



The Ordinance Review Committee will meet in the
Water Plant Conference Room located at 1401
County Road 1, Dunedin, FL 34698

MONDAY, FEBRUARY 4, 2019

6:00 P.M.

ORDINANCE REVIEW COMMITTEE AGENDA

1. Call To Order
2. Roll Call
3. Draft November 7, 2018, December 3, 2018 and January 7, 2019 ORC Minutes
4. Topics
 - A. Chapter 22, Code Enforcement
 - B. Chapter 50, Miscellaneous Offenses
 - C. Chapter 54, Parks and Recreation
 - D. Chapter 58, Pensions & Retirement
 - E. Chapter 66, Solid Waste
 - F. Chapter 78, Utilities
 - G. Chapter 86, Waterways
6. Next Meeting: March 4, 2019
7. Adjournment

***** THIS MEETING IS OPEN TO THE PUBLIC *****

DUNEDIN, FLORIDA
MINUTES OF THE ORDINANCE REVIEW COMMITTEE MEETING
FEBRUARY 4, 2019
6:00 P.M.

1. **Call to Order.** Mike called the ORC meeting to order at 6:00 p.m.

2. **Roll Call**

Present: Mike Bowman, Chair
Grant Painter, Vice-Chair
Manny Koutsourais
Patricia Morea
Eric Peterson
Jen Welch

Absent: Kathy Carlson

Staff: Thomas J. Trask, City Attorney
Denise M. Kirkpatrick, City Clerk

Guest(S): Theresa Smalling, Human Resources and Risk Management Director

3. **Draft November 7, 2018, December 3, 2018 and January 7, 2019 ORC Minutes**

City Clerk Kirkpatrick advised she just emailed out the January 7, 2019 ORC minutes earlier today and did not feel the ORC had a chance to review them at this time and suggested they be moved to the March 4, 2019 ORC Agenda. The ORC concurred.

November 7, 2018

MOTION: Motion was made by Pat and seconded by Jen to approve the ORC minutes of November 7, 2018 as presented.

VOTE: Motion carried unanimously.

December 3, 2018

MOTION: Motion was made by Manny and seconded by Eric to approve the ORC minutes of December 3, 2018 as presented.

VOTE: Motion carried unanimously.

4. **Public Comment**

Stacy Rush of 659 Jacaranda Street a resident of Dunedin and Veteran of the United States Coast Guard commented that she lives and breathes the Declaration of Independence and the Constitution and that it should be known that her grandfather is a direct descendant three times removed of Benjamin Rush, the thirteenth signer of our Constitution and Declaration. She stated that she stands before the committee, being part of law enforcement, as well as, having worked for the County of Darby in Albany, Georgia. While in law enforcement she was in investigations as one of the only females with forty-five men. Those forty-five men had a 90% conviction rate and found when they investigated crimes they found them; 6% plead guilty or plead guilty to lesser crimes to avoid going to prison, the others as witnesses lied, tampered with evidence and coerced others to lie for them. She wanted to give that background for what she is about to say. Ms. Rush made the following comments.

It came to her attention because she watches every single election like it is her super bowl. What she found was in our ordinances Section 26-202 Unfair Campaign Practice. She has

been given a copy of the City's Electoral Package and this is in there plainly stating we are a non-partisan city. She questioned how many like what is going on in Washington, D.C., Tallahassee and do we want it in our city. We had it this year. Mr. Gow our Commissioner, she has him now on seven counts, if this were a crime, a state statute; seven counts of violating our ordinance. Even worse, Manny being our former mayor, he's even violating our Charter that he raised his right hand and put his left hand on the Bible and swore to defend along with Deborah Kynes.

She presented an advertisement that went out by the DNC advertising they would be there speaking; a direct violation of the City's ordinance, before we decided to erase evidence and ask others to tamper with evidence.

One of Dunedin's residents found that Mr. Gow also collected money from the Democratic Party; it was unfortunately not picked up on by our City Clerk with the investigation.

This is not looking good. Jeff Gow, once this was turned over, had an investigative reporter investigate and Jeff Gow and Deborah Kynes both admitted they did wrong. Jeff Gow thought if he just paid a fine it would be okay. This is not okay. We cannot get away with this ordinance.

