

MAYOR  
Hal J. Rose

DEPUTY MAYOR  
Pat Bentley

COUNCIL MEMBERS  
Daniel Batchelder  
John Dittmore  
Adam Gaffney  
Barbara A. Smith  
Andrea Young



CITY HALL  
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To: Mayor Rose, Members of the City Council,  
Department Heads and Subscribers

From: Scott Morgan, City Manager

A handwritten signature in blue ink that reads "Scott Morgan".

Date: July 19, 2019

Subject: Friday Memo

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### Introduction

This Friday Memo is for the week of July 15 through July 19. Anyone wanting to be added to the distribution list may contact Tammy Neal at 837-7771 or [tneal@westmelbourne.org](mailto:tneal@westmelbourne.org). As always, if there are any questions or comments on items described in this memo, or on any other City matter, please call.

### 2019-2020 Budget

On Tuesday, the Council decided to advertise a proposed millage rate of 2.6017 mills, which is the same as this year's millage rate. On Wednesday, Finance Director Margi Starkey e-filed this information via the Truth in Millage (TRIM) e-file system. This information will be included in each property owner's TRIM notice that will be mailed out in August. The full proposed budget document will be provided to the City Council and posted on the City's web site on or about August 1. The first public hearing on the proposed millage rate and budget has been set for September 3.

### Capital Projects Update

The grant-funded Sylvan Drive Septic to Sewer Project is out to bid, with bid opening set for August 12, and the award of bid scheduled for the City Council meeting of August 20. The Greenboro sewer force main project 90% engineered construction drawing set of plans have been reviewed, and we are nearing 100% design and being able to go out to bid. We are internally reviewing the 90% engineered construction drawings set of plans for the Brandywine- Columbia Lane Water Main Project.

This week we also heard from our CDBG grant consultant that on Monday the window opened for competitive CDBG Hurricane Irma recovery grant applications, with the grant application deadline set for August 30. We are working on a City grant application for a proposed drainage improvement project that, if funded and constructed, would benefit the Melbourne Estates neighborhood.

Survey work has been completed, construction contractor Y-Com is mobilized, and materials have been delivered to the site for the FDOT-funded Ellis Road water main installation. Staff is working closely with an abutting property owner to secure an easement that would improve the easterly connection. Directional drilling is planned starting Monday, and construction is scheduled to be completed before the end of July.

### Space Coast Town Center

On Tuesday, the City Council approved the concept master plan and the negotiated development agreement for the proposed Space Coast Town Center development. The next step is the preliminary platting process, which will come to the Planning and Zoning Board and City Council later this summer.

### Water Plant Study

The water plant study is winding down. Individual City Council briefings with the Hazen consultant team have been scheduled for August 6, and a City Council workshop has been scheduled for 5:30 p.m. on August 20. The proposed 'go-no go' decision is scheduled for the regular City Council meeting of September 3.

### Space Coast Field of Dreams

This morning, Parks & Recreation Director Rich Boprey and I met with Space Coast Field of Dreams Board Members Robin Fisher and Jack Masson.

### Police Officer Adam Morrow Swearing In Ceremony

This afternoon, I attended the swearing in ceremony of newly hired Police Officer Adam Morrow.


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- Attachments:
1. July and August Monthly Calendars.
  2. Six Month City Council Agenda Planning Calendar.
  3. Departmental Friday Memos.

# July 2019

| Sunday | Monday  | Tuesday           | Wednesday   | Thursday  | Friday                 | Saturday |
|--------|---|-------------------|---|---|------------------------|----------|
|        | 1   | 2                 | 3   |  <p>Offices Closed</p> | 5                      | 6        |
| 7      | 7:00 Space Coast League of Cities Dinner<br>6:30 Planning & Zoning Bd | 9                 | 11:15 Greater Palm Bay Chamber of Commerce<br>11:30 West Melbourne Business Assoc<br>6:00 Parks & Rec Advisory Bd | 7:00 a.m. Melbourne Regional Chamber Business Breakfast<br>6:30 Charter Review Committee                  | 12                     | 13       |
| 14     | 15  | 6:30 City Council | 17  | 5:30 Code Enf Bd cancelled  | 19                     | 20       |
| 21     | 22  | 23                | 24  | 7:00 Bd of Adjustment   | 5:00 Food Truck Friday | 27       |
| 28     | 29  | 30                | 31  |   |                        |          |

