



**Agenda
City Council**

Monday, July 18, 2016

7:00 PM

Council Chambers

MEMORANDUM TO:

The Honorable Mayor and
Members of the City Council
City of Jacksonville Beach, Florida

Council Members:

The following Agenda of Business has been prepared for consideration and action at the Regular Meeting of the City Council.

OPENING CEREMONIES: INVOCATION, FOLLOWED BY SALUTE TO THE FLAG

ROLL CALL

APPROVAL OF MINUTES

16-407 Regular City Council Meeting Held June 20, 2016

ANNOUNCEMENTS

COURTESY OF THE FLOOR TO VISITORS

MAYOR AND CITY COUNCIL

16-408 Presentation of WaveMaker Award

CITY CLERK

CITY MANAGER

- a. 16-409** Accept the Monthly Financial Reports for the Month of June 2016
- b. 16-410** Ratify Amendments to Article 12.3 (Wages) and Appendices C and D of the Collective Bargaining Agreement with the Florida State Lodge, Fraternal Order of Police, Effective May 1, 2016

- c. 16-412 Award Bid No. 1516-13 Ft. Diego Breaker Replacements to the Lowest Responsive Bidder, *J.L. Malone & Associates, LLC*.
- d. 16-418 Approve *Alstom Grid* as the Sole Source Vendor for Repairs to Interrupters on Circuit Breakers Located at the Jacksonville Beach Substation Totaling \$82,000

RESOLUTIONS

ORDINANCES

- a. 16-415 ORDINANCE NO. 2016-8074 (First Reading)

AN ORDINANCE AMENDING CHAPTER 4, "ALCOHOLIC BEVERAGES," OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY AMENDING SECTION 4-2, "PROHIBITED HOURS OF SALE, CONSUMPTION, AND SERVICE," PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

- b. 16-416 ORDINANCE NO. 2016-8075 (First Reading)

AN ORDINANCE AMENDING CHAPTER 4 "ALCOHOLIC BEVERAGES," OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY AMENDING SECTION 4-5 "TEMPORARY EXTENSION OF LICENSED PREMISES," PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

- c. 16-417 ORDINANCE NO. 2016-8076 (First Reading)

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA; CREATING A NEW SECTION OF CHAPTER 4 ALCOHOLIC BEVERAGES; CREATING LANGUAGE AND PROVIDING FOR SEVERABILITY OF ALL SECTIONS OF CHAPTER 4 PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

ADJOURNMENT

NOTICE

In accordance with Section 286.0105, Florida Statutes, any person desirous of appealing any decision reached at this meeting may need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The public is encouraged to speak on issues on this Agenda that concern them. Anyone who wishes to speak should submit the request to the City Clerk or to the recording secretary prior to the beginning of the meeting. These forms are available at the entrance of the City Council Chambers for your convenience.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-6299, extension 10, no later than one business day before the meeting.

**Minutes of Regular City Council Meeting
held Monday, June 20, 2016, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida.**



OPENING CEREMONIES:

Council Member Thomason gave the invocation, followed by the salute to the flag.

CALL TO ORDER:

Mayor Latham called the meeting to order at 7:00 P.M.

ROLL CALL:

Mayor: William C. Latham

Council Members: Lee Buck (*absent*) Keith Doherty Christine Hoffman
Bruce Thomason Phil Vogelsang Jeanell Wilson (*absent*)

Also present were City Manager George Forbes, and City Clerk Laurie Scott.

APPROVAL OF MINUTES

It was moved by Ms. Hoffman, seconded by Mr. Doherty, and passed unanimously, to approve the following minutes as presented:

- Regular City Council Meeting held on June 6, 2016

ANNOUNCEMENTS

COURTESY OF THE FLOOR TO VISITORS:

Speaker:

- Sandy Golding, 1203 18th Avenue North, Jacksonville Beach, announced there will be a Beaches Watch Town Hall Meeting with Jacksonville Mayor Lenny Curry and Jacksonville Council Member Bill Gulliford on Wednesday, July 27th, 7:00 P.M. at the Fletcher High School Auditorium in regard to the half-cent sales tax referendum.

MAYOR AND CITY COUNCIL

(a) Item #16-389 Florida League of Cities Home Rule Hero Award Presentation to Mayor Latham

Mr. Casey Cook presented Mayor Latham with the 2016 Florida League of Cities' Home Rule HERO Award.

(b) Recognize Beaches Energy Services Employees for Participation at the Florida Municipal Electric Association's 2016 Florida Lineman Competition

Two Journeyman Teams and four Lineman Apprentice Line workers representing Beaches Energy Services were recognized for their performance at the 2016 Florida Lineman Competition. They won a total of five awards. Recognition was also given to two Beaches Energy employees, Lamar Whitaker and Matt Campbell, who served as event judges at the competition.

Journeyman Teams:

Team 1: Wayne Hughes, Josh Wilcher, and Cody Hutchins

Team 2: Nick Currie, Tighe Schloss, and Zeus Roberts

Lineman Apprentice Line workers:

Logan Cox, Steven Sutherlin, Brian Dickey, and James Huggins

CITY CLERK:

CITY MANAGER:

(a) Item #16-401, Appoint One Member to the Planning Commission.

Motion: It was moved by Ms. Hoffman and seconded by Mr. Doherty, to reappoint Mr. Greg Sutton to the Planning Commission.

