

M I N U T E S

ADMINISTRATIVE WORKSHOP
SOUTH PASADENA, FLORIDA

TUESDAY, JANUARY 20, 2015
COMMISSION CHAMBERS - 9:00 A.M.

Mayor Calabria called the meeting to order at 9:00 A.M. Everyone participated in the Pledge to the Flag.

ROLL CALL: COMMISSIONERS BRUCE HOWRY, MAX ELSON, GAIL NEIDINGER, VICE MAYOR ARTHUR PENNY, AND MAYOR CALABRIA. ALSO PRESENT: CITY CLERK CARLEY LEWIS, CITY ATTORNEY DAVID OTTINGER, PUBLIC WORKS DIRECTOR GARRY ANDERSON, FINANCE DIRECTOR JAMES GRAHAM, PUBLIC SAFETY DIRECTOR DAYTON SALTSMAN, COMMUNITY IMPROVEMENT DIRECTOR NEAL SCHWARTZ, AND DEPUTY CITY CLERK BRIANNA WETHERWAX.

The topics scheduled for discussion were Malfeasance & Misfeasance, Ordinances & Resolutions, and Decorum & Civility and Retaining Interim Traffic Infraction Enforcement Officer.

Mayor Calabria distributed a handout (attached to Minutes as Exhibit A). He spoke regarding a letter he sent to Sharon Hayes, CEO of Palms of Pasadena Hospital. He noted that he has invited Ms. Hayes to an Administrative Workshop.

In response to Commissioner Neidinger, Mayor Calabria stated that the letter was sent on January 12th.

The first topic for discussion was Malfeasance & Misfeasance, Ordinances & Resolutions, and Decorum & Civility.

Mayor Calabria distributed a handout (attached to Minutes as Exhibit B). He spoke regarding resolutions and ordinances. He stated that the Commission has been abiding by some resolutions and ignoring other resolutions. He further stated that unless City Attorney Ottinger gives a legal opinion that every resolution must be abided by verbatim, a resolution is just an intention. He noted that a letter had been sent to residents without letterhead and a follow-up letter was sent on city letterhead.

In response to Mayor Calabria, Commissioner Neidinger stated that the first letter was a personal letter and was not sent for city business. She further stated that the second letter was brought before the Commission and was approved before it was sent out on city letterhead. She noted that Mayor Calabria is an equal member of the Commission with no additional power or authority.

Mayor Calabria suggested that Commissioner Neidinger read the City Charter with respect to the division of departments and their functions.

In response to Commissioner Howry, Mayor Calabria stated that he intends to keep sending letters on city letterhead.

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Vice Mayor Penny distributed a handout (attached to Minutes as Exhibit C). He spoke regarding the duties of the Mayor and actions taken by the Commission in the form of resolutions. He stated that resolutions are formal actions taken by the Commission and he believes that Mayor Calabria should follow them.

In response to Vice Mayor Penny, Mayor Calabria stated that he would go through the handout and respond accordingly.

The next topic for discussion was Retaining Interim Traffic Infraction Enforcement Officer.

City Attorney Ottinger stated that he has identified a retired police officer who is willing to serve as the city's interim traffic infraction enforcement officer so that the issuance of red light camera violations can continue. He noted that the Town of Davie pays an independent contractor \$700 per camera per month for this service. He suggested that the city offer \$2,000-\$2,500 per month to review and issue violations and attend hearings.

In response to Commissioner Elson, Alecia Andersen, ATS, spoke regarding the red light camera violation process. She stated that events are filtered out in accordance with the city's business rules questionnaire and possible violations would be sent to the traffic infraction enforcement officer for review. She further stated that the officer would also attend hearings. She noted that the officer would review violations before UTCs are issued if the Commission chooses to have him do so.

In response to Commissioner Elson, City Attorney Ottinger stated that the officer cannot be paid per infraction because there would be an incentive to issue violations.

In response to Mayor Calabria, Ms. Andersen stated that she would draft an explanation of how the process will work and send it to City Clerk Lewis.

In response to Vice Mayor Penny, Commissioner Howry stated that he still has concerns regarding liability. He further stated that \$2,500 for approximately 40 hours of work is a lot of money.

Discussion ensued regarding compensation for an interim traffic infraction enforcement officer.

The consensus of the Commission was to offer the tentative interim traffic infraction enforcement officer \$2,000 per month.

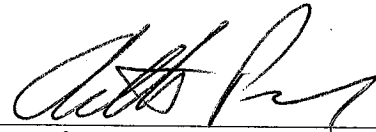
In response to Finance Director Graham, City Attorney Ottinger stated that he would try to get an estimate of how long the court case may take in order for Mr. Graham to amend the budget.

