarding the distance between back of the lot line to the property line.

Clint Cuffle, WRA Engineering, being duly sworn, noted the dimensions on the binding master plan are correct.

Mr. Longo spoke to opposition of proposed rezone and requested development of the land be done in full compliance with the current comprehensive plan and consistent with the surrounding neighborhood.

Mr. Singleton cross examined Mr. Longo regarding Murphy Oaks lot size, Capri Isles, and PVC fence view along Auburn Road.

Mr. Lawson commented on project affecting home values within the surrounding communities.

Recess was taken from 2:37 p.m. until 2:45 p.m.

Laurie Birnbach, Fox Lea Farm, being duly sworn, noted Fox Lea Farm does not support proposed rezoning and provided a presentation to include nationally recognized horse show facility, being a vital part of the city's community, and elements that impact Fox Lea Farm's success.

Mr. Boone commented on Fox Lea Farm's operations and activities, dust, traffic, potential resident complaints, proposed stipulations regarding eight foot cement wall along southern border of the property, restoring existing vegetation on north side of Fox Lea Drive to the condition at the time of zoning approval if necessary, notice of proximity requirement and language being approved by Fox Lea Farm, date limitations on construction to the southern boundary of the property, and spoke to previous questions regarding the pond, current state of PUD application, discrepancies, and changes being made prior to council making a decision.

Mr. Wright cross examined Ms. Birnbach on Sarasota County placing a limit on activities taking place at the facility.

Mr. Lawson commented on the intent that changes were made to be provided at final submission.

Mr. Boone clarified he is not a fact witness subject to cross examination.

Mr. Shrum questioned Mr. Boone regarding establishing a baseline for maintaining the vegetation that is on the county's right-of-way, and if Sarasota County is not agreeable to replacing landscaping.

There was consensus to end the meeting at 6:00 p.m.

Discussion took place regarding using impact fees to build a turn lane, legal issues with noise, dust, lights and smell, concern with drainage due to Curry Creek runoff, lot coverage, sidewalks on Auburn and Border Roads, extending multi-modal trail, stipulations and enforcement, proposed development's impact to residents quality of life, mobility fees, developer's proportion of fair share, development prohibitions and enforcement, 2008 property zoning, and pre-annexation agreement.

Ms. Fernandez spoke to development on the property requiring city property zoning, Bert Harris Act, property owner rights, disclosure should be signed by purchaser prior to signing closing documents, Fox Lea Farm mitigating complaints, and concern with dust and smell.

Recess was taken from 4:05 p.m. until 4:11 p.m.

Mr. Newsom returned to the dais at 4:12 p.m.

Discussion ensued on Curry Creek and proposed retention pond.

Mr. Cuffle spoke to the proposed development's stormwater design and responded to council questions regarding communication with the county and Southwest Florida Water Management District (SWFWMD).

Ms. Fernandez spoke to increasing liability and addressing deficiencies in the land development regulations (LDRs) and comprehensive plan.

Discussion ensued on requiring the developer to install a solar flashing stop sign, enforcement including additional burden on staff and cost to the city, what constitutes proposed development low density residential and compatibility, mitigation, notice of proximity effectiveness, providing disclosure prior to closing, Fox Lea Farm's expectation on the subject parcel, notification of Fox Lea Farm to potential future home buyers, noise concerns, noise abatement structure, and accuracy of application documents.

Jack Worrell, 762 Egret Walk Lane, being duly sworn, commented on neighboring property density, barrier, and noted concerns with proposed development.

Henry von der Linder, 740 Sawgrass Bridge Road, being duly sworn, spoke to concern with proposed density and requested council to reject ordinance until developer reduces project density.

James Perry, 577 Misty Pine Drive, being duly sworn, commented on growth, impact of current construction, queried on the benefits to residents of this proposed development, and requested council reject proposed ordinance at current density.

Lynette Edmonds, 476 Arborview Lane, being duly sworn, commented on property development and infrastructure issues.

Greg Prill, 737 Misty Pine Drive, being duly sworn, spoke regarding proposed development and consistency with surrounding developments.

Joyce Lyons, 521 Marsh Creek Road, being duly sworn, requested council to reject proposed development.

Pam Schierberg, 1624 Lis court Drive, being duly sworn, spoke regarding

horse farms and Fox Lea Farm.

Robert Ziringer, 558 Sawgrass Bridge Road, being duly sworn, commented on stressing the city's infrastructure with increased development.

John Putnoky, 350 Marsh Landing Way, being duly sworn, commented on changing quality of life, development entrance, and traffic on Auburn Road.

James Lawson, 335 Turtleback Crossing, being duly sworn, spoke to Murphy Oaks' proposed PUD zoning and lot coverage.

Discussion followed on meeting end time.

Mayor Holic advised two council members will be absent tomorrow.

Discussion followed regarding adopted policy, best practices, and continuing the meeting until tomorrow.

A motion was made by Council Member Cautero, seconded by Vice Mayor Daniels, that the meeting be continued to November 28, 2018 at 9:00 a.m. The motion carried by voice vote with Ms. Fiedler and Ms. Gates opposed.

