

PUBLIC NOTICE



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

MONDAY, JUNE 3, 2019

6:00 P.M.

ORDINANCE REVIEW COMMITTEE AGENDA

1. Call To Order
2. Roll Call
3. Approve the Minutes – April 22, 2019
4. Public Input
5. Topic
 - A. Review the Ordinance Review Committee 2018 Report
 - B. Miscellaneous
6. Adjournment

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

DUNEDIN, FLORIDA
MINUTES OF THE ORDINANCE REVIEW COMMITTEE MEETING
JUNE 3, 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		

3. **Approve the Minutes** – April 22, 2019

The ORC approved the April 22, 2019 minutes, as amended.

On page 19-4, the second paragraph up from the bottom of the page, it starts: Pat Jen commented she was trying to envision the Downtown East End Plan (DEEP) and Gateway and what if all . . .

On page 19-5, fifth paragraph down, starts: Jen Pat commented she was not sure that was a good argument and noted they used to have blue laws too about Sunday and Prohibition. She does not have a problem with having distance.

On page 19-5, last paragraph on the page starts: Pat Jen stated now that she was thinking about if it could be made different in the Downtown Core, then again she ...

4. **Public Input** – None.

5. **Topics**

5.a **Review the Ordinance Review Committee 2018 Report**

Chapter 1, Administration	No changes
Chapter 2, Administration	No Changes
Chapter 6, Alcoholic Beverages	Changes
Chapter 10, Animals	No Changes
Chapter 14, Business	Repealed in 2013
Chapter 18, Civil Emergencies	Changes

Manny referred to sub section (b) Section 18-108 and asked how that is different from a state and federal emergency. Tom explained the state statutes cover that and this does not have anything to do with that; if it is not declared a state of local emergency in the city then this does not apply.

Tom noted this section needs to be changed to reflect the City Commission where it says *City Council*.

Chapter 22, Code Enforcement

Changes, Rewritten

Section 22-3. 5 (c) - its hearings

Section 22-76. - ~~finding~~ should be binding

Section 22-80. (a) (4) – leave in the statement “shall consider the following factors courtesy and cooperation the violator extends to the Code Enforcement Board”

In response to the previous discussion that might be a gray area as to who is going to interpret that and Tom explained it is the Code Enforcement Board that makes that determination. It was recalled that Mike indicated the Board liked that provision as it does make a difference.

Chapter 26, Elections

Changes

Section 26-123 Straw Ballot.

Manny inquired if a referendum of any kind could be non-binding or does the word referendum mean that it is binding. Tom explained if the referendum passes it is binding.

Manny asked if there is what is known as a straw ballot, can it become a non-binding referendum if it passes. When previously discussed he said that a straw ballot is non-binding and that is why it is shown as Straw Ballot in the title; however, Tom seemed to think it had to change to a non-binding referendum. His question is the word referendum if adopted as a referendum that makes it binding he would think.

Pat noted the paragraph (a) references that, a non-binding referendum.

Manny commented that goes back to the words “Straw ballot” as the title; a straw ballot is non-binding. The question is maybe the word referendum needs to be changed or deleted and just say something or change the entire sentence.

Tom questioned the purpose of that Section 26-123.

Manny commented straw ballot back in the old days and Pat commented it was like taking the temperature and Manny agreed.

Mike read the definition of referendum to be, the principle or practice of referring major measures proposed or passed by a legislative body, head of state etc. to the vote of the electorate for an approval or rejection.

Pat inquired if we do straw ballots to take the temperature of the community. Manny stated the city used to do that years ago, but he has not seen one recently.

Tom noted leaving it in provides the Commission with more options. If the committee wants to leave it in to test the waters, why not give them that additional ability to do that instead of taking it away. It has been in the code since 1977; he is not aware of it being used in his thirty years.

Mike clarified that Manny thought it was an oxymoron.

Manny commented if it is okay from a legal and practical standpoint then he has no problem with leaving it as a non-binding referendum.

Eric commented the question was whether or not referendum by definition means binding and if not then it should be left alone.

Mike noted the straw ballot is something to get a temperature of how the citizens feel; it is non-binding and just to get a feel of how people were thinking.