Roll call vote: Ayes – Doherty, Hoffman, Thomason, Vogelsang, and Mayor Latham.
The motion carried unanimously.

(b) Item #16-402, Appointment of One Member to the Community Redevelopment Agency.

Motion: It was moved by Ms. Hoffman and seconded by Mr. Doherty, to nominate Mr. Scott Gay to the Community Redevelopment Agency.

Roll call vote: Ayes – Hoffman, Thomason, Vogelsang, Doherty, and Mayor Latham.
The motion carried unanimously.

(c) Item #16-403, Accept the Monthly Financial Reports for the Month of May 2016.

Motion: It was moved by Ms. Hoffman and seconded by Mr. Doherty, to accept the monthly financial reports for the month of May 2016.

Roll call vote: Ayes – Thomason, Vogelsang, Doherty, Hoffman, and Mayor Latham.
The motion carried unanimously.

(d) Item #16-404, Ratify Amendments to Article 34 (Salaries) of the Collective Bargaining Agreement with the International Association of Firefighters, Local 2622, effective June 1, 2016.

Motion: It was moved by Ms. Hoffman and seconded by Mr. Doherty, to ratify amendments to Article 34 (Salaries) of the Collective Bargaining Agreement with the International Association of Firefighters, Local 2622, effective June 1, 2016.

Mr. Forbes explained this was the third year of a three-year agreement. The agreement included a wage reopener for year three of the agreement. The agreement has been ratified by the firefighters and allows them to continue being paid on the City's existing pay plan and receive a one-time lump sum equal to one percent of their salary.

Roll call vote: Ayes – Vogelsang, Doherty, Hoffman, Thomason, and Mayor Latham.
The motion carried unanimously.

(e) Item #16-405, Award Unit Bid Number 1516-10 Liquid Chlorine and Sulfur Dioxide to *Allied Universal Corporation*.

Motion: It was moved by Ms. Hoffman and seconded by Mr. Doherty, to award Unit Price Bid Number 1516-10, titled Liquid Chlorine and Sulfur Dioxide, to *Allied Universal Corporation*.

Mr. Forbes stated chlorine is used in the sewer plant and water system to kill bacteria for safe drinking water. Sulfur dioxide is used to dechlorinate the water before being emptied into the intracoastal waterway.

Roll call vote: Ayes – Doherty, Hoffman, Thomason, Vogelsang, and Mayor Latham.
The motion carried unanimously.

RESOLUTIONS:

ORDINANCES:

- (a) **Item #16-406, ORDINANCE NO. 2016-8077 (Second Reading - PUBLIC HEARING)**

Mayor Latham requested that the City Clerk read Ordinance No. 2016-8077 (Second Reading), by title only, whereupon Ms. Scott read the following:

AN ORDINANCE TO AMEND PLANNED UNIT DEVELOPMENT ORDINANCE NO. 7411, AS AMENDED, SUPPLEMENTING THE COMPREHENSIVE ZONING REGULATIONS AND PLAN FOR THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS PROVIDED UNDER CHAPTER 34 OF THE CODE OF ORDINANCES OF SAID CITY. (*Home Depot, South Beach Regional Shopping Center - This ordinance would allow for the outdoor storage and display of merchandise at the Home Depot store.*)

Mayor Latham read the following statement for the record:

“This ordinance to amend the PUD zoning regulations of a property is before this Council for a public hearing and consideration on its second reading. Under the laws of the State of Florida, an application to amend the zoning regulations governing a property is handled as a ‘quasi-judicial’ proceeding. A quasi-judicial proceeding means that a governing body is now functioning in a manner similar to a court with the Mayor and Council sitting as impartial decision makers hearing testimony and questioning presenters, who are to provide substantial and competent evidence to support their side of the issue. It is the duty of the Council to arrive at sound decisions regarding the use of property within the City. This includes receiving citizen input regarding the proposed use on the neighborhood, especially where the input is fact-based and not a simple expression of opinion.

It is the applicant’s burden to demonstrate that their application is consistent with the Land Development Code and the Comprehensive Plan. If the applicant is successful in showing consistency, then it is up to the local government to produce competent, substantial evidence of record that the application should be denied. The Council’s decision on a zoning amendment application is based on the criteria set forth in Section 34-211 of the Land Development Code. Each member of the Council has been provided a copy of the criteria.

In addition, the Council has received a copy of the application, and the staff and Planning Commission reports on this PUD zoning amendment request.”

Public Hearing

Mayor Latham opened the public hearing on Ordinance No. 2016-8077 and asked if the applicant or their agent was present and if they would like to make a presentation.

Speakers:

Kevin Hollenbeck, 9745 Touchton Road, Jacksonville, representing Equity One, owner of South Beach Regional Shopping Center, stated that he wanted to address the concerns of a few Council Members that the other tenants would be left out of the modification. He stated that is was most likely due to his error of filing. He also stated that the reason for the modification for only Home Depot at this time is because the original complaint was filed against Home Depot.

Edward Allen, 1430 W. Peachtree Street, Suite 200, Atlanta, representing Greenberg Farrow Architecture firm, stated the following:

- The request is a modification of the PUD allowing Home Depot to have outdoor displays.
- The reason outdoor displays are needed is to meet customer demands.
- Physically the store is one of the smallest stores but in sales volume, it is one of the top producing stores in the district.
- The store will not become an eyesore for the shopping center.
- The submitted plan has not changed, and all emergency walkways will be maintained, and all supplies will be under the walkway. Pedestrian walkways will not be obstructed.

