



MINUTES OF THE CITY COUNCIL REGULAR MEETING
CITY OF NEW PORT RICHEY
NEW PORT RICHEY CITY HALL COUNCIL CHAMBERS
5919 MAIN STREET, NEW PORT RICHEY, FLORIDA
February 20, 2018
7:00 PM

ORDER OF
BUSINESS

1. Call to Order – Roll Call

The meeting was called to order by Mayor Rob Marlowe at 7:00 pm. Those in attendance were, Deputy Mayor Jeff Starkey, Councilman Bill Phillips, Councilwoman Judy DeBella Thomas and Councilman Chopper Davis.

Also in attendance were City Manager Debbie Manns, City Attorney Timothy Driscoll, City Clerk Judy Meyers, Finance Director Crystal Feast, Development Director Lisa Fierce, Fire Chief Chris Fitch, Economic Development Director Mario Iezzoni, Public Works Director Robert Rivera, Library Director Andi Figart, Parks and Recreation Director Elaine Smith, Technology Solutions Director Bryan Weed, Human Resources Manager Bernie Wharran and Police Lieutenant Lauren Letona.

2 Pledge of Allegiance

3 Moment of Silence

4 Approval of January 30, 2018 Work Session and February 6, 2018 Regular Meeting Minutes

Motion was made to approve the minutes as presented.

Motion made by Jeff Starkey and seconded by Bill Phillips. The Motion Passed. 5-0. Ayes: Davis, DeBella Thomas, Marlowe, Phillips, Starkey

5 Proclamation - Gulf Middle School National Junior Honor Society

Mayor Marlowe presented the Proclamation commending the Gulf Middle School National Junior Honor Society for their hard work during the 2017 Holiday Street Parade to school principal Jason Joens.

6 Proclamation - Beta Sigma Phi Day (By Title Only)

Mayor Marlowe read the proclamation by title only.

7 Vox Pop for Items Not Listed on the Agenda or Listed on Consent Agenda

Mayor Marlowe opened the floor for public comment. Brian Anderson from Veterans Alternative came forward to present a certificate of appreciation to the City for the inaugural Freedom Fest Veterans Day Parade and event. Deb Morris came forward to thank Parks and Rec for the last concert series. She stated she wanted to express concerns over the noise from Dulcet. She had called police dispatch over the weekend. The noise goes until 2:00 a.m. Councilman Phillips stated we have a lease that allows them to use Cavalaire Square and perhaps we need to revisit the lease for peaceful enjoyment. City Manager Manns stated she would investigate the issue. Deputy Mayor Starkey stated we do not pass ordinances just to not adhere to them. With no one else coming forward for public comment, Mayor Marlowe closed Vox Pop.

8 Consent Agenda

Motion was made to accept the Consent Agenda.

Motion made by Bill Phillips and seconded by Chopper Davis. The Motion Passed. 5-0. Ayes: Davis, DeBella Thomas, Marlowe, Phillips, Starkey

a Purchases/Payments for City Council Approval

9 Public Reading of Ordinances

a Second Reading, Ordinance No. 2018-2133: Code Amendment - Regulating Donation Bins

City Attorney Driscoll read the proposed ordinance by title only. Upon opening the floor to public comment, no one came forward therefore Mayor Marlowe returned the floor to Council. Councilwoman DeBella Thomas stated she was not here for the first reading and wanted to know if we had to have them in the city. City Attorney Driscoll stated no. Councilwoman DeBella Thomas stated in her mind they are an attractive nuisance. She prefers them to not be in the city. Motion was made to deny the ordinance upon its second and final reading. It was the direction of Council for staff to prepare an ordinance which would prohibit donation bins within the city.

Motion made by Jeff Starkey and seconded by Bill Phillips. The Motion Passed. 5-0. Ayes: Davis, DeBella Thomas, Marlowe, Phillips, Starkey

b First Reading, Ordinance No. 2018-2136: Municipal Civil Infraction System

City Attorney Driscoll read the proposed ordinance by title only. City Manager Manns introduced the item to Council. Upon opening the floor to public comment, no one came forward therefore Mayor Marlowe returned the floor to Council. Motion was made to approve the ordinance upon its first reading.

Motion made by Bill Phillips and seconded by Jeff Starkey. The Motion Passed. 5-0. Ayes: Davis, DeBella Thomas, Marlowe, Phillips, Starkey

10 Business Items

a Crosswalk Painting Project

City Manager Manns introduced the item to Council. She stated that the purpose of this agenda item was to approve the use of the public art fund to support the expenditure for this project. She stated that staff had hoped to have had the paint specifications and maintenance agreement but it is not completed

yet but staff is comfortable moving forward. Parks and Recreation Director Elaine Smith stated that the Cultural Affairs Committee approved the design at its January meeting. The painting day will be March 3rd. The total cost for the project is \$7,000. The crosswalk project will be at Grand and Bank. Residents will be notified of the street closure.

Upon opening the floor to public comment, Jennie Pearl came forward to talk about the event. She stated that it will be an all day community involved event. She will use liquid brick for this project and the paint will last ten to twenty years. Deputy Mayor Starkey stated he is looking forward to more cultural events. Councilwoman DeBella Thomas stated that one of the problems that Main Street had with the murals was maintenance. She was curious to know how it will not fade or be scuffed. Ms. Pearl stated that she would personally guarantee the product and could come back on an annual basis to pressure wash the design and perform any touch ups as needed. Councilman Davis displayed photos from a crosswalk from Dunedin. Ms. Pearl stated the wrong paint was used for that project. Councilman Phillips asked for a map and color palette in this week's City Manager's report. Bob Smallwood came forward and stated that this has been a two year process started by Main Street. The project was put on hold when the previous artist had increased costs. He stated Ms. Pearl has done extensive research for this project. He encouraged Council to approve. With no one else coming forward Mayor Marlowe returned the floor to Council. Councilwoman DeBella Thomas stated she is excited for this project. Motion was made to approve the item as presented.

Motion made by Judy DeBella Thomas and seconded by Jeff Starkey. The Motion Passed. 5-0.
Ayes: Davis, DeBella Thomas, Marlowe, Phillips, Starkey

b Chasco Fiesta Alcoholic Beverage Special Event

City Manager Manns introduced Parks and Recreation Director Elaine Smith who then presented the item to Council. She stated that the purpose of this agenda item was to approve an ABSEP for the upcoming Chasco Fiesta. Alcohol would be sold on Friday, March 9th from 5-11pm, Saturday, March 10th 1-11pm and Sunday, March 11th from 1-9pm. The second weekend alcohol would be sold on Friday, March 16th from 5-11pm and Saturday, March 17th from 1-11pm. Upon opening the floor to public comment, no one came forward therefore Mayor Marlowe returned the floor to Council. Motion was made to approve the item as presented.