# August 2019

| Sunday | Monday  | Tuesday  | Wednesday   | Thursday   | Friday                       | Saturday |
|--------|---|--|---|--|------------------------------|----------|
|        |   |  |   | 1<br>7:00 a.m. Melbourne<br>Regional Chamber<br>Business Breakfast | 2                            | 3        |
| 4      | 5   | 6<br><b>NATIONAL NIGHT OUT</b> <br><b>No City Council meeting</b> | 7<br>9:00 Police Officer<br>Pension Bd<br>11:15 Greater Palm Bay<br>Chamber of Commerce | 8<br>6:30 Charter Review<br>Committee                              | 9                            | 10       |
| 11     | 12<br>7:00 Space Coast<br>League of Cities Dinner | 13<br>6:30 Planning & Zoning<br>Bd   | 14<br>11:30 West Melbourne<br>Business Assoc  | 15<br>5:30 Code Enf Bd   | 16                           | 17       |
| 18     | 19  | 20<br>5:30 Council Workshop<br>6:00 CRA meeting<br>6:30 City Council   | 21  | 22<br>7:00 Bd of Adjustment  | 23<br>5:00 Food Truck Friday | 24       |
| 25     | 26<br>6:30 Business Adv Bd                        | 27   | 28  | 29   | 30                           | 31       |

| Council Date                           | Presentations/Workshops/Ceremonies/Public Hearings  | Consent/Action Items/Management Reports  |
|--|---|--|
| 16-Jul<br>Regular Meeting<br>6:30 p.m. | Introduction - New Employees - Police Officer Adam Morrow and<br>Crime Scene Technician Camille Moore (Rick)                              |  |
| 6-Aug                                  | No Council Meeting - National Night Out   |  |
| 20-Aug<br>Workshop<br>5:30 p.m.        | Workshop - Water Plant Feasibility Study  |  |
| 20-Aug<br>CRA Meeting<br>6:00 p.m.     |   | CRA Resolution Adopting 2019-2020 CRA Budget (Scott) (action)  |
| 20-Aug<br>Regular Meeting<br>6:30 p.m. | Introduction - New Employees - Crime Scene<br>Technician Camille Moore, and Police Officers<br>Steven Stanley and Austin Crosby (Rick)    | July Statistical Report for Police Department (Rick) (mgmt reports)  |
|  | Presentation - Businesses of the Quarter (Cynthia)  | Receive and File FY 19-20 Administrative Expense Budget for<br>Police Officers Retirement Plan (Scott) (consent)   |
|  | Public Hearing - Second Reading of Ordinance Increasing Sewer Rates<br>an Average of 2.35% Effective October 1, 2019 (Scott)              | Space Coast Gateway Center Preliminary Plat (Christy) (action)   |
|  | Public Hearing - First Reading - Annexation<br>of Acquest Property (Christy)  | Modification of Interlocal Agreement with Brevard County for<br>Energy Cost Sharing of Proposed New FP&L Street Lighting Along the West Side of<br>Minton Road from Henry to Just South of Flanagan (Scott) (action) |
|  | Public Hearing - Vacate of Epanola Way (Christy)  | Award of Construction Bid - Sylvan Drive Septic to Sewer Project (Keith) (action)  |
|  | Public Hearing - First Reading - Administrative Rezoning to<br>Commercial New Haven for Three Additional Properties on Bossieux (Christy) | Resolution Authorizing Submittal of State Grant Application for Federal Hurricane<br>Irma Funding of Portion of Proposed Stormwater Risk Reduction Project for<br>Melbourne Estates Neighborhood (Scott) (action)    |
| 3-Sep<br>Regular Meeting<br>6:30 p.m.  | Public Hearing - Tentative Budget and Millage Rate (Scott)  | Water Plant Feasibility Study Final Report (Scott) (action)  |
|  | Public Hearing - Second Reading - Annexation<br>of Acquest Property (Christy)   | Resolution Adopting 2019-2020 Stormwater Assessment Roll with No<br>Changes in Rates or Assessment Methodology (Scott) (consent)   |
|  | Public Hearing - Second Readings of Two Ordinances - Administrative<br>Rezoning of Properties on Stephenson and Bossieux (Christy)        | Bill of Sale for Minton Cove Improvements to Norfolk Parkway (Morris) (consent)  |
|  |   | Extension of Interlocal Agreement with Brevard County for Installation<br>and Maintenance of SCAT Bus Shelters (Scott) (consent)   |
|  |   | Selection of Banking Institution for Servicing City Accounts (Margi) (action)  |