Tom said that it was his opinion, while she talked to fourteen attorneys; according to law that is an opinion. An opinion is just that, it is not adjudicated. In Vero Beach in 1973 it was an opinion, not adjudicated.

The State of Florida Elections Board will not get involved in this nor will Washington, D.C. because it is our Home Rule. Home Rule being meaning we make our ordinances and we punish those who do not abide by the rules.

Then to make matters worse, she showed what came in her email, starting with Bill Nelson all the way to the bottom telling who to vote for if you're a Democrat, partisan party politics all the way down and guess where it stopped, Jeff Gow – Dunedin.

This is a problem. It can be written off or throw away this ordinance, but you are party to a crime; if they raise the speed limit to 45 and you have a ticket for going over 35 they are not taking it back. You cannot erase this ordinance. She is asking to please press pause on this ordinance until there can be a non-partisan, unbiased attorney decide what to do with Mr. Gow violating the law.

Ms. Kynes violating it make it even more egregious because she is an attorney and her husband is an attorney and she is a seasoned politician; they knew better, but they thought no one on this committee knew and they thought they would be protected by the quid quo pro, the definition being something for something is another word for blackmail. She asked that the committee use their conscience; we cannot get rid of this ordinance unless they want Washington politics in this city.

She is not for or against anyone; she is speaking of her own volition and from her own heart for the Constitution. If we remove the partisan party, she has things going to Philadelphia, that's not fair. Let's keep the game fair and non-partisan and do not remove this ordinance that protects each of us from the garbage that is going on in Washington every day.

John Tornga of 1901 Saddle Hill Road North stated he understood that Stacy was going to speak tonight. this is one of the last places he wanted to be today, but he thought since this applies to him he would make the following comments.

This is not about spilt milk or whatever, but he was not worried about that speaking to this committee because he was talking to people deeply involved with this at this point in time so he does not expect any great shot from the hip. He had no plans for what he wanted to say coming here; he just heard what was said here. He made the following comments.

It is interesting, we have been here for a long time and there are set of rules; he has three books with those rules and was happy that we are a non-partisan city. He has campaigned three times as a non-partisan within the city. He knew John Hubbard who he believed his codification as he understands it, he followed them.

He watched what happened in this last election and like the super bowl game being played with one team being played by one set of rules and the other team by another set of rules. His issue is particularly at first he was just saying what are we going to do about this and he had a lot of supporters, really good people asking him what happened and what he was going to do about it. Fundamentally, he said he was going to try to support remaining non-partisan in the future, whatever has to be done to make that happen is extremely important and it may or may not be.

He did not rock through referendum, but he did talk to a number of people and people he has had major issues with in the past in the city and asked them simply if they wanted to remain non-partisan and when they asked if that was all he wanted to ask, he said yes. That was done relatively recently and those were people he would have expected to think he had ulterior motives and they did not and they said yes they really did want to remain non-partisan.

As he looks at this, it is as Dunedin's attempt to really focus on what we call Home Rule, which we supported in the past. We made on the dais the decision that Home Rule is really important and it is throughout the state. The problem is that some people have some issues with it and how do you estimate the various areas. He thinks Safety Harbor has one as well. Dunedin happens to have ordinances that represent that. It is only within the city of Dunedin, the decisions we make about our elections do not touch anything outside our city. He would suppose regardless of the situation, you can look at Attorney Generals Opinions. Things happen and things change. He is not an attorney, but he wanted to step up and say if anyone here has any questions about this let him tell how things changed the other two times he ran.

He still has in his garage and disposed of several others and he found out who it is and he has their name and confronted them about his name being on his sign with a big zero on it every Sunday morning down by the Catholic Church and after his church he would go down and get, but obviously a lot of people had gone by there; that does not represent a particular party, that represents what happens he guesses. When he talked with this individual, he is just one of those fringe folks that get caught up in this.

When he was campaigning he was running into all kinds of questions, but really what it came up to was are you a Republican or a Democrat and it would not stop and he said he was non-partisan, he represents the people and in doing so did they have any questions for him about the city and if they were happy with the way the city is run and they kept

wanting to come back to that and he had some serious conversations with those people and he showed them his brochure which he did not leave with them and asked why talk about issues that are not city issues and it was because they had been approached and they were advised within this party to vote this particular way and they again wanted to know what party he was and he refused to discuss it; they then assumed he was with the party they were not with.