Motion made by Chopper Davis and seconded by Jeff Starkey. The Motion Passed. 5-0. Ayes: Davis, DeBella Thomas, Marlowe, Phillips, Starkey

c Fitzgerald's St. Patrick's Day Alcoholic Beverage Special Event

City Manager Manns introduced Parks and Recreation Director Elaine Smith who then presented the item to Council. She stated that the purpose of this agenda item was to approve an ABSEP for the upcoming St. Patrick's Day event at Fitzgerald's. Alcohol would be sold on Thursday, March 15th from 5-11pm and Saturday, March 17th from 12-11pm. Upon opening the floor to public comment, no one came forward therefore Mayor Marlowe returned the floor to Council. Motion was made to approve the item as presented and to approve the variance for alcohol to be sold until midnight on Saturday, March 17th.

Motion made by Judy DeBella Thomas and seconded by Jeff Starkey. The Motion Passed. 5-0.
Ayes: Davis, DeBella Thomas, Marlowe, Phillips, Starkey

d Resolution No. 2018-03, Amendment to FY2018 Comprehensive Fee Schedule

City Attorney Driscoll read the proposed resolution by title only. He stated that a revised resolution has been provided with shows the fees to be instated. City Manager Manns introduced the item to Council. She stated that the purpose of this agenda item was to amend the comprehensive fee table to include fees for donation bins and wireless communications in public rights of way. The resolution will be amended once more to remove the donation bin fee as it was the direction of Council to

prohibit them altogether within the city. Upon opening the floor to public comment, no one came forward therefore Mayor Marlowe returned the floor to Council. Motion was made to approve the item as presented.

Motion made by Chopper Davis and seconded by Judy DeBella Thomas. The Motion Passed. 5-0.
Ayes: Davis, DeBella Thomas, Marlowe, Phillips, Starkey

e Quarterly Cash & Investment Performance Reports

City Manager Manns introduced Finance Director Crystal Feast who then made a presentation to Council. She stated that the purpose of this agenda item was to approve the first quarter cash and investment report. The total cash and investments of the city is \$22,040,755. There was \$42,864 earned in interest. An increase of \$4,464,799 was due to the beginning of the fiscal year due and the ad valorem tax collection. No formal action was required by Council for this item.

f FY2017 Audit Strategy

City Manager Manns introduced Finance Director Crystal Feast who then made a presentation to Council. She stated that the purpose of this agenda item was to establish a strategy for the audit for the upcoming fiscal year. She stated that during February and March staff will be processing year ending procedures. Two weeks in April will be testing. Other two weeks will be Tyler payroll implementation. In May auditors will be on site reviewing testing procedures. The draft report will be presented to Council in June. Ms. Feast stated that we have contracted with a budget firm for budget preparation assistance but she will still oversee the budget process. Councilman Phillips asked if we have a new audit firm. Ms. Feast stated no we have three year contract. Councilman Davis stated he wants a timeline update at each Council meeting. He also asked what is it costing for budget firm. Ms. Feast stated she did not have the hourly rate but would get the information. No formal action was required by Council for this item.

g Recommendation for In-Kind Support of Special Events

City Manager Manns introduced the item to Council. She stated that the purpose of this agenda item was to approve funding for in-kind support of special events. The recommendations are as follows:

Fiscal Years'	17-18	18-19
Chasco Fiesta	\$35,000.00	\$29,000.00
Chasco Street Parade	\$5,000.00	
Freedom Fest	\$4,500.00	\$4,000.00
Holiday Street Parade	\$4,500.00	\$2,500.00
Riverlights Boat Parade and Winterfest	\$5,000.00	\$2,500.00
Cotee River Bikefest	\$7,500.00	\$6,000.00
Night in the Tropics	\$0.00	\$0.00
Cotee River Seafood and Blues Festival	\$7,500.00	\$4,000.00
KIA Fest Main Street Blast	\$6,500.00	\$5,000.00
Totals:	\$75,500.00	\$53,000.00

Upon opening the floor to public comment, no one came forward therefore Mayor Marlowe returned the floor to Council. Councilman Davis stated that we should extend same fees the entities for FY19-20. Mayor Marlowe stated that this should be dealt with during budget season. Councilwoman DeBella Thomas asked for clarification that we are moving forward with these figures and will address any issues that come up with the organizations during the budget process and Mayor Marlowe replied yes. Motion was made to approve the item as presented.

Motion made by Bill Phillips and seconded by Jeff Starkey. The Motion Passed. 5-0. Ayes: Davis,

11 Communications

Mayor Marlowe asked Mr. Rivera about the crosswalk lights. Mr. Rivera stated installation should be in about two weeks as we were shipped wrong parts. Ribbon cutting on EV station was this past Saturday. He stated that we will get a lot of use out of it. He asked Ms. Smith how many memberships were sold during the open house and she replied 163. He stated that he received a copy of an resolution from the Mayor of Sunrise encouraging state legislature about gun control. He gave copies to everyone to talk about at future meeting.

Deputy Mayor Starkey was unable to attend the grand opening as he was at a soccer event. He encouraged everyone to attend the upcoming Simon & Garfunkel tribute concert. He thanked Robert Napper for his article about Leisure Lane and Van Doren. Habitat for Humanity has the vision to get the project done right. He is excited about the crosswalk project and the Cultural Affairs Committee and the ideas that are coming.

Councilman Phillips stated that due to comments made about the City's video that the second time around Council should see the idea and script. He appreciated being at the re-grand opening at the Rec Center on Saturday. He liked how annual members were recognized. It was nice to see the students in the Gulf Middle honor society and the work they are doing in the community. The letter from former-Mayor Maytum on housing was intriguing especially in our community. Would like staff to research the viability. He would like to see staff entertain Mr. Thomas' request for partial refund of his vehicle. He attended the Blue Notes concert and had a chance to walk the downtown with his cousin.

Councilwoman DeBella Thomas attended the Suncoast League of Cities meeting last week. She talked about the pilot program for their legislative days. Presence of local cities in Tallahassee has made an impact. She also attended the Rec Center re-opening and was encouraged by the community response to the event.

