

MAYOR
Hal J. Rose

DEPUTY MAYOR
Pat Bentley

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



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

From: Scott Morgan, City Manager *Scott Morgan*

Date: September 6, 2019

Subject: Friday Memo

Introduction

This Friday Memo is for the week of September 2 through September 6. Anyone wanting to be added to the distribution list may contact Tammy Neal at 837-7771 or 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.

City Council Meeting Rescheduled to Monday

Tuesday's scheduled City Council meeting was rescheduled to this coming Monday September 9 at 6:30 p.m. The meeting was rescheduled due to the approach of Hurricane Dorian.

West Melbourne Emergency Operations Center

West Melbourne's local emergency operations was set up in our police station. Our local EOC was fully activated at 6:00 a.m. on Tuesday and folded up at 10:00 a.m. on Wednesday, in full operations a total of 28 hours.

City Hall Reopened

After being closed on Tuesday and Wednesday due to Hurricane Dorian, City Hall reopened for normal business on Thursday morning.

Reuse Re-Started Thursday Afternoon

After shutting down on Wednesday August 28 in anticipation of possible heavy rain from Dorian, and with little rain from Dorian and two dry days yesterday and today, reuse operations were re-started on Thursday afternoon.

Trash Service Re-Started

West Melbourne residential customers with Thursday pick up were able to be served as scheduled yesterday, as the County's landfills reopened Thursday morning.

Water Plant Study

The project engineers' final report and staff recommendations are scheduled for the City Council meeting of October 1.

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

September 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1		<i>Dorian was here</i>	<i>Dorian was here</i>	7:00 a.m. Melbourne Regional Chamber Business Breakfast		
8	6:30 City Council	6:30 Planning & Zoning Bd.	11:30 West Melbourne Business Assoc 6:00 Parks & Rec Advisory Bd	6:30 Charter Review Committee		
15	7:00 Space Coast League of Cities Dinner	6:30 City Council		5:30 Code Enf Bd		
22	6:30 Business Adv Bd			7:00 Bd of Adjustment	5:00 Food Truck Friday	
29						

October 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 6:30 City Council	2 11:15 Greater Palm Bay Chamber of Commerce	3 7:00 a.m. Melbourne Regional Chamber Business Breakfast	4	5
6	7	8	9 11:30 West Melbourne Business Assoc 6:30 Planning & Zoning Bd	10 6:30 Charter Review Committee	11	12
13	14 7:00 Space Coast League of Cities Dinner	15 6:30 City Council	16	17 5:30 Code Enf Bd	18	19
20	21	22	23	24 7:00 Bd of Adjustment	25 5:00 Food Truck Friday	26
27	28	29	30	31 Halloween 		

Six Month City Council Agenda Planning Calendar

Council Date	Presentations/Workshops/Ceremonies/Public Hearings	Consent/Action Items/Management Reports
9-Sep Regular Meeting 6:30 p.m.	<p>Introduction of New Employee - Administrative Assistant Charnell Parthmore Who Started with City August 28 (Rick)</p> <p>Presentation - Life Saving Award to Eric Rothery Presented by the Police Chiefs Association (Rick)</p> <p>Presentation - Proclamation to the Space Coast EDC in Support of the "Salute our Military" Campaign (Mayor)</p> <p>Public Hearing - Tentative Budget and Millage Rate (Scott)</p> <p>Public Hearing - Second Readings of Two Ordinances - Administrative Rezoning of Properties on Stephenson and Bossieux (Christy)</p> <p>Public Hearing - Resolution Adopting 2019-2020 Stormwater Assessment Roll with No Changes in Rates or Assessment Methodology (Scott)</p> <p>Public Hearing - Second Reading of an Ordinance to Modify the Qualifying Period for Mayor and Council Candidates (Cynthia)</p>	<p>Sale of Retired K-9 German Shepard "Kai" (Rick) (consent)</p> <p>Purchase of Administrative Vehicle (Rick) (action)</p>
17-Sep Regular Meeting 6:30 p.m.	<p>Presentation - Jacobs Annual Report (Brian Mascher)</p> <p>Presentation - Certificate of Recognition for Jake Yanko for Receiving Bronze at the National X-Games (Mayor)</p> <p>Public Hearing - Final Adoption of Budget and Millage Rate (Scott)</p> <p>Public Hearing - Second Reading - Annexation of Acquest Property (Christy)</p> <p>Public Hearing - Space Coast Gateway Center Preliminary Plat (Christy)</p> <p>Public Hearing - First Reading - Comp Plan Amendment to Gateway Interchange and Rezoning for Acquest Property and Large Scale Transmittal for Acquest Property (Christy)</p>	<p>August Statistical Report for Police Department (Rick) (mgmt reports)</p> <p>City Council Annual Review of Police Chief's Performance (Kimberly) (action)</p> <p>City Council Annual Review of City Attorney's Performance (Kimberly) (action)</p> <p>Space Coast Gateway Center Preliminary Plat (Christy) (action)</p> <p>Extension of Interlocal Agreement with Brevard County for Installation and Maintenance of SCAT Bus Shelters (Scott) (consent)</p> <p>Acceptance of the Fell Road Right-of-Way Between Max K. Rodes Park and the Minton Road Right-of-Way from Brevard County (Scott) (action)</p> <p>Bill of Sale for Durham Drive (Morris) (consent)</p>
1-Oct Regular Meeting 6:30 p.m.	<p>Public Hearing - First Reading - Comp Plan Amendment for Buena Vida's Woodland Duplexes (Christy)</p>	<p>Award of Piggyback Contract - 2019-2020 Annual Street Resurfacings (Mark) (action)</p> <p>Water Plant Feasibility Study Final Report (Scott) (action)</p> <p>Selection of Banking Institution for Servicing City Accounts (Margi) (action)</p>
15-Oct Regular Meeting 6:30 p.m.	<p>Public Hearing - Second Reading - Comp Plan Amendment for Buena Vida's Woodland Duplexes (Christy)</p>	<p>September Statistical Report for Police Department (Rick) (mgmt reports)</p> <p>Award of Construction Bid - Columbia Lane-Brandywine Water Main (Keith) (action)</p>