Six Month City Council Agenda Planning Calendar

| Council Date                           | Presentations/Workshops/Ceremonies/Public Hearings  | Consent/Action Items/Management Reports  |
|--|---|--|
| 17-Sep<br>Regular Meeting<br>6:30 p.m. | Public Hearing - Final Adoption of Budget and Millage Rate (Scott)<br><br>Public Hearing - Comp Plan Amendment for Large Scale Transmittal for Acquest Property (Christy) | August Statistical Report for Police Department (Rick) (mgmt reports)<br><br>City Council Annual Review of Police Chief's Performance (Kimberly) (action)<br><br>City Council Annual Review of City Attorney's Performance (Kimberly) (action) |
| 1-Oct<br>Regular Meeting<br>6:30 p.m.  |   | Award of Piggyback Contract - 2019-2020 Annual Street Resurfacings (Mark) (action)<br><br>Award of Construction Bid - Columbia Lane-Brandywine Water Main (Keith) (action)   |
| 15-Oct<br>Regular Meeting<br>6:30 p.m. |   | September Statistical Report for Police Department (Rick) (mgmt reports)   |
| 5-Nov<br>Regular Meeting<br>6:30 p.m.  |   | Award of Construction Bid - M-1 Canal Water Main (Keith) (action)  |
| 19-Nov<br>Regular Meeting<br>6:30 p.m. |   | October Statistical Report for Police Department (Rick) (mgmt reports)   |
| 3-Dec<br>Regular Meeting<br>6:30 p.m.  |   |  |
| 17-Dec<br>Regular Meeting<br>6:30 p.m. |   | November Statistical Report for Police Department (Rick) (mgmt reports)<br><br>Adoption of 2020 City Council Meeting Dates (Cynthia) (consent)   |
| 7-Jan<br>Regular Meeting<br>6:30 p.m.  | Presentation - 2019 Year in Review (Mayor Rose)   |  |
| 21-Jan<br>Regular Meeting<br>6:30 p.m. |   | 2019 Annual Police Department Report (Rick) (mgmt reports)<br><br>First Quarter 2019-2020 Budget Status Report (Margi) (consent)   |

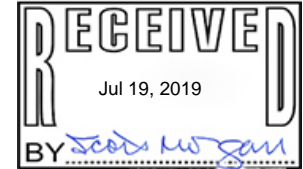
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To: Mayor Rose and Members of the City Council  
Through: Scott Morgan, City Manager  
From: Morris Richardson, City Attorney *MR*  
Date: July 17, 2019  
Subject: Friday Memo

The Legal Department Friday Memo provides news and information on legal issues affecting the City. If you have any questions regarding this report, please contact me.

#### **CHARTER REVIEW COMMITTEE UPDATE**

On July 11, the 2019-2020 Charter Review Committee (the "CRC") held its second meeting. The CRC directed three questions to the City Attorney. Those questions, and my responses, are presented here.

1. Can Charter amendments be linked or bundled on the ballot?

The short answer is yes. However, I would advise against bundling multiple subjects in a single ballot question.

Neither the Florida Constitution nor state law applies a single subject rule to proposed amendments to county or city charters. *Seminole County v. City of Winter Springs*, 935 So.2d 521, 528 (Fla. 5th DCA 2006); *see also Charter Review Commission of Orange County v. Scott*, 647 So.2d 835 (Fla. 1994) (holding that a single subject requirement does not apply to county charter amendments proposed by a charter review commission). While some municipalities have a single subject limitation within their charters, the City of West Melbourne Charter has no such restriction.

Notwithstanding the absence of a single subject requirement, I nonetheless recommend that the CRC and City Council avoid bundling amendments together in a single ballot question. Ballot questions that address only one subject are generally easier for voters to understand. Single subject questions avoid the dilemma in which voters have to decide whether to accept part of a proposed amendment, which they oppose, in order to obtain a change in the Charter, which they support. Ballot questions with multiple subjects, on the other hand, place voters "in the position of having to choose which subject they feel most strongly about." *Fine v. Firestone*, 448 So. 2d 984, 988 (Fla. 1984).