Councilman Davis stated will not be able to attend the special meeting for ULI. Great idea for shop and sip and it was a great event.

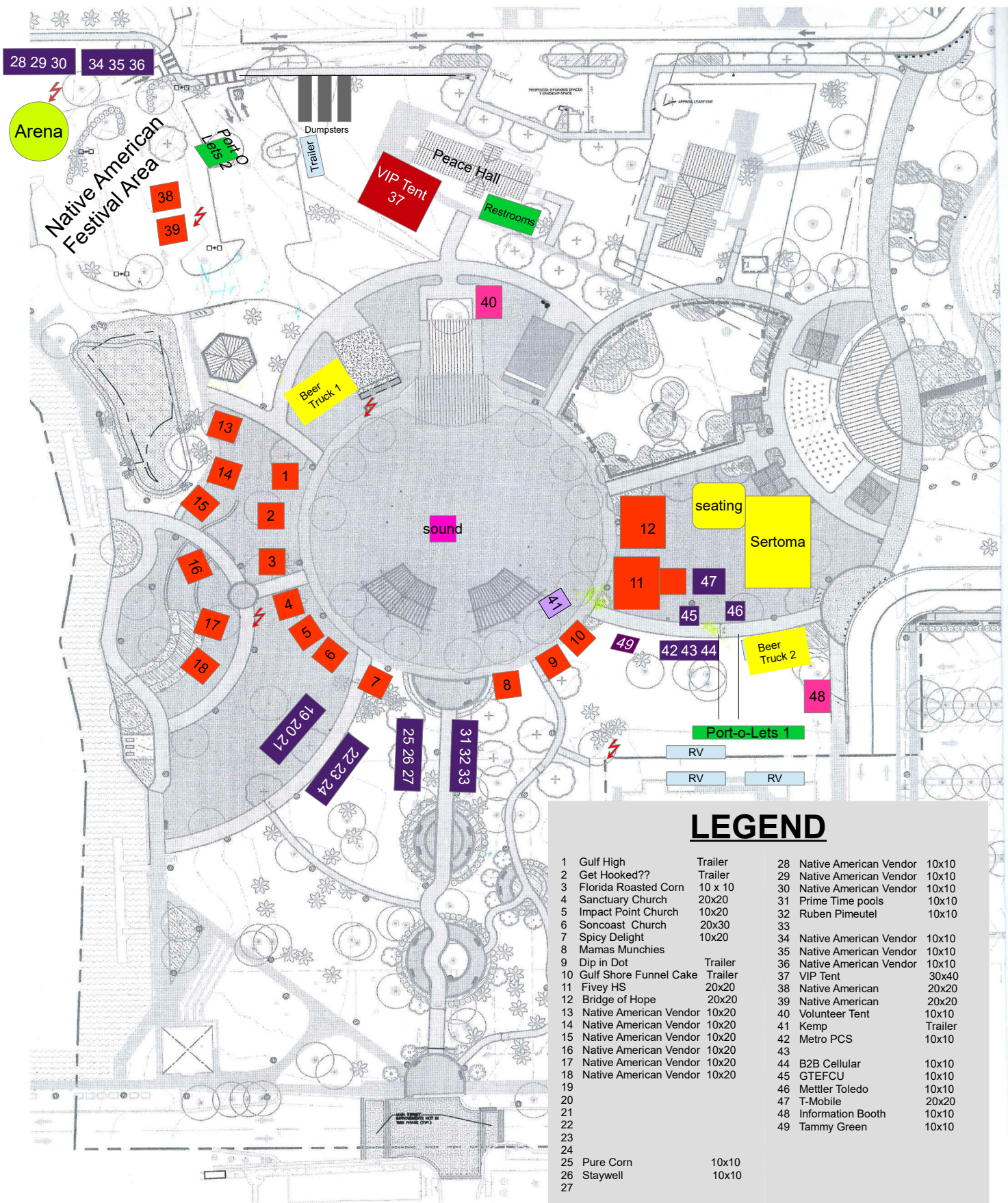
12 Adjournment

There being no further business to consider, upon proper motion, the meeting adjourned at 8:22 p.m.

(signed) _____
Judy Meyers, City Clerk

Approved: _____ (date)

Initialed: _____



LEGEND

1 Gulf High	Trailer	28 Native American Vendor	10x10
2 Get Hooked??	Trailer	29 Native American Vendor	10x10
3 Florida Roasted Corn	10 x 10	30 Native American Vendor	10x10
4 Sanctuary Church	20x20	31 Prime Time pools	10x10
5 Impact Point Church	10x20	32 Ruben Pimeutel	10x10
6 Soncoast Church	20x30	33	
7 Spicy Delight	10x20	34 Native American Vendor	10x10
8 Mamas Munchies		35 Native American Vendor	10x10
9 Dip in Dot	Trailer	36 Native American Vendor	10x10
10 Gulf Shore Funnel Cake	Trailer	37 VIP Tent	30x40
11 Fivey HS	20x20	38 Native American	20x20
12 Bridge of Hope	20x20	39 Native American	20x20
13 Native American Vendor	10x20	40 Volunteer Tent	10x10
14 Native American Vendor	10x20	41 Kemp	Trailer
15 Native American Vendor	10x20	42 Metro PCS	10x10
16 Native American Vendor	10x20	43	
17 Native American Vendor	10x20	44 B2B Cellular	10x10
18 Native American Vendor	10x20	45 GTEFCU	10x10
19		46 Mettler Toledo	10x10
20		47 T-Mobile	20x20
21		48 Information Booth	10x10
22		49 Tammy Green	10x10
23			
24			
25 Pure Corn	10x10		
26 Staywell	10x10		
27			

Port-o-Lets 1:

- 18 Port-o-potty's
- 6 Handicap
- 10 Wash areas

Port-o-Lets 2:

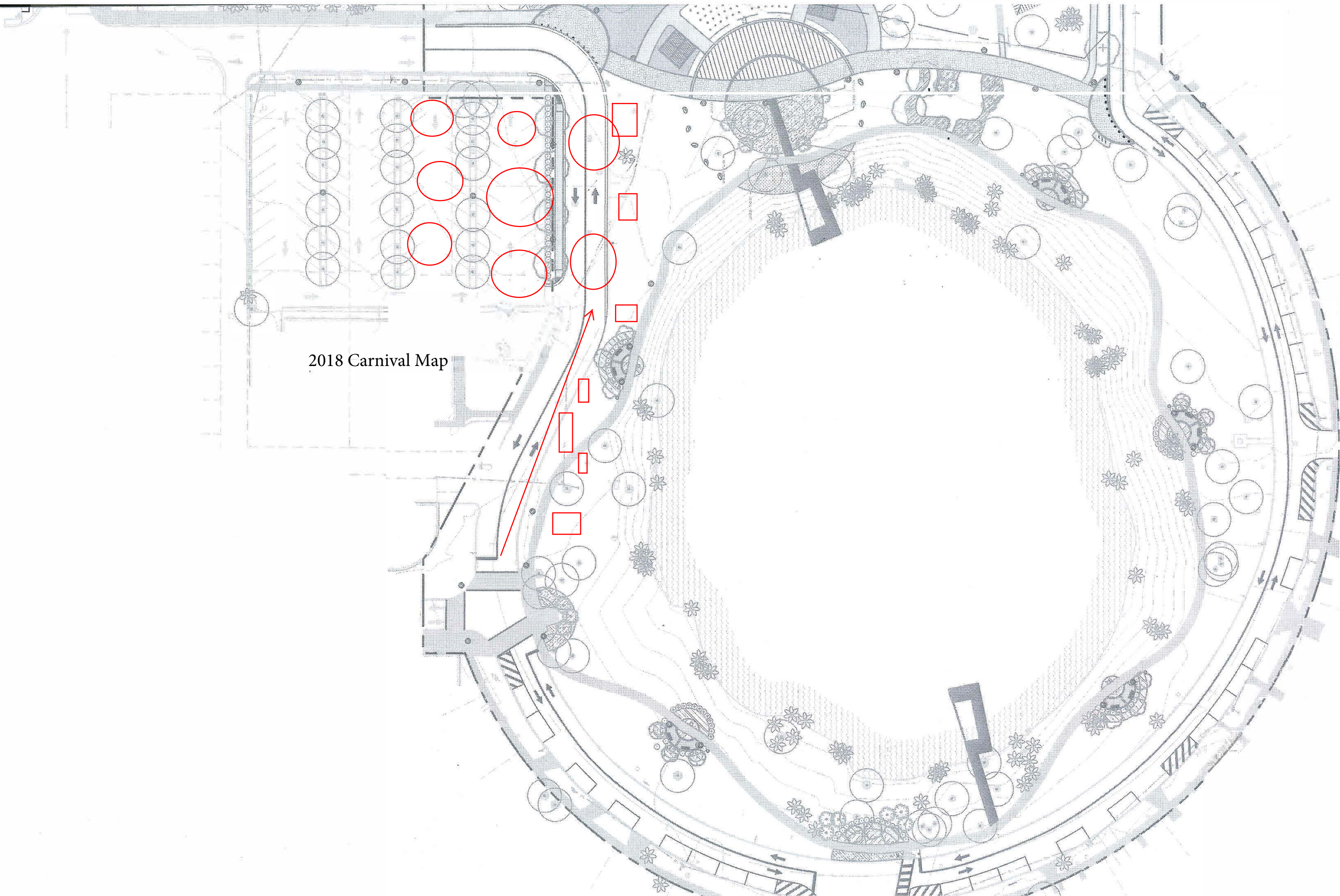
- 2 Port-o-potty's
- 2 Handicap
- 1 Wash area

A/C Restroom:

- 3 Stalls in Men's Room
- 2 Stalls in Ladies Room
- 2 Sinks in each

Not To Scale
Feb 6, 2018

2018 Carnival Map



RESOLUTION 2018-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA, AMENDING RESOLUTION NO. 2018-01 TO ADD PERMIT FEES FOR DONATION BINS AND WIRELESS COMMUNICATION TO THE COMPREHENSIVE FEE SCHEDULE FOR FY2018; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Resolution No. 2018-01 established a Comprehensive Fee Schedule for FY2018;

WHEREAS, the City Council has adopted Ordinance No. 2017-2129, relating to Communications Facilities in Public Right-of-Ways and providing for permits and registration related thereto;

WHEREAS, the City Council has adopted Ordinance No. 2018-2133, relating to regulating Donation Bins and providing for permits related thereto;

WHEREAS, an amendment of Resolution No. 2018-01 is appropriate to add a permit fee and registration fee for Communication Facilities in Public Right-of-Ways and a permit fee for Donation Bins; and

WHEREAS, an amendment of Resolution 2018-01 is appropriate to amend fees for duplication.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of New Port Richey, Florida hereby adopts Resolution 2018-03, amending Resolution 2018-01 to add permit and registration fees for Communication Facilities in Public Right-of-Ways as set forth in Ordinance 2017-2129, and permit fees for Donation Bins in the amount of \$50.00 per Donation Bin in accordance with Ordinance 2018-2133, with an effective date of February 20, 2018.

RESOLVED THIS 20th DAY OF FEBRUARY, 2018.

ATTEST:

Judy Meyers, City Clerk

Rob Marlowe, Mayor-Council Member

APPROVED AS TO FORM

By: _____
Timothy P. Driscoll, City Attorney

RESOLUTION 2018-03

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW
PORT RICHEY, FLORIDA, AMENDING RESOLUTION NO. 2018-
01 TO ADD PERMIT FEES FOR WIRELESS COMMUNICATION
TO THE COMPREHENSIVE FEE SCHEDULE FOR FY2018; AND
PROVIDING AN EFFECTIVE DATE**

WHEREAS, Resolution No. 2018-01 established a Comprehensive Fee Schedule for FY2018;

WHEREAS, the City Council has adopted Ordinance No. 2017-2129, relating to Communications Facilities in Public Right-of-Ways and providing for permits and registration related thereto;

WHEREAS, an amendment of Resolution No. 2018-01 is appropriate to add a permit fee and registration fee for Communication Facilities in Public Right-of-Ways; and

WHEREAS, an amendment of Resolution 2018-01 is appropriate to amend fees for duplication.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of New Port Richey, Florida hereby adopts Resolution 2018-03, amending Resolution 2018-01 to add permit and registration fees for Communication Facilities in Public Right-of-Ways as set forth in Ordinance 2017-2129 with an effective date of February 20, 2018.

RESOLVED THIS 20th DAY OF FEBRUARY, 2018.