Six Month City Council Agenda Planning Calendar

Council Date	Presentations/Workshops/Ceremonies/Public Hearings	Consent/Action Items/Management Reports
5-Nov Regular Meeting 6:30 p.m.		Award of Construction Bid - M-1 Canal Water Main (Keith) (action)
19-Nov Regular Meeting 6:30 p.m.	Public Hearing - Second Reading - Comp Plan Amendment to Gateway Interchange and Rezoning for Acquest Property (Christy)	October Statistical Report for Police Department (Rick) (mgmt reports)
3-Dec Regular Meeting 6:30 p.m.		Modification of Interlocal Agreement with Brevard County for Energy Cost Sharing of Proposed New FP&L Street Lighting Along the West Side of Minton Road from Henry to Just South of Flanagan (Scott) (action)
17-Dec Regular Meeting 6:30 p.m.		November Statistical Report for Police Department (Rick) (mgmt reports) Adoption of 2020 City Council Meeting Dates (Cynthia) (consent)
7-Jan Regular Meeting 6:30 p.m.	Presentation - 2019 Year in Review (Mayor Rose)	
21-Jan Regular Meeting 6:30 p.m.		2019 Annual Police Department Report (Rick) (mgmt reports) First Quarter 2019-2020 Budget Status Report (Margi) (consent)
4-Feb Regular Meeting 6:30 p.m.		
18-Feb Regular Meeting 6:30 p.m.		January Statistical Report for Police Department (Rick) (mgmt reports)
3-Mar Regular Meeting 6:30 p.m.		
17-Mar Regular Meeting 6:30 p.m.		February Statistical Report for Police Department (Rick) (mgmt reports)

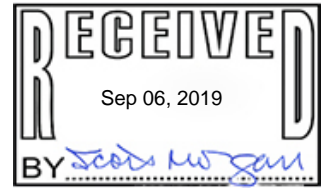
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To: Mayor Rose and Members of the City Council
Through: Scott Morgan, City Manager
From: Morris Richardson, City Attorney *MR*
Date: September 6, 2019
Subject: Friday Memo

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.

State Preemption and Rules Regarding Local Government Regulation of 5G Deployment

I was recently forwarded an email from a West Melbourne resident warning a City Council member of “civil and criminal liability in relation to your actions and/or omissions surrounding the deployment of 5G technology within your constituency.” The email should have been directed to the citizen’s representatives in the Florida Legislature. As this memo explains, because of recent state laws, local governments such as West Melbourne have almost no say in where or how 5G wireless facilities are deployed.

In 2017, the Florida Legislature passed the Advanced Wireless Infrastructure Deployment Act (the “2017 Act”), which established a process by which wireless providers may place certain “small wireless facilities” on, under, within, or adjacent to certain utility poles or wireless support structures within public rights-of-way under the jurisdiction or control of a local government. The stated purpose of the 2017 Act was to streamline local permitting regulations in order to facilitate the deployment of fifth generation, or 5G, wireless technology. Among other things, the 2017 Act adopted a limit on how much local governments can charge for wireless providers to install equipment on publicly owned poles (\$150 per year), and established tight time frames for local review and approval of plans for installing the technology.

This year, the Legislature passed CS/CS/CS/SB 1000, which went into effect on July 1, and further limits and prohibits municipal and county regulatory control of wireless providers. For example, the bill prohibits local governments from requiring a direct or indirect public notification of a public meeting regarding the placement of communication facilities in the right-of-way.

Installing a new utility pole in the rights-of-way to support a small wireless facility was dealt with in the 2017 Act in part for spacing, height, and permit application review timeframes, but under the 2017 Act the utility pole could still be subject to local government “rules and regulations governing the placement of utility poles in the rights of way.” CS/CS/CS/SB 1000 removed this language, meaning that a city or county would have to treat a permit application to put a new utility pole in the right of way exactly the same as a permit application to collocate a small wireless facility onto an existing utility pole.

