

MEETING MINUTES

November 26, 2019

9:00 A.M. – WORKSHOP MEETING – TED C. COLLINS LAW ENFORCEMENT CENTER

10:00 A.M. – MEETING – TED C. COLLINS LAW ENFORCEMENT CENTER

MYRTLE BEACH CITY COUNCIL:

PRESENT:

**BRENDA BETHUNE, MAYOR
MICHAEL CHESTNUT, MAYOR PRO-TEM
JACKIE HATLEY
MIKE LOWDER
PHILIP N. RENDER
GREGG SMITH**

ABSENT:

MARY JEFFCOAT

CITY STAFF

PRESENT:

**JOHN G. PEDERSEN, CITY MANAGER
JONATHAN “FOX” SIMONS, JR., DEPUTY CITY
MANAGER
LISA WALLACE, ASSISTANT CITY MANAGER
MICHAEL SHELTON, CHIEF FINANCIAL OFFICER
WILLIAM A. BRYAN, CITY ATTORNEY
JENNIFER STANFORD, CITY CLERK**



Roll Call.

Present: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Vereen.

Absent/Excused: Mary Jeffcoat, Mike Lowder.

CALL TO ORDER.....9:11 A.M. Workshop



Kelly Mezzapelle reviews district that will be zoned for workforce housing in the upper levels of buildings.





Amber Campbell gave an update on workforce housing horizontal team





Mr. Pedersen goes over the 2020 Legislative agenda updates which includes House Bill 4745 – Legacy County Hospitality Fees - explaining that bill would legislatively re-authorize and restore the previous County Hospitality Fee, which is the subject of a lawsuit between the City of Myrtle Beach (on behalf of 6 other municipalities in Horry County) and the County. Once the expired fee is restored, the bill provides that the funds be used to build an interstate or roads connecting to such interstates. The bill also provides that the County shall “distribute the statutory tax imposed by the municipality” back to the municipality less up to 1% for cost of collections. The City and Horry County have been in mediation for several months to resolve this dispute. While bound by a confidentiality agreement, both sides have publicly indicated that an agreement in principle has been reached. The proposed legislation jeopardizes the approval of this agreement. The City is strenuously opposed. Mr. Pedersen goes on to review H4431 – SC Business License Tax Reform Bill - explaining that it radically alters the existing business license structure by nearly eliminating fees for businesses not domiciled in the jurisdiction in which the license is levied, and by redefining the basis of the fee from “Gross Revenues” to “Business Taxable [Net] Income”. The City supports previous efforts to make the business license ordinance more uniform from one jurisdiction to the next, and the development of a “portal” to greatly simplify the payment of fees by businesses that operate in multiple jurisdictions. The amendments proposed in this bill, however, go to the heart of the City’s ability to operate, and are strenuously opposed. As proposed, this bill would have a devastating impact on the City’s ability to maintain current service levels and to fund basic public services including Police, Fire, Infrastructure Maintenance, Recreation, etc. Further, the bill would transfer a greater proportion of the costs of local government to the residential sector, away from non-residents that purchase the goods or consume the services. The bill is a disincentive

for new businesses to locate within the corporate limits, and an incentive for existing businesses to move out of a municipality.


 The city's lobbyist, Tony Denny explains that we need to educate our legislators on the impact this bill would have.

 Mr. Simons reviewed House Bill H4262/SB638 – Small Wireless Facilities Deployment – explaining that bills prohibits local authorities from prohibiting, regulating, or charging for collocation of small cell wireless facilities; requires these facilities be classified as permitted uses; and generally exempts them from zoning review/approval. These bills also include requirements relating to applications, fees, application review, issuance of permits, and collocation of small wireless facilities. These bills prohibit state and local governments from regulating design, engineering, construction, installation, or operation of cellular facilities. Lastly, these bills give the administrative court jurisdiction over related disputes, and prohibits local authorities from requiring that wireless providers name them as additional insureds on the provider's insurance policy. The City benefits from deployment of small cell infrastructure throughout the community, and is not opposed to the restrictions on fees that can be charged to such firms for the use of the rights-of-way. The City however, has spent millions to improve the aesthetic appeal of these areas. The City is committed to a process allowing for needed cellular service improvements, and has adopted "safe-harbor" provisions to this effect. The City also opposes the proposed prohibition that leaves the local units exposed to the financial consequences of accidents involving this infrastructure. Mr. Simons explains that we want the technology, but also to keep the aesthetics of the community.