ATTEST:

Judy Meyers, City Clerk

Rob Marlowe, Mayor-Council Member

APPROVED AS TO FORM

By: _____
Timothy P. Driscoll, City Attorney

SUNRISE, FLORIDA

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SUNRISE, FLORIDA, CALLING ON THE STATE OF FLORIDA, GOVERNOR RICK SCOTT, PRESIDENT DONALD TRUMP, AND THE FEDERAL GOVERNMENT TO REDUCE GUN VIOLENCE IN AMERICA AND HELP PREVENT FUTURE SHOOTINGS BY REQUIRING A BACKGROUND CHECK FOR EVERY FIREARM SALE; SUPPORTING THE PASSAGE OF A RED FLAG LAW; SUPPORTING RAISING THE AGE FOR LEGAL PURCHASE OF FIREARMS, MAGAZINES AND AMMUNITION TO 21; SUPPORTING THE PASSAGE OF LEGISLATION THAT WOULD KEEP MILITARY-STYLE WEAPONS AND HIGH-CAPACITY MAGAZINES AWAY FROM OUR SCHOOLS; AUTHORIZING THE CITY CLERK TO TRANSMIT THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Sunrise City Commission has repeatedly passed Resolutions urging State and Federal elected bodies to strengthen gun laws meant to protect our community; and

WHEREAS, National and State leaders continue to fail to act to implement sensible gun law reforms that are supported by a majority of the nation; and

WHEREAS, an increase in the amount of hate groups, international and lone wolf domestic terrorism, underfunded community mental health programs, and easy access to military grade, high capacity magazine assault weapons have created circumstances which have led to an unprecedented number of mass shootings in American communities in recent years; and

WHEREAS, in recent years, mass shootings involving military grade-high capacity magazine assault weapons have occurred in 2007 at a college in Virginia, and in 2012 at a Century 16 Movie Theater in Aurora, Colorado; and

WHEREAS, in February 2013, in the wake of numerous mass shootings culminating in the Sandy Hook Elementary School shooting in Newtown, Connecticut, the City Commission of the City of Sunrise passed Resolution No. 13-21 to urge the federal government to reduce gun violence in America through the "Fix Gun Checks Act;" and

WHEREAS, in January 2014, the City Commission of the City of Sunrise passed Resolution No. 14-9 to support efforts to reduce gun violence and illegal firearms trafficking through more responsible gun sales and marketing practices; and

WHEREAS, further mass shootings occurred in the 2015 attack at the Inland Regional Center in San Bernardino, California; the 2016 attack on the Pulse nightclub in Orlando, Florida; and the 2017 attack at the Route 91 Harvest Festival in Las Vegas, Nevada; and

WHEREAS, on November 5, 2017, a mass shooting occurred at the First Baptist Church in Sutherland Springs, Texas in which 26 were killed and injured 20 others. As has been noted, “the attack was the deadliest mass shooting by one person in Texas and the fifth-deadliest mass shooting in the United States. It was the deadliest shooting in an American place of worship in modern history, surpassing the Charleston church shooting of 2015[3] and the Waddell Buddhist temple shooting of 1991.”; and

WHEREAS, on February 14, 2018, a mass shooting occurred at Marjory Stoneman Douglas High School in Parkland, Florida killing 17 students, teachers and coaches and wounding 14 others, 5 with life-threatening injuries; and

WHEREAS, an AR-15-style rifle was used in the mass shootings in Newton, Connecticut; Aurora, Colorado; San Bernardino, California; Las Vegas, Nevada; Sutherland Springs, Texas; and Parkland, Florida; and

BACKGROUND CHECKS FOR ALL SALES AND TRANSFERS

WHEREAS, according to Everytown For Gun Safety, which is an independent, non-partisan 501(c)(3) organization dedicated to understanding and reducing gun violence in America:

- Background checks are a central component of America's efforts to keep guns from criminals: since their inception, they have blocked over 3 million gun sales to prohibited purchasers.
- According to a study by the Department of Justice, between 1994 and 2014, federal, state, and local agencies conducted background checks on more than 180 million firearm applications and denied 2.82 million gun sales to prohibited purchasers.

WHEREAS, despite this success, the system is undermined by legal loopholes and missing records that enable too many dangerous individuals to obtain weapons they later use in crimes; and

WHEREAS, it is estimated that state and federal agencies have failed to report more than one million records of persons with dangerous mental illness into the National Instant Criminal Background Check System (“NICS”) which initiates background checks into three databases: the National Crime Information Center (NCIC), the Interstate Identification Index, and the NICS Index; and

WHEREAS, on April 16, 2007, Seung-Hui Cho shot and killed 32 people at Virginia Tech with guns that were legally purchased because records of his mental health status were missing from the NICS; and

WHEREAS, on January 8, 2011, Jared Loughner, someone with a reported history of drug abuse and serious mental illness who should have been in the NICS database but was not, killed six Tucsonans – Christina-Taylor Green, Dorothy Morris, Judge John Roll, Dorwan Stoddard, Phyllis Schneck, and Gabe Zimmerman – and shot 13 others, including U.S. Congresswoman Gabrielle Giffords; and

WHEREAS, on July 20, 2012, James Holmes, using a semi-automatic rifle and other guns, allegedly shot and killed 12 people and injured at least 58 others in a movie theater in Aurora, Colorado, using some of the thousands of rounds of ammunition that the shooter had recently purchased online without any background check; and

WHEREAS, on August 5, 2012, Wade Michael Page, using a semi-automatic handgun, allegedly shot and killed 6 people and injured 3 others at a Sikh temple in Oak Creek, Wisconsin; and

WHEREAS, on October 21, 2012, Radcliffe Haughton, using a semi-automatic handgun, shot and killed his estranged wife and two others; and though a restraining order had been issued against Haughton – making him a prohibited person under federal law – Haughton was able to avoid a background check by purchasing the gun from a private seller through armslist.com; and

WHEREAS, on December 14, 2012, Adam Lanza, using two semi-automatic handguns, shot and killed 27 people, including 20 children at Sandy Hook elementary school; and

WHEREAS, the shooter in the Sutherland Springs, Texas massacre should have been prevented from purchasing any firearm because of a domestic violence conviction and court-martial while in the United States Air Force. However, according to news reports, the Air Force did not provide the conviction to the FBI National Crime Information Center database; and

WHEREAS, in the wake of the Virginia Tech shootings, Virginia and other states have submitted hundreds of thousands of new mental health records into the NICS database, yet 19 states have each submitted fewer than 100 mental health records since that massacre; and

WHEREAS, under federal law, licensed gun dealers are mandated to conduct NICS checks before proceeding with a sale, but this requirement does not apply to so-called private sellers who are present in large numbers at gun shows and sell guns over the internet; and