The bill prohibits a local government from requiring wireless providers to submit certain information, such as an inventory of communications facilities, maps, locations of such facilities, or other information, as a condition of registration, renewal, or for any purpose. The bill does authorize a local government to require, as part of a permit application, that the applicant identify ground-level communications facilities within 50 feet of the proposed installation location for the placement of at-grade communications facilities.

The bill prohibits requiring a wireless provider to pay any fee, cost, or other charge for registration or renewal; adoption or enforcement of any ordinances, regulations, or requirements as to the placement or operation of communications facilities in a right-of-way by a communications services provider; or imposition or collection of any tax or charge for providing communications services over the communications services provider's communications infrastructure in a right-of-way. The bill prohibits local governments from requiring performance bonds and security funds from a communications provider. However, requiring a construction bond limited to no more than one year after the construction is completed is authorized.

SB 1000 opens local governments to lawsuits in state or federal courts if they violate the wireless-technology law, and requires an award of costs and attorney fees to a prevailing aggrieved party (i.e., a wireless provider), but not the local government if it prevails.

The Florida League of Cities and the cities of Fort Walton Beach, Naples, and Port Orange have filed a challenge to the 2017 Act and SB 1000. The lawsuit contends that the 2017 Act and this year's law violate the Florida Constitution in a variety of ways, including infringing on home-rule powers. Among other things, the lawsuit alleges that the \$150 per year limit cities can charge wireless providers for use of public utility poles is an unconstitutional taking of property because it is below the market rate for use of the poles.

"By requiring municipalities to commit substantial taxpayer and public funds to accommodate wireless providers' collocation of facilities on municipally owned utility poles, while prohibiting municipalities from charging appropriate fees to wireless providers for that privilege, the small cell statute effectively requires that municipalities use taxpayer and public funds and property to subsidize private companies," the lawsuit states.

The lawsuit also contends that the law's provision of cost and attorney fee awards to prevailing party wireless providers violates the Florida Constitution's provision of separation of powers because "a statute passed by the Florida Legislature allows the judicial branch to subject municipalities to financial penalties for discretionary decisions necessary to the core legislative functions of local officials and the municipalities they represent."

I will continue to monitor the developing legal landscape surrounding the 5G rollout and the lawsuit.

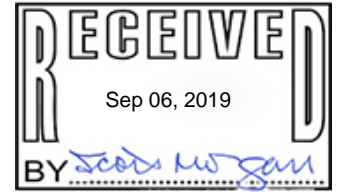
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Memo

To: Scott Morgan, City manager
From: Thomas Forbes, Building Official
CC:
Date: 9/6/2019
Re: August 2019 monthly report

Attached please find a copy of the August 2019 monthly report. If you have any questions or require additional information, please contact me.

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Building Department Monthly Report for August 2019

Building

During the month of August 2019, 26 permits for new single family residences and a total of 392 permits were issued in all. The total value of work permitted was \$10,748,248 and permit fees collected for the month were \$98,861.41.

Commercial Project Update:

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

- 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 complete/renovation is underway).
- 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, 1,543 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.
- 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, new construction.
- Beef O'Brady's, 2400 Dairy Road, interior build-out.

- Dunkin Donuts – Tract E; 4527 W. New Haven Avenue, interior build-out.
- Viet-Yumz, 2233 W. New Haven Avenue, interior build-out.

Commercial projects in for review:

- RaceTrac, 4535 W. New Haven Avenue, complete remodel of store, permit ready to issue.
- 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, review complete, awaiting revised plans.
- Cloud Nine Smokeshop, 350 S. Wickham Road, interior renovation, plans submitted, review underway.
- Extended Stay America, West Melbourne Interchange Center (Hollywood Boulevard/Palm Bay Road), 53,000 sq. ft. hotel, new construction, plans submitted, review underway.
- Publix, 2261 W. New Haven Avenue, interior renovation, plans submitted, review complete, awaiting revised plans.
- Folklore Latino (restaurant), 2994 W. New Haven Avenue, 1,100 sq. ft. interior renovation, review complete, awaiting revised plans.
- Audi Display Tower, 2260 Coastal Lane, 403 sq. ft., 3 story structure, review complete, awaiting on revised plans.
- Shannon Plaza, 149 Shannon Ave., 8,908 sq. ft. new construction, review underway.
- Extended Stay America, Coastal Commerce Center, 53,857 sq. ft. four story hotel, plans submitted.

Number of Certificates of Occupancy issued:

Residential -20
 Commercial -5

Permit Statistics

<u>08/01/19-08/31/19</u>	<u>08/01/18-08/31/18</u>	<u>08/01/17-08/31/17</u>
Issued - 392	Issued - 406	Issued - 509
Valuation - \$10,748,248	Valuation \$85,797,600	Valuation – \$37,497,163
Permit Fees - \$98,861.41	Permit Fees - \$445,333.56	Permit Fees-\$253,021.03

Code Enforcement:

The next Code Enforcement Board meeting is scheduled for September 19, 2019 at 5:30 p.m.

During the past month, Code Enforcement staff has removed 88 illegal signs from the right of way.