 Mr. Pedersen reviews House Bill H4516 - Rental of Residential Building – explaining this bill prohibits counties and municipalities from enacting or enforcing regulations to restrict the rental of a residential dwelling to short-term guests. This bill preempts a very important decision that should reflect the unique needs of different communities. As a City with millions of annual tourists, it is important to safeguard Myrtle Beach's permanent residential areas from those in which our tourists stay. This bill effectively pre-empts longstanding zoning prohibitions on the rental of properties for less than 30 days in a residentially zoned district.

 Mr. Pedersen discusses House Bill H3274 – Cigarettes and Nicotine Products - explains that bill provides that cities, towns and counties may not enact any laws, ordinances, or rules pertaining to ingredients, flavors, licensing of cigarettes, electronic cigarettes, tobacco products, or alternative nicotine products. Any laws, ordinances, or rules enacted by a political subdivision prior to January 1, 2019 are not subject to this preemption. Now that vaping has been shown to significantly increase health risks, especially among youth, the State should not take a position to increase those risks still further. To approve this law in view of the associated health risks opens a real potential of huge additional health care costs for the individual and for all levels of government. Further, the bill does not recognize the unique nature of each community. Again this is a decision better left to the discretion of local government leaders to recognize the potential costs and benefits that such facilities may have in that community. House Bill HB3968/S590 - Asset Forfeiture and Private Property Act – Mr. Pedersen explains this bill changes the current rules relating to the forfeiture of assets directly related to criminal activity. There are two types of forfeitures – those made voluntarily & those made in Civil Court pursuant to a Judge's order. 75% of each forfeiture is awarded to the arresting agency; 20% goes to the local Solicitor; and 5% goes to the State. Of the amount retained by the local agency, the first \$1,000 may be used for any related purpose, and the remainder must be used for drug enforcement. The funds cannot supplant those already budgeted. During the past year a report from the Upstate identified abuses of the current law. The proposed amendment makes such forfeitures (including weapons) subject to action in the related felony, and restricts the distribution to local law enforcement to "investigation costs excluding salaries" (balance to the State's General Fund). The vast majority of law enforcement agencies, including the City of Myrtle Beach, have followed the existing law rigorously. Current law already provides a means by which a defendant can dispute the forfeiture. Given the nationwide battle to curb the opioid


epidemic, this is not the time to take tools away from law enforcement. The abuses of the few can be dealt with effectively by tweaking the current law.


 Mr. Pedersen reviews House Bill H4482 – Housing Attainability Act – This bill requires state agencies, counties, and municipalities to prepare a detailed, specifically prescribed housing impact analysis for any action that could impact certain housing costs (including property taxes, sales prices, rental rates, etc.). The bill also requires an annual report on the fulfillment of the Housing Element of the City's Comprehensive Plan. The study requirements are overly broad, and beyond the capability of most local units. This action significantly stifles local government actions to improve the quality of living in each community. The industry has other options for monitoring proposals that could effect housing costs.

Senate Bill S394 – Auxiliary Containers - This bill provides that the General Assembly, rather than local governments must do any regulation of “auxiliary containers”. The bill contains a number of exemptions including exemptions for city and county owned property, and public beaches. Auxiliary containers are defined as bags, cups, packages, containers, bottles or other packaging designed primarily for protecting merchandise, food, or beverages from or at a food service or retail facility. This legislative exemption act does not recognize unique community differences of each unit, and the effect those differences may have on the need for differing policy positions. This is a matter better left to the discretion of local officials to recognize these unique circumstances.

Senate Bill S227 - Millage Rate Increase Limitations - This bill allows a municipality without an operating millage on January 1, 2019 to impose a millage in an amount up to one-third of the amount of their General Fund. Current law restricts the amount of the millage increase that a town may impose based on the previous millage rate. When the basis is zero, it is mathematically impossible to begin to levy any millage rate at all. Although this bill does not directly affect Myrtle Beach, it allows the City to support those small municipalities who may need to adopt their millage after the effective date.