The following people filled out speaker cards and spoke in opposition of Ordinance No. 2016-8077:

- Kathleen Gall, 4059 Palm Way, Jacksonville Beach.
- James Overby, 21 Burling Way, Jacksonville Beach.

The following people filled out speaker cards and spoke in favor of Ordinance No. 2016-8077:

- Brian Bidwell, 1512 Marshside Drive, Jacksonville Beach.
- Michael Edenfield, 3609 Ernest Street, Jacksonville.

The following people filled out speaker cards and are in favor of Ordinance No. 2016-8077, but did not wish to address the Council:

- Marlene Melcher, 160 Veracruz Drive, #413, Ponte Vedra Beach.
- Daniel Leary, 3105 Coral Reef Drive, Jacksonville.
- Andi Clemons, 13D Ponte Vedra Court, Ponte Vedra Beach.
- Maria M. Ramsey, 10100 Baymeadows Road, Apt 1114, Jacksonville.
- Terry Dostalík, 879 East Coast Drive, Atlantic Beach.
- Judy West, 1464 Camelia Street, Atlantic Beach.
- Michael Grubb, 826 Long Lake Drive, Jacksonville.
- Reshma Maraj, 78 Naugatuck Drive, Jacksonville.
- Scott Greenisa, 201 Alava Court, St. Augustine.
- Susan Dimos, 290 Ridge Road, Oswegatchie, New York.
- Brenda (Jimi) Ingalls (no address given).

Mayor Latham closed the Public Hearing.

Ex-Parte Communications

Mayor Latham read the following statement for the record:

“Before requesting a motion on this ordinance, beginning with myself, each of the members is requested to indicate for the record *both the names of persons and the substance* of any *ex-parte* communications regarding this application. An *ex-parte* communication refers to any meeting or discussion with a person or citizen who may have an interest in this decision, which occurred outside of the public hearing process.”

Mayor Latham announced that he met with Mr. Hollenbeck, of Equity One, to learn more about their business and other malls. There was no discussion regarding Home Depot.

Ms. Hoffman stated that she was contacted by Karen Wehle, of Love Too Par, asking to allow the other stores in the South Beach Regional Shopping Center to have outdoor displays.

Ms. Hoffman also stated that she received an email from Georgette Dumont, a member of the Planning Commission, to clarify her comment at the previous Council meeting and to compare the information the Planning Commission received to the information under the City Council’s consideration.

Mr. Doherty stated he had none.

Mr. Thomason stated that he received the same two emails from Ms. Dumont.

Mr. Vogelsang stated that he received the same email from Ms. Dumont.

Mayor Latham added that he received the same email from Ms. Wehle and spoke with her as well. He also stated that he received the same email from Ms. Dumont.

City Clerk, Ms. Scott, stated that she received the same two emails. [see attached]

Mayor Latham read the following statement for the record:

“Before opening the floor for discussion or questions by the Council, please be reminded that our decision will be based on the criteria set forth in the Land Development Code, and the Council is required to approve a clear statement of specific findings of fact stating the basis upon which such facts were determined, and the decision was made.”

Mayor Latham asked for a motion to approve the ordinance as read by title.

Motion: It was moved by Ms. Hoffman and seconded by Mr. Doherty, to adopt Ordinance No. 2016-8077, amending Ordinance No. 2006-7928 pertaining to the South Beach Regional Shopping Center, to allow the outside display and storage of merchandise and carts within the Home Depot parcel of the center.

Discussion:

Mr. Forbes stated that the ordinance will allow Home Depot to have storage for pallets behind the store in the area that has a 12-foot high fence used as a buffer. All storage in front of the store must be under covered walkway. Exhibit A shows details of where the storage is allowed.

Mr. Thomason stated that he voted against this change on first reading as he was concerned about the number of additional requests from other tenants from the shopping center and other shopping centers as well. He also stated that he is not against certain items being placed outside as long as it does not look like a junkyard.

Mr. Vogelsang agreed with Mr. Thomason regarding the plan to keep things orderly. He suggested addressing the City as a whole in regard to being able to display items in the front of their stores. He also expressed his concern for receiving multiple applications from other tenants and possibly changing the policy.

Mr. Doherty expressed his agreement to the change but also expressed concerns about items staying orderly. He also expressed his concerns about other store locations.

Mayor Latham stated that he was not on the Council in 2006 during the previous discussion regarding Home Depot. Mayor Latham did contact Dick Matthews and Lee Buck for their opinion as they were on the Council in 2006. The Mayor stated that both agreed that this would be a good opportunity for Home Depot as this decision would enhance the store's capability to increase their sales.

He elaborated by suggesting to the other tenants of the shopping center (such as Ms. Wehle) to feel free to discuss their options with the property owners of the South Beach Regional Shopping Center. The Council is open to listening to other suggestions to support each tenant. Mayor Latham concluded by stating that if this ordinance is passed, all guidelines must still be met and the outside areas must remain clean and orderly and not turn the outside areas into a junkyard.

Roll call vote: Ayes – Hoffman, Thomason, Vogelsang, Doherty and Mayor Latham.
The motion carried unanimously.