He is mainly here to tell the committee he really supports non-partisan. He had a conversation with a number of people after the election and asked if they agreed with staying non-partisan and a number of them did and he was not taking it any further and some of them are in different situations now. It was about non-partisan for him and he decided to talk after Stacy talked. He is just here to explain why he was here; he did not know there was a November 7 meeting and was unable to come to the January 7 meeting and then heard Stacy was going to talk and so not to leave her in whatever kind of position; he was the guy that ran against somebody who played the super bowl in a different way than he played. He played and you will find his name nowhere in the Republican Party whether he is a Republican or not he would not even discuss. He knows people with power in political parties; however, he did not ask for any assistance; did they offer him some, perhaps; he did not take it, he did not want it; it was not the right thing to do. He has always lived by always do the right thing. If there was anything anyone wanted to ask him about this, they do not have to, he is just here.

Manny asked if as a board were they recommending or suggesting to the City Commission that they consider going into partisan politics. City Attorney Trask advised, no the committee has not done that.

Susan Foote of 556 Patricia Avenue stated she just found out about this and it just looks bad to the voters. She would like to see this resolved and she really feels bad for the candidates that followed the rules while others got away with not following the rules.

A Lady, I did not hear her say her name, commented that a website claimed the Mayor had also availed herself of party money and she has promised to pay it back; however, she has no idea if she did. Mike responded that the committee would have no idea.

5. Topics

A. Chapter 22, Code Enforcement

Tom explained he asked the Chair if he could lead this discussion because he does a lot of Code Enforcement throughout many communities in Pinellas County. He took the opportunity to review portions of Chapter 162 in relation to Dunedin's Code. He found there had been some changes since the last edition in 2014. He reviewed the changes and made suggestions that would either correct typos in the Code or bring the Code up to a current Statute.

Section 22-3 (b) – the word “hearing” in the first sentence should be “hearings”

Section 22-4 - there a couple of words missing in the first paragraph – Special Magistrate

Under Chapter 162 the City can enforce its code in a couple of different ways; is by the Code Enforcement Board of which this Committee Chair, Mike is the Code Enforcement Board Chair. The City could also hire a “Special Magistrate” to hear code enforcement matters and in fact they can have a Board and a Special Magistrate if they wanted to.

Currently the City does not have a Special Magistrate. In addition the City could create a citation process by way of the Sheriff's issuing citations; usually that is done with things like watering the grass when you're not supposed to or a noise violation, it is like a parking ticket.

In this particular section it talks about Code Enforcement Board, but it does not mention Special Magistrate and he would like to add:

Special Magistrate

Grant clarified then at this point it is understood we can have a Special Magistrate; it is just not in this particular section. Tom explained it talks about a Special Magistrate in code sections prior to that; in 22-3 it talks about the Special Magistrate, but when reading 22-4 it kind of forgets about that; he just wanted to bring that up to date.

Also in Section 22-4 this is a section added about ten to twelve years ago to the Statute that says if you are going to sell a property and you have an active Code Enforcement case going on you have the legal duty or obligation to let the buyer know this Code Enforcement action is going on so when they buy it and it is closed they are not all of a sudden surprised. This section was added in 2014, but it did not mirror exactly the Statute; there have been some additional changes to the Statute. The additional changes he would like to make in:

Paragraph 4 at the end of the sentence it will say:

- (4) File a notice with the Code Enforcement Officer of the transfer of the property with the identity and address of the new owner and copies of the disclosure made to the new owner within 5 days after the date of the transfer.

This is exactly as it reads in the Statute; it is just a requirement that a time frame be set when the notices actually take place.

In addition to that the Statute adds a couple more sentences he would like to add here as well:

A failure to make the disclosures described in the paragraphs above before the transfer creates a rebuttal presumption of fraud. If the property is transferred before the hearing the proceeding will not be dismissed, but the new owner shall be provided a reasonable time to correct the violation before the hearing is held.

This gives the new owner who gets stuck with the violation some additional time. It is not addressed right now.