2. How does the Sunshine law or case law address attending Council meetings remotely? And, Can the City prohibit remote attendance?

Section 286.011(1), Florida Statutes, Florida's Government-in-the-Sunshine Law, provides:

All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

The Sunshine Law contemplates that meetings of bodies such as our City Council will be held in a public place with the members physically present. The City Charter also requires that all meetings of the Council shall be open to the public and shall be held within the city limits.

The Attorney General has issued several opinions regarding remote participation by electronic means and whether this practice complies with the Sunshine Law. The Attorney General has concluded that “the participation of an absent member by telephone conference or other interactive electronic technology is permissible when such absence is due to extraordinary circumstances such as illness.” AGO 03-41; *see also* AGO 02-82 (physically disabled members of a committee could participate and vote on board matters by electronic means if they are unable to attend); AGO 92-44 (county commissioner who was physically unable to attend a meeting because of medical treatment could participate in the meeting by using an interactive video and telephone system).

The Attorney General cautions, however, that “the participation of an absent member in the meeting by telephone conference should be permitted only in extraordinary circumstances and when a quorum of the board members is physically present at the meeting. Whether the absence of a member due to a scheduling conflict constitutes such a circumstance is a determination that must be made in the good judgement of the board.” AGO 03-41 (emphasis added). The Attorney General “has been reluctant to extend the participation in public meetings of public officials by electronic means to situations other than those involving a serious medical condition and the presence otherwise of a quorum at the public meeting place.” AGO 02-82.

Further, care should be given to assuring that a council member who is participating remotely has sufficient access to available information to make an informed decision. This is particularly important in quasi-judicial proceedings, where the City Council is acting on the record before it and weighing the credibility of witnesses.

Section 3.5 of the City Council’s Meeting Rules and Order generally tracks the Attorney General opinions on remote participation.

### 3.5 ATTENDANCE BY COMMUNICATIONS TECHNOLOGY MEDIA

A. Councilmembers, due to a physical disability or illness or who may be out of town, state, or the country, and unable to attend a scheduled council meeting, may participate and vote in a council meeting by the use



of communications media technology, that is currently utilized by the city, provided a quorum is physically present at the meeting. The absent member may not be counted for purposes of constituting a quorum.

B. The communications media utilized must enable the absent member to participate in the discussions, to be heard and/or seen by the other councilmembers and the public, and to hear discussions taking place during the meeting. (AGO 92-44 and 94-55).

The City Council may wish to consider revising Section 3.5 of the Meeting Rules and Order along the following lines (deletions in ~~striketrough~~, additions in underline):

3.5 ATTENDANCE BY COMMUNICATIONS TECHNOLOGY MEDIA

A. Council members who, due to extraordinary circumstances such as a physical disability or illness ~~or who may be out of town, state, or the country, and,~~ are unable to attend a scheduled council meeting, may participate and vote in a council meeting by the use of communications media technology, that is currently utilized by the city, provided a quorum is physically present at the meeting and a majority of the council members present vote in favor of approving such participation. The absent member may not be counted for purposes of constituting a quorum.

B. The communications media utilized must enable the absent member to participate in the discussions, to be heard and ~~or~~ seen by the other council members and the public, and to hear discussions taking place during the meeting. (AGO 92-44 and 94-55). Council members may only participate in quasi-judicial proceedings if they (1) have access to all of the evidence and information available to those council members who are physically present, and (2) are able to receive testimony and citizen input and weigh the evidence in substantially the same manner as if they were physically present (e.g., see and hear witnesses).

While the City Charter could be amended to prohibit remote participation, the existing constraints of the Sunshine Law and requirements of due process as outlined above seem to strike an appropriate balance that allows for remote participation in extraordinary circumstances when a quorum is physically present.

3. What does the state law say in regards to requiring retirement be provided to elected officials after serving for 20 years?

And I quote:

Florida Statutes § 112.048. Voluntary retirement with half pay authorized for elective officers of cities or towns; appropriation

(1) The intent of the Legislature is to authorize and direct each city and town to provide a system of retirement for elected officials, but it is further the intent that each city or town may determine whether the system will be contributory or noncontributory.