CALL TO ORDER..... 10:17 A.M. Regular
INVOCATION..... Councilwoman Hatley
PLEDGE OF ALLEGIANCE..... Councilwoman Hatley
APPROVAL OF AGENDA.....


 **Motion:** To Approve, **Moved by** Jackie Vereen, **Seconded by** Michael Chestnut.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.
Absent: Mary Jeffcoat, Mike Lowder.

APPROVAL OF MINUTES.....November 12, 2019

 **Motion:** To Approve, **Moved by** Gregg Smith, **Seconded by** Michael Chestnut.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.
Absent: Mary Jeffcoat, Mike Lowder.

PUBLIC REQUESTS, PRESENTATIONS, AWARDS, MEMORIALS:

1. Proclamation declaring November as Pancreatic Cancer Awareness Month.
ITEM CONTINUED

2. Public Information Update – PIO Staff

 Chasity Pendergrass gave an update on past, present, and future events.

CONSENT AGENDA – *The Consent Agenda covers items anticipated to be routine in nature. Any Councilmember may ask that an item be moved from the Consent Agenda*

to the Regular Agenda for lengthier discussion, or a member of the public may request that such an item be moved. Items remaining on the Consent Agenda will be briefly described by staff, and may be passed as a group with the APPROVAL OF THE AGENDA.

Note: City laws are known as ordinances. Before a City ordinance can be enacted it must be introduced (1st Reading), & then approved (2nd reading). Resolutions are normally actions through which City Council reinforces or makes policy not rising to the level of law. Motions are generally related to direction from City Council to City staff to take certain actions.


CONSENT AGENDA

REGULAR AGENDA

2nd Reading Ordinance 2019-54 to amend Chapter 23, Article VI, Division 1, Wrecker Services; Nonconsensual Towing, and incorporate personal clothing, including shoes, personal communication devices such as cell phones, smart phones, laptops, and tablets into definition of personal property.

State law allows vehicle owners to retrieve personal property from a vehicle after it has been towed, but the law does not define what constitutes personal property. City Code defines personal property, but the current definition does not include personal clothing, cell phones, smart phones, laptops, or tablets. This proposed Code amendment allows owners to get their clothing, cell phones, smart phones, laptops and tablets from impounded vehicles, and helps to protect their identity.

 **Motion:** To Approve, **Moved by** Jackie Hatley, **Seconded by** Philip N. Render.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.
Absent: Mary Jeffcoat, Mike Lowder.


2nd Reading Ordinance 2019-55 to amend Chapter 4, Animals, in the Code of Ordinances, to amend the definition of impound and the mistreatment of animals, add tethering and veterinary care to the list of definitions, and provide for cases where spay, neuter, and microchip are required.

This Code amendment changes the definition of “impound” to read, “Impound means to take legal custody or possession as to confine humanely while providing adequate food, shelter, and ventilation and veterinary care.” The ordinance also changes the term “Mistreatments of animals” to include:

- *Exposure to extreme weather events.*
- *Confining an animal in a closed vehicle without air conditioning or adequate ventilation whenever the temperatures exceed 70° F.*
- *Tethering of an animal for more than two hours in a continuous 12-hour period, without a responsible person present.*
- *Tethering of an animal that is sick or injured.*
- *Tethering of an animal on a restraining device exceeding more than 10% of the animal's body weight and has a length of less than 10'.*
- *Tethering by a chain or metal device which is in direct contact with the skin.*
- *Tethering of an animal in a manner that causes injury, strangulation or entanglement.*

This proposal requires all impounded dogs and cats to be spayed or neutered within 30 days. Exceptions are made for animals based on age or health reasons, or for service animals. The ordinance also requires all impounded cats and dogs to be microchipped


 **Motion:** To Approve, **Moved by** Gregg Smith, **Seconded by** Jackie Hatley.


 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.
Absent: Mary Jeffcoat, Mike Lowder.

2nd Reading Ordinance 2019-56 to amend Ordinance No. 2019-30, the 2019-20 budget ordinance, by appropriating funds for payment of not exceeding \$910,445.70 to the developer of the 6th Ave. S./Bayshore project under the city's redevelopment incentive voucher program.