Findings of Fact: It was moved by Ms. Hoffman and seconded by Mr. Doherty to approve the Findings of Fact for Ordinance No. 2016-8077 dated June 8, 2016.

Roll call vote: Ayes – Thomason, Vogelsang, Doherty, Hoffman and Mayor Latham.
The motion carried unanimously.

ADJOURNMENT:

There being no further business, the meeting adjourned at 7:55 P.M.

Submitted by: Laurie Scott
City Clerk

Approval:

William C. Latham, MAYOR

Date: _____

Laurie Scott

From: Sheri Gosselin
Sent: Friday, June 17, 2016 11:38 AM
To: Laurie Scott
Cc: Bill Mann
Subject: Ex parte communication
Attachments: South Beach Regional Shopping Center; Equity One/Home Depot PUD

Laurie,

Attached are emails received by Council members related to Item 16-406 on Monday's agenda related to Ordinance No. 2016-8077, the PUD amendment related to Home Depot. All Council members received the email from Georgette Dumont. However, the email from Karen Wehle was only received by Mayor Latham, Bruce Thomason, Chris Hoffman, Jeanell Wilson, and Lee Buck.

Bill – George asked me to cc you on this just as an FYI

Sheri Gosselin
City Manager's Office
Ext. 1651

Laurie Scott

From: CPAAA - Georgette Dumont
Sent: Monday, June 13, 2016 5:28 PM
To: Charlie Latham; Chris Hoffman; Phil Vogelsang; Keith Doherty; Bruce A. Thomason; Jeanell Wilson; Lee Buck
Cc: George Forbes
Subject: Equity One/Home Depot PUD

Dear Mayor and Council Members,

This email is to reiterate and clarify my comments at your last council meeting (June 6, 2016) about Equity One's application for changes to the PUD with regard to Home Depot. The Planning Commission unanimously voted against recommending the change, and I want to provide you with more details to aid in your decision on the change for the second reading at your June 20th meeting.

The application we voted against recommending was different than the one you had in front of you. The application that we voted against was to allow for outdoor display and outdoor storage; there were no restrictions. In addition, the application was for the whole plaza – not just Home Depot – but the discussion at the meeting was for Home Depot. In other words, there was a slight disconnect between the application we were voting on and what was being discussed at our meeting.

With regard to the original PUD approval, two of the current commission members who were at the meeting were involved in shaping the original restrictions for outdoor storage and outdoor display. They knew the history and the angst of the residents at that time. Still, they were able to develop a PUD plan that was acceptable to all parties. They brought this knowledge to their decision to vote against recommending the current application.

We also had a handful of residents in attendance at our meeting speaking against the changes to the PUD. Concerns for the outdoor display were: a flea market-like feel to the plaza, safety for pedestrians forced into the drive lanes in front of the stores, and aesthetics. Concerns for outdoor storage were transients using pallets for shelter and aesthetics for those who can view the back of the buildings.

As for myself, I see the usefulness of outdoor display for businesses. However, I also believe that there needs to be reasonable restrictions. The application you were voting on confined those restrictions to locations under the overhang (which needs to be equipped with sprinklers) and away from building egresses. I see these as reasonable, and addressing some of the concerns that were heard from the residents. However, the inclusion of outdoor cart storage does concern me a bit, as people tend to just push carts – mainly lumber carts – onto the walkway. This can result in a safety hazard, as people would be forced into the drive lane in front of the store (there is no curb delineating where the walkway ends and the drive lane begins). This is very difficult for the business to monitor, but not allowing places where patrons can see that it is permissible to park their carts outside could assuage this concern. I did not hear a case from the applicant as to the need for outdoor cart (regular and lumber) storage at either the Planning Commission meeting or the City Council meeting.

The other issue that is not getting as much attention is outdoor storage. Home Depot was required to build a 12-foot wall to separate it from the businesses that abut the north side of the property. However, the rest of the plaza provides no such protections. This is concerning in that if allowed plaza-wide, two new communities (Paradise Key and Ocean Terrace) would be looking at outdoor storage. In addition, visitors to our community

who exit via JTB will have their final Jax Beach experience being the view of storage pallets as they drive away.

I am in favor of outdoor display, but with restrictions. Only under the overhangs is reasonable and perhaps including a set area (square footage) based on a store's frontage. This would provide uniformity and fairness for businesses in the plaza. As for outdoor storage, I am okay with Home Depot being allowed this privilege because of the wall, but not the others, as there is no protection between the back of the plaza and residents.

Respectfully,

Gette

Georgette E. Dumont

507 16th Ave. S,

Jax Beach, FL 32250

Georgette E. Dumont, M.P.A., Ph.D.
Assistant Professor
Department of Political Science and Public Administration
University of North Florida
1 UNF Drive
Jacksonville, FL 32224

Phone: 904.620.5855

Skype: GetteinJax

Web sites: <http://www.unf.edu/~g.dumont/>
<http://unf.academia.edu/GeorgetteDumont>

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Laurie Scott

From: Love Too Par <lovetoopar@yahoo.com>
Sent: Wednesday, June 15, 2016 12:18 PM
To: Charlie Latham
Subject: South Beach Regional Shopping Center

My name is Karen Wehle owner of Love Too Par, a women's golf and tennis apparel store that I opened a year and a half ago in November 2014. I am a small business owner located next to Trader Joe's in the South Beach Regional Shopping Center managed by Equity One. In an effort to make my store appealing and inviting I display two small flower urns filled with seasonal plants outside the entrance to my front door. On limited occasions I have displayed a sale rack outside my store during times that promoted liquidation of seasonal merchandise.