WHEREAS, it is estimated that 6.6 million guns were sold privately in the U.S. between November 2011 and November 2012, and undercover investigations have shown that many private sellers at gun shows and online will proceed with sales even when they are made aware that prospective purchasers cannot pass a background check; and

WHEREAS, more than 12,000 Americans are murdered with guns every year, and too many of these crimes are committed by individuals who are barred from purchasing or possessing guns under federal law; and

WHEREAS, other tragedies including the 1999 Columbine High School shooting in Colorado, the 2010 attack on law enforcement at the Pentagon, and the 2012 mass shooting at a Pittsburgh psychiatric clinic were perpetrated by individuals who obtained guns through unregulated private sales, with no paperwork required and no questions asked; and

WHEREAS, the Fix Gun Checks Act was introduced in the U.S. Congress, and this legislation would have addressed the two major flaws in the nation's gun background check system by improving compliance with federal record reporting requirements, and by requiring background checks for all U.S. gun sales; and

WHEREAS, 90 percent of Americans and 90 percent of gun owners support fixing gaps in the gun background check database, and 86 percent of Americans, 82

percent of gun owners nationwide, and 74 percent of National Rifle Association (“NRA”) members support mandatory criminal background checks for all gun sales; and

WHEREAS, the City of Sunrise has been a strong advocate for common-sense policies that keep guns out of dangerous hands while respecting the rights of law-abiding gun owners, and strongly believes that Congress and state governments should take action to close deadly gaps in the NICS; and

WHEREAS, more than 50 national organizations support closing gaps in the gun background check database and requiring a background check for all gun sales, including the U.S. Conference of Mayors, National Urban League, National Association for the Advancement of Colored People, and the National Coalition Against Domestic Violence, the International Association of Chiefs of Police, the Major Cities Chiefs Association and the Police Executive Research Forum; and

RED FLAG LAWS

WHEREAS, implementation of RED FLAG LAWS, allows the community to protect itself and according to Everytown For Gun Safety:

- Like many mass shooters, the 19-year-old suspected of shooting and killing at least 17 people and injuring at least 14 others at a high school in Parkland, Florida displayed warning signs prior to the shooting. Unfortunately, Florida does not have a Red Flag Law—a law increasingly being adopted by states that empowers family members and law enforcement to seek an Extreme Risk Protection Order, a court order temporarily restricting a person’s access to guns when they pose a danger to self or others. Five states have Red Flag Laws in place—and bills are currently pending in another 18 states;
- Red Flag Laws can save lives by creating a way for family members and law enforcement to act before warning signs escalate into tragedies;
- When a person is in crisis, loved ones and law enforcement are often the first to see signs that they pose a threat. Red Flag Laws allow them to seek help from a court to remove guns from dangerous situations;
- Red Flag Laws empower law enforcement and immediate family members to petition a court for an Extreme Risk Protection Order, sometimes called a Gun Violence Restraining Order.
- If a court finds that a person poses a significant danger of injuring themselves or others with a firearm, that person is temporarily

prohibited from purchasing and possessing guns and is required to turn over their guns while the order is in effect.

- Five states have Red Flag Laws—and bills are currently pending in another 18 states, including Florida;
- A nationwide study of mass shootings from 2009 to 2016 revealed that in least 42 percent of those incidents, there is documentation that the attacker exhibited dangerous warning signs before the shooting.
- The alleged mass shooter who shot and killed 17 people and injured 14 others at a high school in Parkland, Florida on February 14, 2018 also displayed warning signs prior to the shooting. He was expelled from school, and students and teachers reported that he displayed threatening behavior. His mother contacted law enforcement on multiple occasions regarding his behavior, and he was known to possess firearms.
- Final orders—which generally last for up to one year—can only be issued after notice and an opportunity to be heard. At the hearing, the person would have the chance to respond to evidence that they are too dangerous to have a gun.
- A temporary order—which typically lasts 14 to 21 days—can be issued before a full hearing is held, but only if there is clear evidence that an order is necessary to prevent immediate danger.

WHEREAS, currently pending in the Florida Legislature is House Bill 231/Senate Bill 530 which would implement a Red Flag Law, and had these bills been passed and signed into law, there is a high likelihood the Parkland massacre would have been averted and those loved ones saved; and

MINORS UNDER FLORIDA LAW ARE PERMITTED TO PURCHASE GUNS

WHEREAS, according the Giffords Law Center to Prevent Gun Violence:

- Laws imposing minimum age requirements for the possession and purchase of firearms are intended to decrease access to firearms by young people and, correspondingly, to decrease the number of suicides, homicides, and unintentional shootings among that population;
- In 2014, 21,101 people under the age of 21 were shot by guns. 3,265 died from those gunshot wounds. Of these deaths, 1,925 were classified as homicides, 1,145 as suicides, and 122 as the result of unintentional shootings;

- Firearms were used in 41% of suicide deaths among individuals under age 21 in 2014.

WHEREAS, according the Giffords Law Center to Prevent Gun Violence:

- Federal law in this area distinguishes between long guns (assault style rifles, rifles and shotguns) and handguns, and between gun possession and gun sales. Federal law also provides stronger age restrictions for sales by licensed gun sellers.
- Licensed firearms dealers may not sell or deliver a handgun or ammunition for a handgun to any person the dealer has reasonable cause to believe is under age 21.
- Dealers may not sell or deliver a long gun, or ammunition for a long gun, to any person the dealer knows or has reasonable cause to believe is under age 18.
- Unlicensed persons may not sell, deliver or otherwise transfer a handgun or handgun ammunition to any person the transferor knows or has reasonable cause to believe is under age 18, with certain exceptions.
- Unlicensed persons may sell, deliver, or otherwise transfer a long gun or long gun ammunition to a person of any age.