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In response to Commissioner Howry, City Attorney Ottinger stated that his proposed individual is legally qualified to issue tickets.

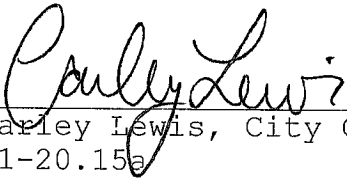
Mayor Calabria reported that he would be unavailable for approximately the next two to three weeks for health reasons.

There being no further discussion, the meeting was adjourned at 9:44 A.M.



Arthur Penny, Vice Mayor

ATTEST:



Carley Lewis, City Clerk
01-20.15a



City of South Pasadena

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Ms. Sharon Hayes, CEO
Palms of Pasadena Hospital
1501 Pasadena Avenue S.
South Pasadena, FL 33707

January 12, 2015

Dear Sharon,

Once again thank you for the time you shared with me, and my best wishes for success in the challenges that lie before you.

In that regard I believe you will be successful in achieving your goals, and as mentioned, I believe that those of us who are currently patients at Palms have already seen positive evidence that new management is having an effect that has been most welcomed.

As discussed, I would like to invite you to a Commission Workshop in the near future in order to meet the City Commission and Department Heads. I will contact you soon to offer a couple of alternative dates from which you can select for this purpose.

Thanks again and best wishes.

Sincerely,

Dan Calabria, Mayor
City of South Pasadena

CC: All City Commissioners and Department Heads

Dan Calabria

From: Dan Calabria [dcala@verizon.net]
Sent: Tuesday, January 20, 2015 8:20 AM
To: 'Max Elson'; 'Bruce Howry'; 'Gail Neidinger'; 'Arthur Penny'; 'Gary Anderson'; 'Jim Graham'; 'Carley Lewis'; 'david.Ottinger@gray-robinson.com'; 'Neal Schwartz'; 'Brianna Wetherwax'; 'david.Ottinger@gray-robinson.com'
Subject: Administrative Workshop, 1/20/2015, Review

For your information and reference.

1.
The Law Dictionary Featuring Black's Law Dictionary Free Online Legal Dictionary 2nd Ed.

Law Dictionary: What is MALFEASANCE? definition of MALFEASANCE (Black's Law Dictionary)

What is MALFEASANCE?

The wrongful or unjust doing of some act which the doer has no right to perform, or which he has stipulated by contract not to do. It differs from "mis-feasance" and "non-feasance," (which titles see.) See 1 Chit. Pr. 9; 1 Chit. Pl. 134; Dudley v. Flemingsburg, 115 Ky. 5, 72 S. W. 327, 00 L. R. A. 575, 103 Am. St. Rep. 253; Coite v. Lynes, 33 Conn. 115; Bell v. Josse-lyn, 3 Gray (Mass.) 311, 63 Am. Dec. 741.

Law Dictionary: What is MISFEASANCE? definition of MISFEASANCE (Black's Law Dictionary)

What is MISFEASANCE?

A misdeed or trespass. The doing what a party ought to do improperly. 1 Tidd, Pr. 4. The improper performance of some act which a man may lawfully do. 3 Steph. Comm. 400. And see Bell v. Josselyn, 3 Gray (Mass.) 309, 03 Am. Dec. 741; Illinois Cent. R. Co. v. Foulks, 191 111. 57, 00 N. E. 890; Dudley v. Flemingsburg, 115 Ky. 5, 72 S. W. 327, 00 L. R. A. 575, 103 Am. St. Rep. 253. Misfeasance, strictly, is not doing a lawful act in a proper manner, omitting to do it as it should be done; while malfeasance is the doing an act wholly wrongful; and non-feasance is an omission to perform a duty, or a total neglect of duty. But "misfeasance is often carelessly used in the sense of "malfeasance." Coite v. Lynes, 33 Conn. 109.

2.
The Florida Municipal Officials' Manual is a publication of the Florida League of Cities.

Section 4-3

Ordinances and Resolutions

A principal activity of municipal councils is the adoption of ordinances and resolutions.

A. ACTION TYPES: ORDINANCES AND RESOLUTIONS

Most of the action taken by municipal councils is accomplished by simple motion. A motion may be stated orally ("Mr. Chairman, I move that we approve...") and need not

be put in writing beforehand. To be adopted, usually a motion must be approved by a simple majority of a quorum present; provision may be made in the municipal charter or code for a requirement of approval by an extraordinary majority for specified classes of action by the council, e.g., for rezoning actions.

Actions taken by a council range from those which are very simple to those which involve weighty considerations of great importance. Examples of the former include matters of council procedure ("I move that we observe a minute of silence in honor of...," "I move that we recognize the accomplishments of Seabreeze High School Band, which..."); and simple legal formalities ("I move that we accept the report," "I move that we approve the contract, as recommended by staff").