(2)(a) From and after June 3, 1939, whenever any elective officer of any city or town of this state has held any elective office of such city or town for a period of 20 years or more consecutively, or for a period of 20 years or more consecutively, except for one period not exceeding 6 months, such elective officer may voluntarily resign or retire from such elective office with the right to be paid on the officer's own requisition by such city or town during the remainder of his or her natural life a sum equal to one-half of the full amount of the annual or monthly salary that such city or town was authorized by law to pay said elective officer at the time of resignation or retirement; and such city and town shall appropriate and provide in its annual budget sufficient moneys to meet the requirements of this section when no other plan is available for elected local officials. In cases in which an elective officer during any term of office entered or enters and served or serves in the Armed Forces of the United States during any period during which the United States was or shall be engaged in war and thereafter was or shall be appointed or again elected to the same elective office prior to discharge from such service in the Armed Forces, such time of service in the Armed Forces shall not be construed to be a break in consecutive service and shall be counted in determining the years of consecutive service of such elective officer.

(b) The provisions of this subsection shall not operate to preclude any elected officer from retiring under, and receiving benefits pursuant to, the provisions of this section as it existed prior to October 1, 1973, if such officer had, prior to that date, completed the required 20 years of service or been elected to a term upon the expiration of which he or she completes the required 20 years of service. However, if on October 1, 1973, an elected officer had completed at least 10 of the required 20 years of service, the city or town may elect to provide an annual or monthly retirement salary as provided in this subsection.

(3) Each city or town may by ordinance establish a contributory retirement system for those officials defined in subsection (2). The rules for participation, the amount of the official's contributions, and the method of appropriation and payment may be determined by ordinance of the city or town.

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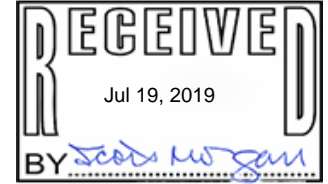
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To: Scott Morgan, City Manager

From: Thomas Forbes, Building Official

Date: July 19, 2019

Friday Memo / Building Department



Weekly activity summary for the Building Department

**Building:**

There were 5 building permits issued for new single family residences and a total of 78 permits issued this period. The permanent C.O. has been issued to the new Audi dealership on Coastal Lane.

**Commercial Project Update:**

The following commercial projects have had permits issued and are in various stages of construction:

- Minton Cove Apartments, Norfolk Parkway.
- Promise in Brevard Bakery & Café, 3000 Minton Road (West Melbourne Community Park), 7,100 sq. ft. new construction.
- West Melbourne Police Station, 2290 Minton Road, 9,489 sq. ft. addition. Addition completed, remodel is in progress.
- Apollo Surgery Center, 375 W. New Haven Avenue, 9,150 sq. ft. (second floor), tenant build out.
- Aventine Apartments, 4515 Durham Drive, 379,594 sq. ft. new construction.
- Pineapple Daycare, 4125 Minton Road, 12,614 sq. ft. new construction.
- Dr. Priyanka, interior alteration of medical offices, 2,500 sq. ft.
- Calvary Chapel, 2955 Minton Road, 1543 sq. ft. new construction, Central Energy Plant.
- Launch Federal Credit Union, Norfolk Parkway, 6,813 sq. ft. new construction.
- The Springs at Hibiscus, 288 unit apartment complex, 12 apartment buildings, clubhouse and ancillary buildings, total square footage 338,952.
- Carlton of West Melbourne, Hollywood Boulevard, 15-3 story apartment buildings, clubhouse and ancillary structures.
- Buena Vida, 2129 W. New Haven Avenue, exterior renovation.
- Your Pie, 225 Palm Bay Road #193, 2,820 sq. ft. interior alteration.
- Housman Aluminum, 7724 Matrix Way, 6,000 sq. ft. office/warehouse, new construction.
- Glamour Lounge, 635 S. Wickham Road, 2,010 sq. ft. tenant build out.

- The Oasis at West Melbourne Apartments, John Rodes Boulevard, 10-3 story apartment buildings, clubhouse and ancillary structures.
- Sprengergarten, 2825 Eber Road, new construction of a 5,624 sq. ft. events building and a 6,000 sq. ft. maintenance building.
- B & M Property Holdings, LLC, 7600 Technology Drive, 22,500 sq. ft. warehouse.
- Viet-Yumz, 2233 W. New Haven Avenue, interior build-out.
- Dunkin Donuts – Tract E; 4527 W. New Haven Avenue, interior build-out.