Section 22-42. Definitions - for *Code Enforcement Officer* the word *ensure* should be assure

*Code Enforcement Officer means any authorized agent or employee of the city who duty it is to **assure** code compliance.*

Section 22-44. – The last sentence says:

The membership of the Code Enforcement Board shall whenever possible include an architect, a business man, an engineer, a general contractor, subcontractor, realtor.

He explained that is there because that is what the State Statute says, but they made it gender neutral now, so he would like to change *business man* to business person.

Eric commented that gender reference is throughout this and he thought it was kind of understood that “man” was a generic term. Tom explained it is in the beginning of the Code book, but if he is going to do this section he would like to do it all right now in the sections he is working on.

Section 22-71 – amend the second sentence by removing the “s” from members:

No members of the Code Enforcement Board shall have the power to initiate such enforcement procedures.

Section 22-76 - the word *finding* should be changed to binding.

Section 22-81 - The second sentence:

~~The lien shall be superior to all other liens or encumbrances against the property, except taxes, including the liens of mortgages or other encumbrances against the property recorded subsequent or prior to the recording of this lien in the public records of the county. Upon petition to circuit court, such order may be enforced in the same manner as a court judgment by the sheriff of this state, including execution and levy.~~

The first part is no longer the law in Florida. The law is that Code Enforcement liens are not superior to any other liens. This language was added by John Hubbard basically trying to make the argument and it was used for a number of years in foreclosure cases that they could not close out our liens and were successful in a couple of those cases and then someone appealed the decision in another city with the same argument and the Supreme Court made a decision that the City's Code Enforcement Liens are not superior; therefore the language has to be taken out.

In the same section a couple of words are missing and need to be added that is language that has to be in all of our orders or judgments that would allow us, at least in this code section to actually enforce it.

Section 22 - 84 Notices – Delete the entire section and replace State Statute language.

Tom advised this is the biggest change where the entire section needs to be redone; he explained:

Currently the notice provision allows for notices to be given in a certain way and those are still accurate; they can be sent by certified mail, serve violators by hand delivery, posting the property, publication in a newspaper.

There was a case four or five years ago that specifically provides that if the City knows of another address other than the address listed on the tax rolls then the City has the obligation to send the notice there as well. This needs to be tweaked in order to fit that into the language of the notices. Rather than going through each of the paragraphs, he would like the permission of the Committee to basically make this notice section read like the Statute reads. He would not do anything other than that, but it needs to be brought current to reflect the additional obligation on behalf of the City.

Mike as Chair of the Code Enforcement Board had nothing further to add. He commented he has been on the Board for a long time and it runs pretty smoothly, so he did not see too much.

Grant commented he wanted to be careful not to be transferring any more power or decision making ability to a magistrate instead of it being a board of citizens.

Mike stated personally he is against using magistrates.

Mike asked if there are cities that just use a magistrate and Tom stated most of the small beach communities use a magistrate. Mike noted the cities have to pay them where the board is volunteers.

Tom explained in some of these smaller beach communities they are not going to find a lot of people who want to be on the board because everyone who comes before them is their neighbor. It is hard to fill the boards; therefore, the cities have taken the position that it is just better to have someone come in and do these cases. He does cases for Belleair, Pinellas County and Safety Harbor. That is not being done in Dunedin and he does not foresee it being done here. He commented if the code is being corrected in the front half then it should be done all the way through was his thinking.

Mike commented the only suggestion he would make is to take the magistrate out and just use the Code Enforcement Board.

Tom explained adding in the Special Magistrate language is making sense where the first part of the Code says, the Special Magistrate can do these things, but when getting to Transfer of Ownership that is the only place where it is being added to make those things still work; otherwise, they go before the Special Magistrate case and there is no obligation for the seller to tell the buyer they have a code enforcement proceeding going before the Special Magistrate, the City wants that to happen. In Dunedin there is no Special Magistrate.

Mike noted there was a Special Magistrate when there was a parking program, but that was the only.

Grant asked if taking it out could be considered.

Tom suggested not doing that and he would recommended against that to the City Commission because you want the City to have all the tools in the tool box possible and there might be a time when they do not want the Code Enforcement Board to hear complex land use or zoning issues. That is the way some cities do it, they have a Code Enforcement Board to hear most cases, but the really complex ones the move over to the Special Magistrate because a lawyer or judge is making the decisions.