Under the incentive voucher program, the City entered into a Redevelopment Agreement with the Project Developer. The \$910,445.70 appropriation is the total amount of the voucher, which equaled two percent of the total permit value. The voucher is valid for five years from its issue date of July 11, 2019, and can be applied to reimburse City fees (permit and impact fees, business license fees, local accommodations taxes, and hospitality fees. The voucher effectively is funded only from the revenues attributable to the development itself, and is used as an incentive for development in targeted areas.

 **Motion:** To Approve, **Moved by** Philip N. Render, **Seconded by** Michael Chestnut.


 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.
Absent: Mary Jeffcoat, Mike Lowder.

2nd Reading Ordinance 2019-57 to extend the corporate limits of the city of Myrtle Beach by annexing 0.5 acres located at 9401 Cove Dr. (PIN# 39403040007), and rezone said property from Horry County SF 10 (Single Family Residential) to City of Myrtle Beach R15 (Single Family Residential).

The applicant owns and resides at property along Cove Drive currently under County jurisdiction. This applicant is a City "outside" water and sewer customer and wishes to gain in-city utility rates. This ordinance moves forward with the goal of closing "donut holes" in the City's jurisdiction. Closing these donut holes contributes to a more efficient allocation of public resources.

 **Motion:** To Approve, **Moved by** Jackie Hatley, **Seconded by** Gregg Smith.


 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).


Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.
Absent: Mary Jeffcoat, Mike Lowder.

2nd Reading Ordinance 2019-58 to amend Appendix A Zoning of the Code of Ordinances to allow upper-story residential uses in the HC1 (Highway Commercial) District.

The City has limited housing opportunities for those earning an average working wage. Council has recognized this, and established the goal of increasing workforce housing opportunities. This ordinance would allow residential uses as a conditional use in HC1 zones (located mostly along Highway 501 and the Bypass). These residential units must be located in the upper floors of commercial structures.

The lack of workforce housing opportunities puts pressure on those with limited incomes to live in remote areas where housing prices are less. The resulting longer commutes increases demand for wider roadways, which is increasingly more expensive as adjoining properties are developed. This workforce housing shortage furthers strains those lower income workers because of additional vehicle maintenance and operating costs associated with longer commutes.

 **Motion:** To Approve, **Moved by** Philip N. Render, **Seconded by** Michael Chestnut.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.

Absent: Mary Jeffcoat, Mike Lowder.


Resolution R2019-67 setting forth the City's Legislative Agenda for the 2020 session of the South Carolina Legislature.

The South Carolina legislature is scheduled to convene on Tuesday January 14, 2020, and will consider a number of significant bills filed in 2019 that remain on the table for consideration in this session. In addition, the City also desires to submit new several new matters for the Legislature's consideration. The resolution also sets out the Council's strenuous objection to newly filed H4745, as an unnecessary intrusion into a dispute that is near resolution.

The effect of this resolution is to:

- *Adopt Council's 2020 Legislative Agenda.*
- *Request that the Delegation consider the positions set out in the Attachment regarding the bills already under consideration as well as new proposed legislative actions.*
- *Thank the Delegation for its support in previous years as well as its continued support of these important legislative matters.*
- *Directs the City Manager to send this Legislative Agenda to each member of the Delegation.*

 **Motion:** To Approve, **Moved by** Mike Lowder, **Seconded by** Philip N. Render.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).


Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.

Absent: Mary Jeffcoat, Mike Lowder.

Resolution R2019-69 to accept the dedication of portions of those certain roadways known as Jonquil Place (50' public right-of-way), Parish Way (50' public right-of-way), and Wyatt Lane (50' public right-of-way) within the West Lake Phase 3 Subdivision.

Pursuant to long-standing City policy and practice, street dedication is the process whereby a developer turns over a privately constructed street built to serve a subdivision to the City as a publicly held roadway. Because the City is responsible for the maintenance of the street going forward, each street is inspected before dedication to ensure that it is built to City specifications.

 **Motion:** To Approve, **Moved by** Gregg Smith, **Seconded by** Michael Chestnut.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).


Yes: Mayor Brenda Bethune, Michael Chestnut, Philip N. Render, Gregg Smith, Jackie Hatley.