Building Inspections conducted from 07/15/19 to 07/19/19 totaled 199

New Permit applications received from 07/15/19 to 07/19/19 totaled 57

- 2 new single family residence permits.

**Status of Commercial projects submitted for review:**

- City of West Melbourne Maintenance building addition, permits ready to issue.
- YourLife of West Melbourne, NE corner of Minton Road and Heritage Oaks Boulevard, 60,000 sq. ft. new construction, permits ready to issue.
- Cloud Nine Smokeshop, 350 S. Wickham Road, interior renovation, review complete, awaiting revised plans.
- Beef O’Brady’s, 2400 Dairy Road, interior build-out, review complete, revised plans submitted, review underway.
- Extended Stay America, West Melbourne Interchange Center (Hollywood Boulevard/Palm Bay Road), 53,000 sq. ft. hotel, new construction, review under way.
- Publix, 2261 W. New Haven Avenue, interior renovation, plans submitted, review underway.
- Folklore Latino (restaurant), 2994 W. New Haven Avenue, 1,100 sq. ft. interior renovation, plans submitted, review underway.

**Code Enforcement:**

The next Code Enforcement Board meeting will be August 15, 2019 at 5:30 p.m.

There were a total of 51 illegal signs removed from the right of way during the past week.

There was a total of 1 new code enforcement case opened this week; additionally 1 existing case was closed this past week in compliance.

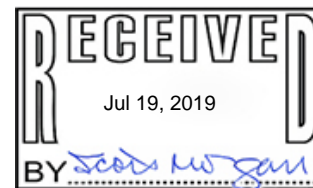
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To: Scott Morgan, City Manager

From: Mark Piccirillo, Director of Public Works

Date: July 19, 2019

Subject: This Week in Public Works

On Monday, the Brevard County Natural Resources Management Department was on location at Public Works for its Annual Compliance Assistance Inspection. The inspection was in regards to the storage and disposal of used oil, used oil filters, antifreeze, and batteries. The facilities storm drainage system and retention areas were also part of this inspection. I am happy to report that the City is in compliance with both inspections.

The Public Works Streets and Drainage Department continued utilizing the Menzi Muck's versatility by cutting back the road side vegetation along the west side of Clifton Drive.



Images of Menzi Muck cutting vegetation on Clifton Drive.

The Menzi was also operated along Flanagan Avenue by maintaining the drainage ditch that runs east to west by the West Melbourne Community Park.



Images of Menzi Muck on Flanagan Avenue.

The Streets and Drainage Department also replaced the damaged sign at the intersection of Norfolk Parkway and Palm Bay Road with a new directional sign. The sign was observed damaged on the ground, located in the median at this intersection.



Image of sign at Norfolk Parkway intersection.

The Public Works Water Department completed 269 work orders this past week, serviced seven fire hydrants, and painted eight fire hydrants. They exercised seven water service valves, inspected nine meter boxes and responded to a water service line leak on Boughton Way.

The Water Department responded to an 18-inch water main break on one of the City's transmission lines located on the canal bank of the C-1 canal (Henry Avenue to Tallwood Park). The 18-inch main was bored into by a contractor taking boring samples in this area. Due to the quick response, this main was shut down within 22 minutes, minimizing the impact to the City. This section of water main is isolated and not affecting any City residents. The repair materials have arrived, and the City's contractor, Don Luchetti Construction, is scheduled to complete this repair the start of next week.



Image of water main break.

The Sewer and Wastewater Department Jacobs completed 211 work orders, seven sewer inspections, and inspected the Oasis development job site for sanitary pipe that was delivered.

Preventative maintenance training (vibration analysis, oil analysis and Infrared gun use on electrical equipment) was conducted on-site for the Jacobs employees this week. The training was presented by Project Director Dan Stark.



Images of Jacobs employees in training.

Preventative maintenance was performed at the plant's drainage aeration basin #2 while being drained for cleaning and inspection. Aeration basin #3 will be on-line during this time.



Image of aeration basin at sewer plant.