Manny asked who appoints the Special Magistrate and Tom advised it is the City Commission and it is done by resolution that usually only lasts for one year, so they can change them out or in the case of Pinellas County he is one of three so they can be rotated.

Grant commented then to his point is it is still the responsibility going back to someone who is elected. Tom noted it is the same as the Commission appointing the Code Enforcement Board members.

Section 22-80. – Determination of fine amount; factors to consider.

Section 22-80 (a) (4) – *The courtesy and cooperation the violator extends to the code enforcement officer.*

Jen commented this seems like a good thing; however, questioned if that puts the City in any type of jeopardy.

Tom advised this is the only city he is aware of that has that; the Statute only provides for the first 3 and for some reason when John created this back in 1977 he thought that if you

were being very compliant and doing everything you can then you should be given the benefit of that.

Mike commented usually what they are looking at is if someone is working with them and can only get so much done in a reasonable time frame; otherwise they would have to automatically put everyone before the Board.

Pat commented about Jen's concern that it is subjective and Mike agreed it is subjective.

Jen stated she liked it in theory and when people are trying she thinks that matters, but she did not know if someone would use it against the City.

Tom commented, the Code Enforcement Board determines the dollar amount, this is where they determine the dollar amount and the time frame. If the Code Enforcement Officer says someone has not been cooperative and made him jump through all these hoops, then maybe the fine should be a little more versus the person who has done everything he can, but he has to go before the Board of Adjustment before getting a fence permit because he put it in the wrong place and he has done all the right things, but it is taking longer.

Mike stated the amount of the fine is decided by the Board, so the Code Enforcement Officer can make a recommendation, but the Board will decide. Usually that is what the Board looks at; are they cooperative, are they trying to get it done, are there extenuating circumstances, are they elderly and can't do the work or are low income.

Tom stated he was comfortable either way, leave it or take it out; he would rely upon Mike. Mike stated he likes it being in there because he does not want to automatically want the officer to automatically bring everyone in front of the Board when some are working and trying to get things done.

Mike reiterated his concern about the Special Magistrate and that being impersonal versus a board of your peers. Tom while he appreciated what Mike was saying, but sometimes when the Special Magistrate comes in he does not have to bow down to this being a neighbor or something, they just look at the facts and testimony and evidence received and makes a determination; they are not swayed by other personal aspects.

Jen commented she tended to agree there might be times when there were extenuating circumstances when a magistrate was needed.

Mike was fine with everything else and understands why you would want to have that option.

Grant asked if the magistrate answers to the Code Enforcement Board.

Tom stated no, there has to be finder of fact, a judge or a jury; the Code Enforcement Board is the judge and the Special Magistrate is the judge and you would not have one judge hear the case and then have another judge make the determination. He gave the example of being in court what would happen, the testimony would be heard, receive the evidence and make a decision and that is what the Code Enforcement Board is doing, there just happens to be seven members to give the input into the decision.

Mike noted the magistrate is getting paid and they are not going to have a job if they let everyone slide.

Eric asked what would be an example of using a magistrate and Mike stated one was used for the parking who was an attorney, but the Code Enforcement Board would be replaced he would think if the City decided permanently.

Tom explained you could have a Special Magistrate hearing some cases and the Code Enforcement Board hearing other cases, they could run side by side based on the complexity of a case; some cities do it that way.

Jen stated she would not want one to replace the Code Enforcement Board. Grant stated it would on a particular issue, case by case.

Tom explained the City Commission would have to appoint a Special Magistrate first and there is intention of them appointing anyone right now.

Mike asked how the cases would be determined.

Tom explained the City Commission would give direction to City staff or to the City Manager and the City Manager would give direction to staff as to for example all Land Use cases will be heard by the Special Magistrate the rest by the Code Enforcement Board.

Consensus of the Committee was to accept the changes as presented by City Attorney Trask.

MOTION: Motion was made by Manny and seconded by Pat to accept the changes to Chapter 22 as presented by City Attorney Trask.

VOTE: Motion carried unanimously.

B. Chapter 50, Miscellaneous Offenses

Pat explained this covers those odd situations not identified in other sections. One change she recommended and a question.

Section 50-2 (a). it talks about discharging or shooting specific items, but it does not talk about shot gun, rifle or pistols.