WHEREAS, in summary, with some exceptions, federal law prohibits the possession of a handgun or handgun ammunition by any person under the age of 18 but does not set a minimum age for the possession of long guns or long gun ammunition; and

WHEREAS, under Florida law, the purchase of a long gun is allowed for a person under 21 years of age; and

WHEREAS, in order to restrict such purchase and/or possession of a long gun, high capacity magazines and ammunition, the Florida legislature would need to amend Fla. Stat. §§ 790.17(2), 790.18; Fla. Stat. § 790.22(3), (5); and

ASSAULT WEAPON AND HIGH CAPACITY MAGAZINE RESTRICTIONS HAVE BEEN HELD CONSTITUTIONAL

WHEREAS, Maryland, Connecticut and New York, in response to mass shootings resulting in the massacre of students, teachers and others, passed similar prohibitions on sales of assault weapons and large capacity magazines; and

WHEREAS, after lengthy litigation, those laws were upheld by U.S. Federal Courts as constitutional, concluding that the Second Amendment does not reach to protect the purchase and sale of weapons of war. Kolbe v. Hogan, 849 F.3d 114 (Fourth Cir. 2017); New York State Rifle and Pistol Ass’n, Inc. v. Cuomo, 804 F.3d 242 (Second Cir. 2015); and

WHEREAS, in response to the Sandy Hook massacre, Maryland enacted the State’s Firearm Safety Act of 2013 (the “FSA”), which bans the AR-15 and other military-style rifles and shotguns (referred to as “assault weapons”) and detachable large-capacity magazines, providing “that a person may neither “transport an assault weapon into the State” nor “possess, sell, offer to sell, transfer, purchase, or receive an assault weapon.” See Md. Code Ann., Crim. Law § 4-303(a). The banned assault weapons include “assault long gun[s]” and “copycat weapon[s].” Id. § 4-301(d).”; and

WHEREAS, the Maryland FSA defines an assault long gun as a rifle or shotgun “listed under § 5-101(r)(2) of the Public Safety Article,” including the “Colt AR-15,” “Bushmaster semi-auto rifle,” and “AK-47 in all forms.” See Md. Code Ann., Crim. Law § 4-301(b); Md. Code Ann., Pub. Safety § 5-101(r)(2). The list of prohibited rifles and shotguns consists of “specific assault weapons or their copies, regardless of which company produced and manufactured that assault weapon.” See Md. Code Ann., Pub. Safety § 5-101(r)(2)”; and

WHEREAS, the Maryland “FSA provides a separate definition for a copycat weapon that is premised on a weapon’s characteristics, rather than being identified by a list of specific firearms. In relevant part, a copycat weapon means: (i) a semiautomatic centerfire rifle that can accept a detachable magazine and has any two of the following: 1. a folding stock; 2. a grenade launcher or flare launcher; or 3. a flash suppressor; (ii) a semiautomatic centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds; (iii) a semiautomatic centerfire rifle that has an overall length of less than 29 inches; * * * (v) a semiautomatic shotgun that has a folding stock; or (vi) a shotgun with a revolving cylinder. See Md. Code Ann., Crim. Law § 4-301(e)(1).”; and

WHEREAS, “[i]n banning large-capacity magazines along with assault weapons, the FSA provides that “[a] person may not manufacture, sell, offer for sale, purchase, receive, or transfer a detachable magazine that has a capacity of more than 10 rounds of ammunition for a firearm.” See Md. Code Ann., Crim. Law § 4-305(b). A detachable magazine is defined as “an ammunition *123 feeding device that can be removed readily from a firearm without requiring disassembly of the firearm action or without the use of a tool, including a bullet or cartridge.” Id. § 4-301(f).”; and

WHEREAS “[u]nder the FSA’s exceptions, “[a] licensed firearms dealer may continue to possess, sell, offer for sale, or transfer an assault long gun or a copycat weapon that the licensed firearms dealer lawfully possessed on or before October 1, 2013,” and “[a] person who lawfully possessed, has a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, may ... possess and transport the assault long gun or copycat weapon.” See Md. Code Ann., Crim. Law § 4-303(b)(2), (3)(i). The FSA does not ban the possession of a large-capacity magazine. Further, the FSA explicitly allows the receipt and possession of an assault weapon or large-capacity magazine by a retired Maryland law enforcement officer if the assault weapon or large-capacity magazine “is sold or transferred to the person by the law enforcement agency on retirement” or “was purchased or obtained by the person for official use with the law enforcement agency before retirement.” Id. § 4-302(7).”, and

WHEREAS the Kolbe Court stated “[s]imply put, AR-15-type rifles are “like” M16 rifles under any standard definition of that term. See, e.g., Webster’s New International Dictionary 1431 (2d ed. 1948) (defining “like” as “[h]aving the same, or nearly the same, appearance, qualities, or characteristics; similar”); The New Oxford American Dictionary 982 (2d ed. 2005) (defining “like” as “having the same characteristics or qualities as; similar to”). Although an M16 rifle is capable of fully automatic fire and the AR-15 is limited to semiautomatic fire, their rates of fire (two seconds and as little as five seconds, respectively, to empty a thirty-round magazine) are nearly identical. Moreover, in many situations, the semiautomatic fire of an AR-15 is more accurate and lethal than the automatic fire of an M16. Otherwise, the AR-15 shares the military features—the very qualities and characteristics—that make the M16 a devastating and lethal weapon of war.”; and

WHEREAS, the Kolbe Court held “[w]hatever their other potential uses—including self-defense—the AR-15, other assault weapons, and large-capacity magazines prohibited by the FSA are unquestionably most useful in military service. That is, the banned assault weapons are designed to “kill[] or disabl[e] the enemy” on the battlefield. See J.A. 735. The very features that qualify a firearm as a banned assault weapon—such as flash suppressors, barrel shrouds, folding and telescoping stocks, pistol grips, grenade launchers, night sights, and the ability to accept bayonets and large-capacity magazines—“serve specific, combat-functional ends.” See id. at 1120. And, “[t]he net effect of these military combat features is a capability for lethality—more wounds, more serious, in more victims—far beyond that of other firearms in general, including other semiautomatic guns.” Id. at 1121-22.”; and

WHEREAS, the Kolbe Court found, “[l]ikewise, the banned large-capacity magazines “are particularly designed and most suitable for military and law enforcement applications.” See J.A. 891 (noting that large-capacity magazines are meant to “provide[] soldiers with a large ammunition supply and the ability to reload rapidly”). Large-capacity magazines enable a shooter to hit “multiple human targets very rapidly”; “contribute to the unique function of any assault weapon to deliver extraordinary firepower”; and are a “uniquely military feature[]” of both the banned assault weapons and other firearms to which they may be attached. See id. at 1151.”; and

WHEREAS, the Kolbe Court concluded, “[b]ecause the banned assault weapons and large-capacity magazines are clearly most useful in military service, we are compelled by *Heller* to recognize that those weapons and magazines are not constitutionally protected.”; and

WHEREAS, the en banc panel of the Fourth Circuit in Kolbe held that “[1] banned weapons and magazines were not protected by Second Amendment; [2] the Maryland FSA did not violate Equal Protection Clause; and [3] the Maryland FSA was not void for vagueness under Due Process Clause;” and