I am not in favor of the local ordinance that prohibits the use of any ornamental or merchandise related displays for retailers in this area.

As I understand from the Better Jacksonville Beaches organization, Equity One is only asking for an exception for Home Depot to leave merchandise at the outside entrances to their store. If this comment is true, this shows preferential treatment to large big box stores and leaves the small business owner to fend for themselves, at an unfair advantage and not on an equal playing field. Much of the fabric of this shopping center is made up of small individual shop owners that take pride in their store, their service and merchandise selection. This exception for Home Depot who has massive advertising budgets gives them exclusivity and preferential treatment along side the small owner who would not receive any of the same marketing assistance and ignore their presence. What makes this Jacksonville Beach shopping center different, is the varying makeup and composition of stores available within the center.

I invite you to come out and visit my store and look at the make up of the shopping center. While it is nice to have have large anchor stores which are needed and appreciated, the balance of the shopping center is made up of smaller shops retail and service oriented. While stores do feed off one another, this new ordinance would limit the smaller businesses with smaller advertising budgets at a disadvantage in their ability to draw customers to their store. In addition providing an exception to Home Depot, at best is not treating the small business owner equitably which is really the heart of the matter.

Sincerely,
Karen Wehle
Love Too Par
4160 S. Third Street
Jacksonville Beach, FL 32250
904-246-1066

Proclamation of Esteem

Jon McGowan

Whereas, Jon McGowan founded the Jax Beach Art Walk in August of 2013 in an effort to create a more family friendly atmosphere in Downtown Jacksonville Beach; and

Whereas, the first Jax Beach Art Walk had 40 artists, it has grown to include up to 120 participating artists per month with over 550 artists approved to participate; and

Whereas, the Jax Beach Art Walk attracts thousands of attendees every month, creating a vibrant, family friendly atmosphere; and

Whereas, following the success of the Jax Beach Art Walk, Mr. McGowan added a second event, the Jax Beach Classic Car Cruise to provide more free, family friendly entertainment in the Downtown area; and

Whereas, 30 to 70 vehicles show up each month including antique, classic, hot rods, modern muscle, and exotics. The evening ends with the cars participating in a "cruise" down First Street; and

Whereas, Better Jax Beach and its events are 100% volunteer run and privately funded; and

Whereas, Better Jacksonville Beach works to reintroduce the community to the businesses of Downtown Jacksonville Beach, and create a sense of ownership of the area to residents.

Now, Therefore be it proclaimed by the Mayor of Jacksonville Beach, Florida, that Jon McGowan is hereby awarded the Jacksonville Beach WaveMaker Award.

Authenticated this 18th Day of July, 2016.



William Charles Latham, MAYOR

City of

Jacksonville Beach

City Hall

11 North Third Street

Jacksonville Beach

FL 32250

Phone: 904.247.6274

Fax: 904.270.1642

www.jacksonvillebeach.org

MEMORANDUM

TO: George D. Forbes, City Manager
FROM: Karen Nelson, Chief Financial Officer
SUBJECT: Monthly Financial Reports for June 2016
DATE: July 6, 2016

Action Requested

Accept the monthly financial reports for the month of June 2016.

Background

The monthly financial reports for June 2016 are being provided for your information and review. These reports can be found in the "Reports and Information" portion of this agenda.

Recommendation

Accept the monthly financial reports for the month of June 2016, as submitted by the Chief Financial Officer.



City of

Jacksonville Beach

City Hall

11 North Third Street

Jacksonville Beach

FL 32250

Phone: 904.247.6263

Fax: 904.247.6169

www.jacksonvillebeach.org

MEMORANDUM

TO: George D. Forbes, City Manager
FROM: Ann Meuse, Human Resources Director *AM*
SUBJECT: Ratification of Amendments to Article 12.3 (Wages) and
Appendices C and D of the FOP Contract, Effective May 1, 2016
DATE: July 5, 2016

ACTION REQUESTED

Ratify amendments to Article 12.3 (Wages) and Appendices C and D of the Collective Bargaining Agreement with the Florida State Lodge, Fraternal Order of Police, effective May 1, 2016.

BACKGROUND

The City's three-year collective bargaining agreement with the Florida State Lodge, Fraternal Order of Police expires on April 30, 2017. The agreement includes a wage re-opener (Article 30) for year three of the contract. The City negotiated with the union and the union held a vote among its members on July 4, 2016, and ratified the following amendments to Article 12.3 (Wages) and Appendices C and D of the contract:

- To continue the existing position classification and pay plan for the third year of the contract, May 1, 2016 until April 30, 2017, at which time it will expire. (Appendix D)
- All bargaining unit employees will receive a pay increase of 1.0% of their base wage rate effective May 1, 2016. (Article 12.3)
- The pay grade schedule minimum, midpoint and maximum for each pay grade will be increased by 1.0% (Appendix C)



Memorandum

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All proposed changes to the existing language are highlighted in *Attachment A*.

RECOMMENDATION

Ratify amendments to Article 12.3 (Wages) and Appendices C and D of the Collective Bargaining Agreement with the Florida State Lodge, Fraternal Order of Police, effective May 1, 2016.