Tom advised the City cannot regulate those because it is preempted to the State.

Tom gave the background on this issue. The preemption occurred a couple of years ago and as a direct result of that preemption and some cities not following it, the Legislature adopted an additional provision that basically says that an Commissioner, Mayor, Council Member that tries to enforce a provision that addresses the issue of firearms is going to be found to have committed a crime and can be fined up to \$5,000. What it has done is put a huge burden on the Commission and the Council and their Home Rule powers as it relates to guns. The City is a plaintiff in a case where we are challenging the Florida Legislature on that exact issue along with approximately 20 to 30 other cities and counties throughout the state.

Section 50-6. - Public Nuisance

Pat suggested possibly additional language around loitering and whether or not that should be defined.

Mike asked if that is applying at all to the chronic nuisance issue. Tom stated it could; there is a prohibition in the Florida Statutes relative to loitering, so it is already covered in the statutes and if the committee wanted to add that here it could be done also. The problem is the City does not normally go through the processes of a criminal violation of a code provision; we try to just focus on civil remedies, fines and so forth.

Tom explained regarding the Chronic Nuisance Ordinance adopted by the City which basically says if you have done one of these things more than three times in this period of time it is considered a chronic nuisance and then the City can follow through by enforcing the ordinance that way. He thinks yes if someone has found to be violating the statute dealing with loitering more than three times then it would be a chronic nuisance. It has more teeth and bigger fines.

Section 50-3. Discharge of firecrackers or explosives, permit required.

Many inquired regarding firecrackers and permit required and asked how to enforce something like that when you know all these stands are selling fireworks and people buy them and shoot them from their homes. Mike commented they know it is going to happen, but they probably need it in there in case someone is going crazy with it.

Jen stated and asked if there was a State Statute about firecrackers. Tom thought that there is.

Mike commented he had no problem with it being in the code, but it is rarely enforced.

MOTION: Motion was made by Grant and seconded by Jen to recommend in Chapter 50 Section 50-6 Public Nuisance to add language from the Florida Statutes regarding loitering.

VOTE: Motion carried unanimously.

C. Chapter 54, Parks and Recreation

Mike advises Parks and Recreation Director Gizzi called to let him know Lanie would not be able to attend tonight.

Tom advised the deadline for the Committee is next month; however, Denise took the step of letting the Commission know there is the possibility the committee will not be able to complete its work and putting the Commission on notice that we may be back to them asking for a continuation of the Committee for 60 to 90 days. He suggested that is probably what will need to be done so the Committee is not rushed when staff is not available to answer questions.

Grant advised he still had a concern regarding alcohol that Greg Rice is working on some things and it is going to take more time as he is trying to get it right, whatever that turns out to be.

D. Chapter 58, Pensions & Retirement

Dr. Theresa Smalling, Human Resources and Risk Management Director was in attendance to answer question.

Manny stated Pensions and Retirement basically are established in several ways, one is union negotiations by Florida Statutes, the Pension Board that applies only to Firefighters. His concern in looking at this was he did not feel qualified to make any strong recommendations except maybe for some terminology that might need to be changed. As far reviewing the ordinance itself is concerned that it would be Theresa that would be best to explain it.

Dr. Smalling commented:

As Manny said Retirement is very detailed by the State of Florida under F.S. 175. Much of the verbiage here is directly from that statute as well as the State does allow some

customization of benefits offered; the State usually gives what the minimum benefits should be for firefighters and they allow some leeway for Fire Districts to go above the minimums. Some items such as retirement, the firefighters get a subsidy negotiated through the collective bargaining process that was just completed last year for the next three years effective October 1, 2018 through September 30, 2021.

Any changes as a result of this negotiation are memorialized by an ordinance and then go into this document. The most recent change that will occur she will bring to the City Commission on February 7, 2019 the ordinance that changes the amount of retirement subsidy for firefighters who retire on or after October 1, 2018 will receive as opposed to the amount anyone before that will be receiving. It will go from \$13.00 to \$16.00 per year of service.

In terms of any recommendation for changes is a "catch 22" as they would have to go through the collective bargaining process or at the State level; if they are outside the scope of the F.S. 175 there is nothing the City can do per say.