WHEREAS, the Kolbe holding that such reasonable restrictions did not violate the Second Amendment was consistent with the earlier holding of the Second Circuit in New York State Rifle and Pistol Ass’n, Inc. v. Cuomo, 804 F.3d 242 (Second Cir. 2015) which held: “[1] laws prohibiting possession of certain semiautomatic weapons, large-capacity magazines, and on number of bullets in a magazine would be reviewed under intermediate scrutiny; [2] prohibitions on possessing certain semiautomatic assault rifles with one or more military-style features did not violate the Second Amendment’s right to bear arms; [3] prohibitions on possessing large-capacity magazines not violate the Second Amendment’s right to bear arms; [4] New York law prohibiting possession of a magazine for a firearm loaded with more than seven rounds violated the Second Amendment right to bear arms; [5] laws criminalizing possession of magazines that could be “readily restored or converted to accept” more than ten rounds were not unconstitutionally vague; [6] Connecticut law prohibiting possession of certain specified firearms and any “copies or duplicates thereof with the capability of” the listed models was not unconstitutionally vague; [7] New York law prohibiting possession of semiautomatic pistols that were semiautomatic versions of an automatic rifle, shotgun or firearm” was not unconstitutionally vague; and [8] provision of New York law prohibiting semiautomatic assault rifles with a “muzzle break” was not unconstitutionally vague;” and

WHEREAS, presently pending in Florida is similar legislation, Senate Bill 196/House Bill 219 which would prohibit “the sale or transfer of an assault weapon or large-capacity magazine; specifying circumstances in which the manufacture or transportation of assault weapons or large-capacity magazines is not prohibited; providing enhanced criminal penalties for certain offenses when committed with an assault weapon or large-capacity magazine, etc.,” and

WHEREAS, following the lead of other states, and having had Federal Courts consistently hold that such restrictions are constitutional, it is time to implement such restrictions; and

FLORIDA LAW INAPPROPRIATELY PUNISHES ELECTED OFFICIALS FOR TRYING TO PROTECT THEIR RESIDENTS

WHEREAS, in 1987, the Florida Legislature passed Chapter 87-23, Laws of Florida, which created Florida Statutes section 790.33 and declared the preemption of the whole field of regulation of firearms and ammunition, reserving the exclusive right to regulate and/or enforce any laws involving firearms and ammunition to the Florida Legislature and the State of Florida; and

WHEREAS, in 2011, the Florida Legislature passed and Governor Scott signed Chapter 2011-109, Laws of Florida to allow the Governor to remove from office, without due process of law, any person acting in an official capacity for a local authority, including an elected official, who passes an ordinance or causes to be enforced a local ordinance, administrative rule or regulation impinging on the exclusive authority of Florida legislature to regulate firearms and ammunition in all respects; and

WHEREAS, the 2011 Amendment to Florida Statutes section 790.33 provides for personal liability of any person who enacts or causes to be enforced any local ordinance impinging upon the Legislature’s occupation of the whole field of regulation of firearms and ammunition; and

WHEREAS, the 2011 Amendment to Florida Statutes section 790.33 also provides that if a Court finds a willful or knowing violation of the prohibition on the ability of local government to regulate or enforce firearms or ammunition in any regard, the Court may impose a personal fine of up to \$5,000 on the elected or appointed local government official(s) or administrative agency head and cause the county, agency, municipality, district or other entity to reimburse the legal cost of those who sue to overturn the ordinance, rule, regulation and/or enforcement effort and to pay their actual damages; and

WHEREAS, pursuant to Florida Statutes section 790.33, local communities appear powerless to enumerate elements of the standard of care which should be met to protect the community; and

WHEREAS, the City Commission of the City of Sunrise urgently requests the Governor and Legislature of the State of Florida to address this deficit in law by enacting legislation that would allow municipalities the ability to address these public health, safety and welfare items by enacting local legislation without fear of removal from office, in accordance with the unique local characteristics of a community and with due respect to the risk to public; and

WHEREAS, local governments have a duty to protect their residents, visitors, tourists and businesses and that such duty should not be infringed upon by State government.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNRISE, FLORIDA:

Section 1. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Resolution.

Section 2. The City supports federal legislation that would require a background check for every firearm sale whether the legislation is enacted by passage of the Fix Gun Checks Act in the United States Congress or some other legislation.

Section 3. The City urges the Florida legislature to immediately pass House Bill 231/ Senate Bill 530, popularly described as a “Red Flag Law,” to protect our community from those who are identifiable as a threat to safety and security.

Section 4. The City urges immediate amendment to Florida law to raise the age for legal purchase of guns, including long guns, high capacity magazines, and ammunition to 21 years of age.

Section 5. The City urges immediate passage of legislation that would get military-style weapons and high-capacity magazines away from our community and especially our schools and that would increase the minimum age to purchase and possess a weapon from age 18 to age 21.

Section 6. The City urges the Florida legislature to repeal the draconian punitive punishments of elected officials set forth in Florida Statutes section 790.33.

Section 7. The City urges Florida Governor Rick Scott to take action to pass gun reform, even if it means extending the 2018 legislative session, to:

- a. Raise the minimum age to allow the purchase of guns and ammunition to 21;
- b. Eliminate the loopholes in the private transfer of weapons and require full background checks for all sales and transfers of firearms;
- c. Repeal the prohibitions and penalties in Section 790.33(3), Florida Statutes;
- d. Enact legislation regarding Red Flag Law to allow Extreme Risk Protection Orders such as those proposed in House Bill 231 and Senate Bill 530;
- e. Enact the Gun Safety legislation set forth in Senate Bill 196 and House Bill 219 to place constitutional restrictions on the sale and transfer of assault-style weapons and high-capacity magazines.

Section 8. The City Clerk is hereby directed to distribute this Resolution to President Donald Trump, Governor Rick Scott, the United States Congressional Delegations from Florida, the Broward County Legislative Delegation, and the Broward League of Cities.

Section 9. Effective Date. This Resolution shall be effective immediately upon its passage.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2018.

Mayor Michael J. Ryan

Authentication:

Felicia M. Bravo
City Clerk

MOTION: _____
SECOND: _____

DOUGLAS: _____
KERCH: _____
SCUOTTO: _____
SOFIELD: _____
RYAN: _____

Approved by the City Attorney
as to Form and Legal Sufficiency.

Kimberly A. Kisslan