Council actions often involve voting on ordinances and resolutions. The authority to enact municipal legislation is implicit in the constitutional grant of authority to municipalities to exercise "the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services" (art. 8, sec. 2(b), Const.).

Statutes recognize two types of formal enactments by municipal councils – ordinances and resolutions.

1. Ordinances

An ordinance is an official legislative action which establishes "a regulation of a general and permanent nature and enforceable as a local law" (F.S.).

2. Resolutions

A resolution is a less substantial action and may be "an expression... concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body" (F.S.). **Actions of a law-making nature must be accomplished in the form of an ordinance, not a resolution.**

3.

Civility and decorum

You may recall that the City Attorney wrote a resolution on this subject, I believe sometime last year, which was passed by the Commission.

It's easy to remember, since that was the Resolution that eliminated Roberts Rules of Order as the basis for conducting City Business and Commission meetings. When I brought this to your attention, the Commission decided to correct this unusual change and restored Robert Rules of Order to the Resolution.

I raise this as a reminder that the Resolution described certain behavior on the part of both Commissioners and residents, which was passed as corrected.

However, recently it seems that this Resolution has been ignored based on the conduct of some Commissioners.

In addition, the Commission also passed a Resolution relative to the Reading File, which called for Commissioners to read and initial the Reading File. I have noticed that not all Commissioners read and initial the Reading File - one does so sporadically and one on rare occasions, if at all.

Fast but not least is the recent example of a Commissioner who wrote a letter to a local multi-residential facility on a letterhead without any return address and identified the writer as a Commissioner.

It is still not clear if that letter was filed with the City or if and when it appeared in the City Reading File.

I bring these examples to the Commission to demonstrate the difference between an "ordinance" and a "resolution."

The same Commissioners who seem to demand that other Commissioners obey each Resolution as if it were an ordinance, clearly reserve the right to treat Resolutions as they wish, and feel no obligation to follow them verbatim, as written.

Clearly, that is a double standard and is not acceptable anywhere in our City Charter or any other City document.

The same principle applies to demands for charges of "malfeasance" or "misfeasance" or "punishment" called for by one Commissioner, which causes one to wonder if he has had any personal experience in this arena. If so, one hopes he will share those experiences with the full Commission at a Public Hearing.

I would hope that we are in agreement that all Commissioners are subject, equally, to all rules, regulations and lawful requirements that apply to each of us, i.e., you cannot demand the right to censor or demand pre-approval of the communications of others, while doing whatever you choose to do with your own communications.

Finally, one can only hope that those Commissioners quick to engage in name calling and unprofessional behavior will conduct themselves accordingly in the future and avoid selectively choosing which Resolutions they comply with and those they chose to ignore - there is no double standard applicable here.

Dan Calabria
Mayor, South Pasadena

***Please note: Florida has very broad public records laws. Most written communications to or from local officials regarding city business are public records available to the public and media upon request. Your e-mail communications (including your e-mail address) may therefore be subject to public disclosure.

- (l) A vacancy in the membership of the Commission, including the Mayor, except a vacancy caused by resignation after a recall petition has been filed, shall be filled within ten (10) calendar days after such vacancy occurs by a majority vote of the remaining Commission members by appointment of an eligible person. The City Commission shall determine the length of the appointed term and may set a special election to fill the unexpired term. In no event shall the City Commission appoint a member to serve more than 15 months.

2.04. Qualifications of members.

- (a) Each candidate for nomination and election as a member of the City Commission, including the Mayor, shall have been a resident of the City for one (1) year immediately prior to qualifying and shall be a duly qualified elector of the City at the time of qualifying for such office and be otherwise qualified as provided in this Charter and shall remain domiciled in the City for the term of the office for which the person was elected. **[Amended 6-13-1995 by Ord. No. 95-06, Ref. of 3-5-1996]**
- (b) The Commission shall be the judge of the election and qualification of its own members.

2.05. Duties and responsibilities of the Mayor. [Amended 6-13-1995 by Ord. No. 95-06, Ref. of 3-5-1996; 6-26-2001 by Ord. No. 2001-03, Ref. of 3-5-2002]

- (a) The Mayor shall preside at meetings of the Commission and perform such other duties consistent with the office and this Charter as may be imposed by the Commission.
- (b) The Mayor shall be recognized as the official head of the City for all ceremonial purposes and by the courts for the purpose of serving civil processes.
- (c) The Mayor shall represent the City in agreements with other governmental entities or certifications to its governmental entities and execute contracts, deeds and other documents. The Mayor shall be the Commissioner of Administration, and shall be responsible for all other duties not specifically assigned to one of the other Commissioners.
- (d) During the temporary absence or temporary disability of the Mayor, the duties shall be performed by the Vice Mayor. In the event of the death or removal or resignation of the Mayor, the Vice Mayor shall assume the duties of the Mayor until the vacancy thereby created shall be filled as per § 2.03 of this Charter.