The decision was to leave the section as is, just renaming it as previously discussed.

Tom noted the change in the title was to make it more accurate because the straw ballot is not used throughout that whole section.

The consensus of the committee was to leave it as *non-binding referendum*.

Section 26.202 Unfair Campaign practice.

Manny asked by striking this out does it mean that it is a fair practice to participate in a partisan political party function.

Tom explained this is saying our election is non-partisan. This gives a candidate the ability to go to a party function and not be in violation of the code. It also allows a candidate to accept money from a party affiliated organization and that would not be a violation. That is really what we are taking out.

Grant stated he strongly did not want to make this change and he has accepted only because Tom insists that this is unenforceable.

Tom explained it is unenforceable; it is preempted to the State and there is an Attorney General Opinion that specifically provides that.

Pat commented she thought it was reasonable.

Mike commented that it does kind of throw out the non-partisan.

Grant stated but it is irrelevant if it is preempted by the State.

Eric stated as long as it does not get off track and someone does not warp the intention, which is that it was taken out because of the preemption by the State.

Mike asked if something can be added about it is due to the State.

Tom answered that the committee is making a recommendation to the Commission and then they can take that or modify it, or do nothing with it.

Grant stated to Eric's concern which followed with his as well is that when this is discussed publicly by the Commission; his personal feeling is not to remove this. It is being removed on the advice of the City Attorney. He wanted that to be clear.

Manny commented Grant's concern is about perception.

Mike commented it is being removed, because the State has removed it and that would overrule anything this committee did.

Tom commented that it would not be changed as it is one committee member and not the committee as a whole.

Chapter 30, Emergency Services

Mike noted in Chapter 30 the only change was "than" deleted and that added.

Pat recalled there was something more about registering the alarm like the County.

Jen recalled it was supposed to be to align with the Pinellas County Sheriff's Office policy.

Tom stated the issue he was supposed to compare had to do with bon fires and Fire Marshal Mike Handoga came back and said he did not want any changes. He was here and talked about that so there were no further changes.

Jen thought there was something in there about the difference of a fire alarm versus a robbery alarm and we wanted to make clear we did not have our own police department and that was sort of deferring.

After review of the minutes Mike noted for Chapter 30, Jen advised this chapter has some provisions that are outdated.

Under Section 30 – 34 (b) there was discussion according to the minutes of November 7, 2018.

Tom noted Jen had made several suggestions in the minutes, but there is nothing in the minutes that says that is what the committee agreed to do. The only one that looks like there was agreement was Section 30 – 34 change “than” to “that”.

Mike asked what things Jen is feeling need to be changed.

Jen commented it seemed to her there should be something that reflects the registration is with Pinellas County and not the City. What we are seeing here are just the changes. She would have to look back now at the original Chapter 30.

Pat commented from the minutes, it was stated that maybe at the next meeting we might want to come back with a suggestion to see whether or not it is acceptable to make to the Commission and she thought that is where it ended; nothing came back for recommendations for changes in terms of the fees for the alarms.

Pat asked what impact would it have if it does not reference the Sheriff's Office or that the City does not actually oversee the alarm registration of this chapter.

Mike suggested maybe it was decided that it did not have much of an affect. Pat referred to (b) the alarm user may appeal the decision of the law enforcement officer, that would be Pinellas County and not the City as we do not govern that. She noted the entire (b) paragraph references the City employees in which case it is no longer.

Tom stated these can be enforced by way of Code Enforcement and by way of a uniform citation through the County Court system. He did not remember that ever happening.

Jen recalled them saying they did not want to take that out; they wanted it to stay in there.

Tom thought it was good the way it was and the committee members agreed.

In response to the question from Manny about how this works in and does the County supersede this and do we really need it, Tom explained this is dealing within our jurisdiction the SHARP Program is nothing more than a registration program, where you can register the fact that you have an alarm.

Mike clarified that is for police, not for fire.

Tom explained if someone is in the city and has registered for the program that gives them the information of who they can contact immediately upon an alarm going off; but that has nothing to do with the number of alarms going off. We also want to make sure the police

officers and the fire department are not appearing every day, because of the resources. He does not see the need to make further changes.