Through the collective bargaining process there are executive sessions with the City Commission and there are suggestions of things that might be helpful in terms of the operations of the Fire Department or conditions the firefighters work under. In the two bargaining sessions they had the biggest thing the firefighters asked for are changes to the length of Deferred Retirement Option Plan (DROP) as well as changes to the Retirement Subsidy. Surprisingly they never asked for a change to the maximum they can approve over a period of time for their years of service. There are certain things that sort puts the onus on them to propose. She could think of nothing after reading and rereading the ordinance that she would say to recommend to the Board.

MOTION: Motion was made by Jen and seconded by Eric to recommend leaving Chapter 58 as is.

VOTE: Motion carried unanimously.

E. Chapter 66, Solid Waste

Denise advised that Kathy had one change to recommend in the definition of Refuse on Page 66:4 in that the end of the sentence does not seem to match. It talks about *including sales, gifts, charitable donations or other similar transfers*.

Tom commented that should not be in there. He stated that in 2014 this ordinance was almost completely rewritten by the Solid Waste Department.

Denise advised she asked Bill Pickrum and he did not know why it was there either.

Tom suggested checking the adopting ordinance, Ordinance 14-13 to see if it is there and if it is he will talk with Bill about what changes need to be made and follow up with the Committee next month.

Eric pointed out there is a section in the Code that indicates it is illegal to pick through trash.

F. Chapter 78, Utilities

Mike asked to move this to next month.

G. Chapter 86, Waterways

Grant commented after talking with some people on this chapter there were a couple of questions. There were only a couple of words he would like to see changed and suggested:

Section 86-103 - the bottom of the paragraph on Page 86:4

Neither the harbormaster nor the city shall be held liable for damage caused to or by the vessel of any slip ~~owner~~ occupant, but rather the

There is only one slip owner, the City of Dunedin anyone else is a renter or occupant.

the slip ~~owner~~ occupant

Grant commented only the philosophical thing of the harbormaster in this is given the responsibility to deal with most things and handle them as he/she sees fit. It has been his experience that our harbormaster has a lot of layers with a lot of people involved. The way it actually works in our city is much more complicated than the way it is written here.

Manny asked if the purpose of that sentence was that in case of a hurricane the harbormaster makes adjustments, helps people out, secures some of the vessels and if damage is done to any of those vessels after that; wouldn't this take the responsibility from the City; a liability question.

Tom explained it is a liability questions and it is basically saying if we have to move your boat because we think it is in the best interest of the boat or the marina we are not going to be held responsible if something happens.

The suggestion is the word slip "owner"; it is actually not the slip owner that owns the boat; it is whoever uses the slip is what Grant is saying. The slip owner is the City and the City cannot hold itself liable so we want to make sure it is the slip occupant or renter that is holding the City harmless.

Grant commented it does get complicated within this for instance if he takes his vessel out of the marina for more than, he thinks 72 hours he has to notify the harbormaster that he is doing so and he then has the opportunity to lease the slip to someone else, a transient boat while he is gone;; it is not the boat owner's slip. That is how all marinas operate.

Tom thought the word "user" might be better which it says in 86-76, "all users of boat slips". He will review the slip rental agreement and will email the committee members with that language he will use unless they have a problem with that then discuss it at the next meeting. He reminded the committee members, don't respond or reply all.

Other Discussion

Manny stated he would like to have some discussion about this concern brought forward. He turned to Tom in terms of that this committee is not making any legal decision or making any kind of recommendation. He thought the people who spoke were addressing the wrong board and asked if they would have to go to the Secretary of State or the Ethics Commission regarding the elections. He noted the City has not made any attempt to go from non-partisan to partisan.

Other members of the committee commented they were confused as well and possibly the committee was being accused of something they were not doing.