ARTICLE 12
WAGES

12.1 All bargaining unit employees shall be compensated in accordance with the pay schedule attached hereto and made a part hereof, referred to as Appendix "C".

12.2 Administration of the pay plan shall be in accordance with Appendix "D".

12.3 All bargaining unit employees ~~with six (6) years of service or less on May 1, 2014~~ shall receive a pay increase of ~~2.51.0%~~ of their base wage rate effective May 1, 2016 ~~or an increase to the minimum rate for the pay grade, whichever is greater. All bargaining unit employees with more than six (6) years of service on May 1, 2014 shall receive a pay increase of 1.5% or an increase to the minimum rate for the pay grade, whichever is greater. This shall be a one-time increase on the effective date of this agreement and no further increases shall be automatic.~~

**APPENDIX C
PAY GRADE SCHEDULE**

	MINIMUM	MIDPOINT	MAXIMUM
180	\$18,9418.75	\$24,6824.44	\$30,4330.13
OFFICER	\$39,395.2039,000.00	\$51,334.4050,835.20	\$63,294.4062,670.40
181	\$25.4025.15	\$29.4729.18	\$33.5333.20
CORPORAL	\$52,832.0052,312.00	\$61,297.6060,694.40	\$69,742.4069,056.00
182	\$28.0327.75	\$32.5032.18	\$36.9736.60
SERGEANT	\$58,302.4057,720.00	\$67,600.0066,934.40	\$76,897.6076,128.00

APPENDIX D

POSITION CLASSIFICATION AND PAY PLAN

- A. Appointments and Starting Rates.
 - 1) The minimum salary established for a position is considered the normal appointment rate for new employees.
 - 2) Appointments above the minimum salary may be authorized by the City Manager if the applicant's training, experience or other qualifications are substantially above those required for the position.

- B. Administration of the Pay Plan.
 - 1) The Pay Grade Schedule provides pay grades and salary ranges in hourly and annual amounts. Minimums, maximums and midpoints are identified.
 - 2) An employee may receive a salary increase by means of a merit salary advancement, promotion or reclassification, provided there is an availability of funds.
 - 3) The rate of pay of an employee within the pay grade will depend on merit. There are no provisions in the pay plan for automatic salary advancement as all merit increases are to be based upon work performance and other pertinent factors as evaluated by the employee's supervisor.
 - 4) The City Manager may approve special salary increases based on evaluation of performance and/or to address what the City determines to be pay inequities.

- C. Merit Increases
 - 1) A merit salary advancement is a salary increase within the same pay grade and is not considered to be automatic but based upon an evaluation of performance of an individual.
 - 2) An employee is eligible for a merit salary advancement on the anniversary date of his/her employment in the position, as warranted by performance.
 - 3) Rules guiding the performance evaluation system determine whether there will be no increase or the increase will be 2% to 3% of the midpoint within the employee's current pay grade. Recommendations for no increase or salary decrease must be justified.

- 4) Merit increases in excess of 2% of the midpoint within the applicable pay grade may be justified for employees deserving special recognition and must be approved by the City Manager.

D. Promotional and Probationary Increases

- 1) Officers and Corporals promoted shall receive a minimum salary increase of 5%. Upon successful completion of 6 months service in the new position, the employee will be eligible for an additional 5% pay increase.
- 2) All new employees shall, upon successful mid-probation evaluation, be eligible for a merit salary advancement of 3% to 5% over the employee's current rate. Merit increases for employees upon successful mid-probation evaluation in excess of 3% may be justified for employees deserving special recognition and must be approved by the City Manager.

E. Special Assignment

Police Officers may receive additional pay for special assignments which require them to assume some supervisory responsibilities on a temporary basis, such as Field Training Officer. Assignments of this sort should be closely monitored and selectively made.

Field Training Officers shall be eligible to receive an additional 10% when assigned to train a probationary officer. Officers will receive additional pay only during those hours they are actually performing the special assignment. Officers' eligibility for special assignment pay based upon the above criteria is subject to the discretion of the Police Chief. The Chief shall have the sole discretion to approve or disapprove special assignment pay.

F. Longevity Pay

In addition to the normal salary determined for an individual position, employees should be eligible for longevity pay under the following conditions: 1) Each employee shall receive Two Hundred Forty Dollars (\$240) per year for each five years of continuous service to the City; 2) Layoffs initiated by the City or approved leaves of absences shall not count toward the determination of continuous service but neither shall such constitute breaks in service; 3) Longevity pay shall be paid commencing with the anniversary of the employee's fifth, tenth, fifteenth, twentieth, twenty-fifth, etc. year of service. Employees hired after October 1, 2001 shall not be eligible to receive longevity pay.

G. EXCEL (Excellent City Employees with Longevity) Program

- 1) An employee may be eligible for a lump sum award of 2% to 3% of the midpoint within the employee's current pay grade, based upon the performance evaluation, once the individual has achieved progression to

the maximum pay in the assigned pay grade. EXCEL awards will be provided in one lump sum in lieu of an increase to the employee's base pay. Appropriate tax exclusions will be made.

- 2) EXCEL lump sums may be awarded once every year. An EXCEL award shall not be given during the same year as a merit increase. Exception is granted if the individual is recommended for an increase and in order to award the increase it is necessary to combine the merit increase with a lump sum EXCEL amount so that the employee's pay rate does not exceed the maximum rate for the pay grade.