Chapter 34, Environment

Mike determined everyone was agreed with the changes that were made involving the maintenance of the grass between the sidewalk and the street.

Tom noted it is more than just the sidewalk to the street because a property line could be 5 feet inside the sidewalk which for all intensive purposes moves the property line all the way out to the street for the purposes of vegetation and tree maintenance. He explained it is from the property line out; not necessarily from the sidewalk out.

Mike noted it does say between the property line and the pavement portion.

Chapter 38, Fire Protection and Prevention

Mike noted a few things were taken out and the statement on the back page with private hydrants to be painted red.

Everyone was in agreement on this chapter.

Chapter 42, Human Relations

No changes

Chapter 58, Pensions and Retirement

No Changes

Mike said Human Relations ???

Chapter 46, Law Enforcement

No Changes

Mike noted everyone agreed no changes were required and determined everyone was still in agreement.

Chapter 50, Miscellaneous Offenses

Changes

Mike noted everyone had agreed no changes were required and determined everyone was still in agreement.

Chapter 54, Parks and Recreation

Changes

Mike noted **Section 54-5 Protection of property facilities, flora and fauna** was amended to add (a)(6) Create, build, install or leave any items in the park including but not limited to umbrellas, canopies, chairs, picnic tables, memorials or other mementos.

Grant recalled he thought he had an issue with the initial draft because it sounded as though we would not be allowed to bring umbrellas and folding chairs, but the way it is written now is okay.

Mike determined everyone was in agreement.

Chapter 58, Pensions and Retirement

No changes

Mike noted no recommendations.

Chapter 62, Sales

Rewritten

Upon reviewing Section 62-35, required a little reformatting (i.e. pages 7, 8 and the top of 9).

Denise had a question regarding the formatting on Section 62-35 Application and procedures on page 7.

After some discussion, Tom noted what is happening is the 1 should be indented; it is already there and there is no 2, because it goes a, a, 1 then b, c, so it is there and the 2 needs to come out. He noted (d) is a sub sub paragraph and (b) is just a sub paragraph.

The correct format was discussed and it is just the 2 that needs to come out and the rest reformatted.

Mike determined everyone was in agreement.

Chapter 66, Solid Waste

No changes

Mike noted on this one the definition was deleted and the definition for refuse was redone and everyone was in agreement.

Chapter 70, Taxation

Rewritten

Mike noted most of this chapter was eliminated and rewritten.

Manny noted that the change really simplifies the process.

Tom explained the report will be produced and at some point it will come to a workshop and then the Commission will give staff direction on the recommendations they want to move forward on and then it will come back to the Commission in ordinance form for two public hearings.

Discussion ensued regarding this chapter having been recommendations from staff and not actually the discussion of the committee on these changes.

Mike determined everyone was in agreement with the chapter as presented.

Chapter 74, Traffic and Vehicles

Changes (48:47)

Chapter 74 identified a Section that the City Attorney was going to amend, but Denise inquired she was not sure if this was done.

Tom referenced an email dated March 11, 2019, which stated at the meeting on March 4, 2019, he was asked to prepare some language that addresses e-bikes, hoverboards and segways as they relate to Article IV –Skates and Play Vehicles. In that regard, he recommended to add the following definitions in Section 74-111 (Definitions):

ARTICLE IV. - SKATES AND PLAY VEHICLES

Sec. 74-111. - Definitions.

E-bike means a bicycle that can be run on electric power as well as by pedaling.

Hoverboard means a motorized personal vehicle consisting of a platform for the feet mounted on two wheels and controlled by the way the rider distributes their weight.

Segway means a two-wheeled motorized personal vehicle consisting of a platform for the feet mounted above an axle and an upright post surmounted by handles, controlled by the way the rider distributes their weight.

He also recommended that the definitions of *Rider* and *Vehicle* be revised to read as follows:

Rider means a person conveying himself by scooter, or skateboard, e-bike, hoverboard or segway.

Vehicle means skates, skateboards, scooters, e-bikes, hoverboards, segways or and other similar devices.

The ORC accepted these recommendations to be identified in the report.

Manny questioned if this covers the pogo sticks he noticed that in Tampa are allowed as a form of transportation and the question is whether you want that happening on a sidewalk.