Tom explained people have the opportunity to come here to give their input relative to the recommendations this committee is going to make. What they heard tonight was people

talking about when the committee makes their recommendation to the Commission they would like for the committee to at least consider their comments. The committee heard that from Mr. Tornga and Ms. Rush and they are aware they can come here to speak because of the fact they have received emails from himself relative to the fact he has given an opinion as to its enforceability and so forth and he told the Commission when he gave them that memo that he would be asking for this Committee's direction and they already addressed that at the last meeting on January 7, 2019 this Committee gave him direction that they absolutely want to make sure they keep the language relative to it being a non-partisan election. In fact the Committee said they wanted to leave in a couple of the subparagraphs dealing with a possible violation of those code sections and the only thing they are suggesting to be deleted are the two things he stated were preempted to the State. Otherwise this committee is keeping it a non-partisan election. They are giving input here, the Committee will make a recommendation to the Commission and the Commission can say they are not going to do that or direct him to prepare the ordinance and then there would be two public hearings and Mr. Tornga and Ms. Rush can speak at those two hearings or say no, they do not want to take out paragraph 3 or paragraph 4 and the Commission will decide to follow the recommendation of the committee they appointed to review this or not.

Manny commented going back to the section about elections. He personally has a problem with the way the elections are being held. First of all the seat numbers he thinks are limiting the number of people who want to run for office; when he was involved it was the top two vote getters were elected to the City Commission and the Mayor ran separately; there were no districts and no seats. If for example two people are in the same neighborhood and are friend, both were going to run, but one decides because of his friend he is not going to run, but another person will; it limits the number of people that are going to be involved in that election which he thinks in turn limits the number of people who may be voting in the election; that is one part he has a problem with. The other part he has a problem with while he understands the reason for it, but still he does have a problem with the elections being changed from March to November, the reason is that it is putting candidates in the position of having to campaign and limiting the quality of the candidate because of the weather, in Florida it is asking people to campaign during the hottest time of the year, with long sleeves and ties and so forth and at the same time a young man with a young family who might want to run for City Commission isn't going to because they want to take their kids on vacation. He thinks the system was never broken.

Mike recalled the seat numbers came as a result of the Charter Review a couple of year ago.

Manny commented the thought seat numbers has limited the number of people that would want to get involved and he thinks the results of that is seeing people run unopposed which has happened in the past two or three elections.

Manny gave the example of being friends with a Commissioner and for that reason not running against her, so that takes away from the quality of what can happen. If it was the top two vote getters coming in every other year, you could run for a seat and not necessarily a particular person's seat.

Mike noted the situation is coming up with one open seat and one incumbent because Moe will be running again for her seat and Heather will term out, this is her second term.

Pat commented in terms of the March versus November question, first there is a cost associated with having an election at an off period of time and secondly most people vote during a November election versus a March election. She thinks that was the rationale for moving to November.

Denise advised the cost was approximately \$54,000 for a March election and only between \$3,000 and \$4,000 in November.

Grant commented on the other hand to keep it as non-partisan as possible, he thinks that is a great way to do so because November is a partisan month.

Manny commented \$54,000 can be found when there is a City Commission willing to pay off a City Manager \$250,000, he thinks they can find \$54,000 to have an election in March instead of November.

Jen commented there is a point to the argument of being non-partisan the election would be off the regular elections, but there is cost involved and more people vote.

Grant commented he would say the idea of the top two vote getters being seated rather than running for a particular seat; he knows for a fact that Deborah Kynes seat was determined before the election and that is nothing against Commissioner Kynes.

Jen noted this does not really have anything to do with the ordinances this committee is looking at.

Manny commented it has nothing to do with personalities; it is simply bringing forth an issue that really concerned him.

Pat asked about a statute related to temporary transportation like Uber and Lyft and whether or not the City should align with the State Statutes if one actually defines it.

Tom stated the committee did not discuss any of that and it is the direction the committee wants to go.

Denise stated she knew it was coming back because she thought there were some things to be addressed.

Mike noted for next month there is

Chapter 54 - Parks & Recreation,

Chapter 78 - Utilities

Tom stated he could probably handle two of the items discussed tonight by email rather than bringing back for discussion.

Pat noted the issues were identifying in definitions digital platform any online or smart phone enabled applications that allows passengers to request transportation. She suggested since they did not have the ordinance it would be better to do it in March.

Tom advised she could email everyone her list, but no one can respond.

Also for next month:

Chapter 74 - Traffic & Vehicles

Chapter 82 – Vehicles for Hire

6. Next Meeting: March 4, 2019

7. Adjournment

The meeting adjourned at 7:26 p.m.

NOTE: An audio copy of this meeting was completely recorded and is in the official file.



Mike Bowman
ORC Chair

Attest:



Denise M. Kirkpatrick
City Clerk