2.06. Vice Mayor. [Amended 4-21-1987 by Ord. No. 87-08, Ref. of 3-1-1988; 1-19-1988 by Ord. No. 87-25; 10-17-1989 by Ord. No. 89-20, Ref. of 3-6-1990; 6-26-2001 by Ord. No. 2001-03, Ref. of 3-5-2002]

The Mayor, at a special Commission meeting following each annual regular election, shall appoint a Vice Mayor who shall be confirmed by a majority vote of the Commission. In the case of a Vice Mayor being removed by death, disability or resignation, the Mayor, at a special Commission meeting, shall appoint a Vice Mayor who shall be confirmed by majority vote of the Commission.

Section 3-1

Overview

Municipal officials are governed by both formal and informal standards of conduct. **Informal** standards of conduct exist as social norms of the nation, the community, particular community and professional groups, and the particular municipal body or agency of which an individual is a part. **Formal** standards of conduct exist as constitutional provisions, laws, municipal ordinances and resolutions, and – for employees – administrative rules and regulations.

In Florida, many formal standards of conduct for municipal officials are embodied in the Constitution and in state law. These various standards are scattered in the Constitution and Florida Statutes; they are not all to be found in one place. Thus, the oft- mentioned “Sunshine Amendment” (art. 2, sec. 8, Florida Constitution) contains only a small part of the complete set of formal standards. The Code of Ethics for Public Officers and Employees (ch. 112, part III, F.S.), while more extensive than the Sunshine Amendment, also contains only part of the entire set of standards of conduct (ss.112.311-112.326, F.S.).

In this part of the manual, separate attention is given, first, to constitutional provisions pertaining to standards of conduct of public officials and then, in succeeding chapters, to statutory requirements.

Section 4-1

Council Meetings

Council meetings, and the procedure and records thereof, are the heart of municipal-government activity. The proper conduct of meetings is of great importance to successful municipal functioning. Formal decisions must be made in an orderly, timely manner, with adequate input from an informed public. To satisfy these requirements is a complex task, which must be conscientiously addressed by council members and staff.

A. TYPES OF MEETINGS

Council meetings are of two general types – legislative and non-legislative.

1. Legislative Meetings

Legislative meetings are those at which formal action may be taken on policy proposals, in the form of adoption or rejection of proposed ordinances and resolutions. Legislative meetings may be either regular meetings or special meetings.

a. Regular Legislative Meetings

Regular legislative meetings are those which occur according to a pre-announced schedule. There is no requirement in Florida law concerning the frequency of such meetings. The municipality itself may determine the frequency of such meetings, which may be prescribed by charter or by ordinance. Many municipal charters throughout the state prescribe regular meetings and require that the meeting schedule be set at an annual or semi-annual organizational meeting of the council.

Since state law prescribes no particular schedule or frequency of regular council meetings, each municipality is free to establish its own schedule. As a general rule, regular council meetings occur more frequently in larger cities and less frequently in smaller towns, but there are many exceptions to this rule; the largest number of cities meet twice a month, with the second largest number meeting monthly.

One important feature of the legislative meeting is the public-forum aspect. This feature assumes a much larger role in some municipalities than it does in others; however, it is always present to some degree because legislative meetings are always open to the public and press. The legislative meeting always allows the public an opportunity to hear the council discussion on each subject. The legislative meeting generally includes at least a period for citizen comment and often incorporates a formal public hearing on one or more subjects.

b. Special Legislative Meetings

An emergency or other special situation may require the convening of a special legislative meeting, that is, one which does not occur according to the pre-announced schedule. The procedures for calling special meetings should be provided in the municipal charter or by ordinance. While the occasional need for such meetings is inevitable, a council should not abuse the practice of having unscheduled meetings on short notice. Special meetings should be well advertised so as to not violate the state open-meetings law.

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B. SCOPE OF AUTHORITY

The policy-making authority of city governments is defined by a broad general grant of powers – “home rule” – and by two specific limitations.

or·di·nance

ôrdn-əns/

noun

noun: **ordinance**; plural noun: **ordinances**

1. 1.

a piece of legislation enacted by a municipal authority.

resolution

res·o·lu·tion

noun \,re-zə-'lū-shən\

: the act of finding an answer or solution to a conflict, problem, etc. : the act of resolving something

: an answer or solution to something

: the ability of a device to show an image clearly and with a lot of detail

: a formal expression of opinion, will, or intent voted by an official body or assembled group