H. Effective Date

The Position Classification and Pay Plan shall be effective on May 1, ~~2014-2016~~ and shall remain in force and effect until April 30, ~~2016~~2017, at which time it will expire.



BEACHES | ENERGY
SERVICES

TO: George D. Forbes
City Manager

FROM: Allen Putnam
Director of Beaches Energy Services

DATE: July 5, 2016

SUBJECT: Bid No. 1516-13 Ft. Diego Breaker Replacements

ACTION REQUESTED:

Award Bid No. 1516-13 Ft. Diego Breaker Replacements to the lowest responsive bidder, *J.L. Malone & Associates, LLC*.

BACKGROUND:

Beaches Energy Services currently has four (4) 138kV oil circuit breakers in service at the Ft. Diego Substation that are fast approaching the end of their useful life. These breakers were installed in 1982. Environmental regulations have changed significantly since these units were installed. The industry has moved to the SF6 circuit breaker, a gas-filled unit that does not contain oil.

As a transmission owner, Beaches Energy Services must adhere to regulatory standards governed by the North American Electric Reliability Corporation (NERC) and the Florida Reliability Coordinating Council (FRCC). These circuit breakers are an integral part of the state transmission grid. In order to maintain reliability of the transmission system, these oil circuit breakers must be replaced.

The purchase and receipt of these circuit breakers required twelve (12) to twenty-four (24) months lead time. Procurement was approved by City Council in July 2014 (through Bid No. 1314-07) and we recently received delivery.

Bid Number 1516-13 was advertised for the labor to install the new circuit breakers. The scope of work included the removal of the old breakers as well as the testing and commissioning of the new breakers.

Invitations were sent to fifteen (15) vendors and we received four (4) responses. *J.L. Malone & Associates, LLC* was the lowest responsive bidder. Following is the bid tabulation:

	<u>VENDOR</u>	<u>Bid Amount</u>
1.	J.L. Malone & Associates, LLC	\$ 70,485
2.	TAW Engineering	\$ 75,899
3.	CE Power	\$ 76,680
4.	Crews Electrical Testing	\$110,417

Funding will be provided by Beaches Energy Services General Operating Revenue.

RECOMMENDATION:

Award Bid Number 1516-13, titled Ft. Diego Breaker Replacements to the lowest responsive bidder, *J.L. Malone & Associates, LLC*, as explained in the memorandum from the Director of Beaches Energy Services dated July 5th 2016.



BEACHES | ENERGY
SERVICES

TO: George D. Forbes
City Manager

FROM: Allen Putnam
Director of Beaches Energy Services

DATE: July 13, 2016

SUBJECT: Alstom Breaker Repairs

ACTION REQUESTED:

Approve *Alstom Grid* as the sole source vendor for repairs to interrupters on circuit breakers located at the Jacksonville Beach Substation totaling \$82,000.

BACKGROUND:

Interrupters are part of a circuit breaker and actually interrupt, or stop the flow of electricity. There are twelve (12) interrupters that require replacement at the Jacksonville Beach Substation.

The total expenditure is approximately \$82,000. The cost to repair each interrupter is approximately \$6,000 for a total of \$72,000. Shipping costs are projected at \$10,000.

New circuit breakers manufactured by Alstom Grid were purchased for installation at the Jacksonville Beach Substation. In a procedure that Beaches Energy commonly uses to test the installation of other brands of circuit breakers, the Alstom Grid breakers were tested without the use of SF-6 gas. During this operation, the breakers were damaged because SF-6 gas wasn't used. The breakers must be returned to the factory to be rebuilt. Because Alstom Grid is the manufacturer, the repair must be performed by them.

Funding will be provided by Beaches Energy Services General Operating Revenue.

RECOMMENDATION:

Approve *Alstom Grid* as the sole source vendor for repairs to circuit breakers at the Jacksonville Beach Substation as explained in the memorandum from the Director of Beaches Energy Services dated July 13th 2016.

City of

Jacksonville Beach

Police Department

101 Penman Road, South

Jacksonville Beach

FL 32250

Phone: 904.247.6343

Fax: 904.247.6342

www.jacksonvillebeach.org

To: George D. Forbes, City Manager

From: Patrick K. Dooley, Chief of Police

Subject: Request to adopt revisions to Chapter 4 “Alcoholic Beverages” of the Code of Ordinances of the City of Jacksonville Beach, Florida, by amending sections of 4-2, “Prohibited hours of sale, consumption, and service.”

Date: July 11, 2016

ACTION REQUESTED

Adopt City Ordinance 2016-8074, amending sections of 4-2, “Prohibited hours of sale, consumption, and service” of the Code of Ordinances of the City of Jacksonville Beach, Florida.

BACKGROUND

In 2011, the City Council revised section 4-2, “Hours of sale permitted” to read “Permitted hours of sale, consumption, and service.” This required alcoholic beverage establishments that desire to serve alcoholic beverages for consumption on the property after 12:00 midnight to obtain an “Extended hours of operation permit” from the City. The ordinance also designated by definition the various requirements for different types of alcoholic beverage licenses issued by the State Alcoholic Beverage Department. The ordinance also set forth several requirements which operators are required to follow in order to obtain an “Extended hours of operation permit.”