Eric commented on the motorized skateboard with a handle and the question being whether to address that in going down the sidewalks and where to draw the line. Are sidewalks for pedestrian, is it motorized travel. He is not implying the need to have new ones, but if we have ordinances that keep certain things off to consider expanding that to look at these new things no one thought of fifteen years ago.

Tom noted further down in Chapter 74.

Skater and Rider are defined as to include those people who ride those things.

There is a provision that says riders and skaters shall at all times obey the traffic laws of the state, including, but not limited to and it gives some Florida Statutes so that takes up those three things.

Section 74-113 – Prohibited Activities – no skater or rider use their vehicle in any manner that constitutes disturbing the peace, disorderly conduct or any manner that disturbs the other users of sidewalks, streets, bicycle paths, public areas, the Pinellas Trail or other like areas.

Tom commented it covers those things the committee wants it to cover; it just used to say skateboards and scooters.

All were in agreement.

Chapter 78, Utilities

No Changes

Chapter 82, Vehicles for Hire

Changes

Tom noted the changes need to be addressed regarding “free rides” in this chapter. His suggestion was for the committee to agree on this and then he will send it out with Greg’s suggested language and then if any committee members have concerns to let him know and if at least four have concerns then a meeting can be scheduled.

The committee was in agreement.

Mike reminded everyone to reply only to City Attorney Trask on any email.

Pat recalled that the State supersedes the city in terms of Uber and other share driving.

There was agreement on the changes.

Chapter 86, Waterways

Changes

Mike recalled the change from “slip renter” instead of “slip owner” throughout the chapter.

The committee was in agreement with the changes made.

Summary

Mike noted there was consensus on everything presented and discussed with the exception of the two items Tom would email; however, it was noted one item was already resolved so it would only be the one item.

Tom noted the three page report needed to be reviewed for any suggested changes.

Denise noted some minor changes for repeated items and some spelling.

Eric referred to Chapter 26. Elections where the changes were made due to the State preemption. Tom reviewed the title of Straw Ballots was changed to Non-binding Referendum and also took out the three sections under Unfair Campaign Practices.

Eric thought this might be the opportunity to add a clarifying statement that the changes were because and asked or should it be left as is.

Grant stated he would like that, but he is only one voice and if it is not a concern for everyone else then it is not fair to put it in there. He feels strongly that he wants it to be known the committee made the decision to remove these things because they were preempted by the State and not because of other reason.

Mike stated when they give the report they can say that and Tom advised, yes they could say that. Mike noted the report is basically going to be reading it off.

Jen stated in terms of the report itself it does not give any rationale for any of the changes made; it just is not the right forum she thought.

Tom explained the minutes will be included and the Commission will see where it was discussed and if they have questions they will see the minutes.

Grant commented regarding residents/citizens approaching him on this issue. He feels when this is presented to the public that the narrative go down accurately and not leave anything to question.

Everyone was in agreement and Mike noted when the report is given if we want a little narrative can be added in addition to the report.

The members of the committee expressed it was good working together and interesting and thanked everyone for their patience in the process. They appreciated the opportunity to serve.

Tom explained he would address Chapter 82 with Greg on the language for the free rides. He and Denise would make the other notations on the report.

Mike noted there are two sets of minutes still to be approved. Tom advised there would have to be one more meeting to approve those minutes and he and Denise will coordinate to schedule that meeting.

Tom noted after having the opportunity to review the report again if any of the committee members had additional suggestions to let him know or Denise and they would add them to the next meeting.

The committee members discussed possible meeting dates that would be a short meeting and that it would be at least a couple of months before the Commission would have the report on a workshop schedule.

6. Next Meeting: Nothing was scheduled.

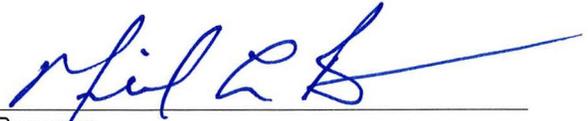
7. Adjournment

Tom and Denise reviewed the items she missed at the beginning of the meeting.

Mike and Tom confirmed their meeting for tomorrow.

The meeting adjourned at 7:10 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