Absent: Mary Jeffcoat, Mike Lowder.

 Councilman Lowder now present.

Motion M2019-174 to consider renewal of City Manager's contract.

The City Manager's contract renewal date is November 3. This is an annual agreement setting forth the terms of the Manager's employment.

 **Motion:** To Approve renewal of one year with a 3% salary increase, **Moved by** Michael Chestnut, **Seconded by** Gregg Smith.


 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6).


Yes: Mayor Brenda Bethune, Michael Chestnut, Mike Lowder, Philip N. Render, Gregg Smith, Jackie Hatley.

Absent: Mary Jeffcoat.

Motion M2019-175 to consider a salary adjustment for the Chief Municipal Judge and the Assistant Municipal Judges.

City Council normally considers a salary adjustment for these appointed position at the time that they are re-appointed. The judges were all re-appointed at the October 8 City Council meeting, but this additional step was inadvertently missed.

 **Motion:** To Approve salary adjustment for Chief Judge of 5% increase, Assistant Judges' salaries will be reviewed when terms are due for renewal, **Moved by** Michael Chestnut, **Seconded by** Mike Lowder.


 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6).


Yes: Mayor Brenda Bethune, Michael Chestnut, Mike Lowder, Philip N. Render, Gregg Smith, Jackie Hatley.

Absent: Mary Jeffcoat

Motion M2019-176 to appoint/reappoint four members to the Housing Authority Board.

The terms of John Leiter (City Resident), Robert Gore (City Resident), Dorothy Greene (Non Resident), and Susan McGartin (Non Resident) have expired or will expire soon. All wish for reappointment. There are two resumes on file of individuals interested in appointment, Michael Johnston (City Resident) and Barbara Welch (City Resident).

 **Motion:** To Approve reappointments of John Leiter, Robert Gore, Dorothy Greene, and Susan McGartin, **Moved by** Michael Chestnut, **Seconded by** Philip N. Render.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Brenda Bethune, Michael Chestnut, Mike Lowder, Philip N. Render, Gregg Smith, Jackie Hatley.


Absent: Mary Jeffcoat


EXECUTIVE SESSION - Council may take action on matters discussed in Executive Session which are deemed to be “emergency” concerns.

Note: *South Carolina law requires that Council’s business is conducted in public with limited exceptions known as “Executive Sessions”. Subjects eligible for Executive Session include:*

- **Personnel matters.**
- **Negotiations concerning proposed contractual arrangements and proposed sale or purchase of property.**
- **The receipt of legal advice relating to:**
 - **A pending, threatened, or potential claim.**
 - **Other matters covered by the attorney-client privilege.**
 - **Settlement of legal claims, or the position of the City in other adversary situations.**
- **Discussions regarding development of security personnel or devices.**
- **Investigative proceedings regarding allegations of criminal misconduct.**
- **Matters relating to the proposed location, expansion, or provision of services encouraging location or expansion of industries or other businesses.**

Motions to go into Executive Session must be made in public and specify one or more reason above. Council can take no votes or take action in Executive Session.

 **Motion:** To Enter Executive Session to discuss personnel matters and a legal briefing hospitality fee, **Moved by** Michael Chestnut, **Seconded by** Philip N. Render.


 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Brenda Bethune, Michael Chestnut, Mike Lowder, Philip N. Render, Gregg Smith, Jackie Hatley.

Absent: Mary Jeffcoat

10:42 A.M.

 **Motion:** To Exit Executive Session **Moved by** Michael Chestnut, **Seconded by** Gregg Smith.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6).


Yes: Mayor Brenda Bethune, Michael Chestnut, Mike Lowder, Philip N. Render, Gregg Smith, Jackie Hatley.

Absent: Mary Jeffcoat

12:12 P.M.

ADJOURNMENT

 **Motion:** To Adjourn, **Moved by** Michael Chestnut, **Seconded by** Gregg Smith.

 **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Mayor Brenda Bethune, Michael Chestnut, Mike Lowder, Philip N. Render, Gregg Smith, Jackie Hatley.

Absent: Mary Jeffcoat

12:24 P.M.

ATTEST:

BRENDA BETHUNE, MAYOR

JENNIFER STANFORD, CITY CLERK