[CC 18-02CU](#) Consider and Act Upon Conditional Use Petition 18-02CU for the 39.6-Acre Murphy Oaks to Allow for a Gated Community (Quasi Judicial)

This item will be discussed on November 28, 2018.

NEW BUSINESS -Continued

B. COUNCIL ACTION/DISCUSSION

[18-3636](#) Approve Developer's Agreement Between Windham Development, Inc., and SSD Land Holdings, LLC, and City of Venice Relative to Property Known as Murphy Oaks Planned Unit Development

This item will be discussed on November 28, 2018.

PUBLIC HEARINGS - Continued

B. ORDINANCES – FINAL READING

[ORD. NO. 2018-38](#) An Ordinance of the City of Venice, Florida, Amending Chapter 2, Administration, Article I, Mayor and Council, Division 2, Meetings, Subdivision I, in General, Section 2-53, Addressing Council; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability; and Providing for an Effective Date

This item will be discussed on November 28, 2018.

[ORD. NO.
2018-39](#) An Ordinance of the City of Venice, Sarasota County, Florida, Amending the Code of Ordinances, Chapter 54, Solid Waste; Article V, Rates and Charges; Billing Procedures; Adding a Recycling Surcharge Fee; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability and Providing for an Effective Date

This item will be discussed on November 28, 2018.

[ORD. NO.
2018-37](#) An Ordinance of the City of Venice, Florida, Amending Chapter 70, Traffic and Vehicles, Article I, In General, by Adding Section 70-9, Operation of Bicycles on Public Sidewalks; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability and Providing for an Effective Date

This item will be discussed on November 28, 2018.

[ORD. NO.
2018-40](#) An Ordinance of the City of Venice, Florida, Amending Chapter 62, Streets, Sidewalks and Other Public Places, Article V, Public Right-Of-Way and Public Property Permits, Section 62-121, Activities Requiring Permit; Section 62-123, Application; Section 62-124, Issuance, Conditions, Transfer; Section 62-126, Revocation; to Add Additional Regulations; Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability and Providing for an Effective Date

This item will be discussed on November 28, 2018.

NEW BUSINESS -Continued

C. RESOLUTIONS

[RES. NO.
2018-34](#) A Resolution of the City of Venice, Florida, Creating a Fee Surcharge of Twenty-Three Percent to be Added to the Current Fees for the Collection of Program Recyclables and Providing an Effective Date

This item will be discussed on November 28, 2018.

[RES. NO.
2018-36](#) A Resolution of the City of Venice, Florida, Authorizing Appropriate Government Officials to Execute a Supplemental Joint Participation Agreement for Project Number 438750-1-94-01 by and Between the State of Florida Department of Transportation and the City of Venice, Florida, to Provide Participation in an Aviation Project to Design A Terminal Building; and Providing an Effective Date

This item will be discussed on November 28, 2018.

COUNCIL ACTION/DISCUSSION - Continued

[18-3632](#) Approve Letter to the Governor of Florida Requesting Replacement of

South Florida Water Management District Board (SFWMD) (Holic)

This item will be discussed on November 28, 2018.

[18-3633](#)

Improving our State's Water Quality (Holic)

This item will be discussed on November 28, 2018.

[18-3634](#)

Venice Sunrise Rotary Hometown Hero's Banquet (Holic)

This item will be discussed on November 28, 2018.

[18-3643](#)

Discussion and Action on Future Uses for the Hamilton Building (Lavallee)

This item will be discussed on November 28, 2018.

[18-3641](#)

Mayor and City Council Liaison Appointments

This item will be discussed on November 28, 2018.

[18-3635](#)

Election of Vice Mayor

This item will be discussed on November 28, 2018.

***D. AUDIENCE PARTICIPATION WILL BE HEARD AT 1:00 P.M. - AGENDA ITEMS
MAY BE DELAYED OR MOVED FORWARD TO ACCOMMODATE PRESENTATIONS***

No one signed up to speak.

VII. CHARTER OFFICER REPORTS

City Attorney

This item will be discussed on November 28, 2018.

City Clerk

This item will be discussed on November 28, 2018.

City Manager

This item will be discussed on November 28, 2018.

VIII. COUNCIL REPORTS

Council Member Moore

This item will be discussed on November 28, 2018.

Council Member Fiedler

This item will be discussed on November 28, 2018.

Council Member Daniels

This item will be discussed on November 28, 2018.

Council Member Gates

This item will be discussed on November 28, 2018.

Council Member Newsom

This item will be discussed on November 28, 2018.

Council Member Cautionero

This item will be discussed on November 28, 2018.

Mayor Holic

This item will be discussed on November 28, 2018.

IX. AUDIENCE PARTICIPATION

No one signed up to speak.

X. ADJOURNMENT

The meeting was recessed at 5:40 p.m. until November 28, 2018 at 9:00 a.m.

ATTEST:

Mayor - City of Venice

City Clerk