Changes to the ordinance were requested by council to provide clarity for enforcement purposes as follows:

1. Provides distinction between SRX state alcoholic beverage license holders (special restaurant exemption) and 4COP Quota state alcoholic beverage licenses;
2. Clarifies the establishments’ responsibility to maintain order during all hours of operation;
3. Requires establishments operating with a SRX state alcoholic beverage license to serve 150 persons full course meals from a menu at tables at all times during all hours of operation. The kitchen shall remain open and be capable of preparing food and shall fill customers’ orders up to 30 minutes



before time of closing. All tables and chairs must remain upright and in place during all hours of operation as per diagram submitted to the city during the permitting process, and such restaurant shall derive at least fifty-one (51%) percent of its gross revenue from the sale of food and nonalcoholic beverages;

4. Amends terminology, and eliminates the term “warning” and replaces it with “1st notice of violation.” The first notice of violation will not require an appearance before the special magistrate. The new wording clearly defines the process of notifying the establishment of a violation;
5. If the 1st notice of violation is the result of a felony, criminal offense being committed on the premises, or an incident resulting in the felony offense being committed began on the premises of the establishment, the first violation may be presented to the special magistrate for consideration of the suspension of the extended hours permit;
6. If the special magistrate orders a suspension of an extended hours permit, the effective date shall give the alcoholic beverage establishment at least 10 calendar days’ notice of suspension; and
7. Corrects various scrivener’s errors.

RECOMMENDATION

Adopt City Ordinance 2016-8074, amending sections of 4-2, “Prohibited hours of sale, consumption, and service” of the Code of Ordinances of the City of Jacksonville Beach, Florida.

Introduced By: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2016-8074

AN ORDINANCE AMENDING CHAPTER 4, "ALCOHOLIC BEVERAGES", OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY AMENDING SECTION 4-2, "PROHIBITED HOURS OF SALE, CONSUMPTION, AND SERVICE", PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City has received a number of complaints concerning certain alcoholic beverage establishments operating in violation of applicable laws, including but not limited to, the sale of alcoholic beverages to underage persons; the sale of alcoholic beverages to intoxicated persons; disturbances; fights; batteries; driving under the influence (DUI); illegal sales, usage, or deliveries of controlled substances; violation of the fifty-one percent (51%) food sales requirement as set forth in F. S. § 561.20; among other violations of law; and

WHEREAS, Chapter 562.14 of the Florida Statutes authorizes a municipality to regulate the hours that an alcoholic beverage establishment may sell alcoholic beverages; and

WHEREAS, Chapter 562.14 of the Florida Statutes authorizes a municipality to regulate conduct related to the sale of alcoholic beverages at an alcoholic beverage establishment; and

WHEREAS, the City Council, in order to protect the public health and safety of the residents of the City of Jacksonville Beach, desires to regulate the hours of sale, consumption and service of alcoholic beverages, provide for a process and procedures for issuance of extended hours of operation permits, and prevent sale to and consumption of alcoholic beverages by underage persons, by providing for the suspension of the extended hours of operation permit in the event of violation of the regulations and ordinances of the City; and

WHEREAS, the City has experienced an increase in law enforcement costs as a result of the sale and consumption of alcoholic beverages to individuals who consume alcoholic beverages to the point of intoxication, ~~and~~ particularly after midnight, and the City's law enforcement personnel must respond to a greater number of calls for service directly resulting from the need to keep the peace with individuals who have over-consumed alcohol, particularly after midnight; and

WHEREAS, the City finds that an Extended Hours of Operation Permit is the exercise of its quasi-legislative function, and further finds that such extended hours of operation represent a privilege rather than a right.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. That Section 4-2, “Hours of sale permitted”, of Chapter 4 of the Code of Ordinances of the City of Jacksonville Beach, Florida, is rescinded and declared null and void in its entirety; and that a new Section 4-2, “Prohibited hours of sale, consumption, and service”; is created and shall read as follows:

Sec. 4-2. Prohibited hours of sale, consumption, and service.

(a) *Applicability.* The provisions of this section shall apply to the following state alcoholic beverage license types: **1-COP** (beer only consumption on premises), **2-COP** (beer and wine consumption on premises), **4-COP Quota License** (beer, wine, and liquor package sales and consumption on premises), **4-COP-S** (beer, wine, and liquor consumption on premises in connection with the operation of a hotel, motel, motor court, or condominium), **4-COP-SRX** (beer, wine, and liquor consumption on premises in connection with a restaurant), **4-COP-SBX** (beer, wine, and liquor consumption on premises in connection with a bowling alley), **11-GC** (beer, wine, and liquor consumption on premises in connection with a golf club), **11-C** (beer, wine, and liquor in connection with a bona fide club, including fraternal or benevolent association lodges or clubs, social clubs; and tennis, racquetball, cabana, or beach clubs, for consumption on premises by members and their guests only), and **ODP** (beer, wine, and liquor consumption on premises for a bona fide non-profit civic organization for a period not to exceed three days and no more than three times per year).

(b) *Definitions.*

- (1) *Sale and Sell* shall mean and include not only selling but also consuming, serving, and/or permitting to be served or consumed, any alcoholic beverages.
- (2) *Alcoholic beverage* shall mean (as provided in F.S. § 561.01) distilled spirits and all beverages containing one-half of one percent or more alcohol by volume.
- (3) *Alcoholic beverage establishment* shall mean any commercial establishment located in the City which allows for alcoholic beverages (beer, wine, or liquor) to be sold for consumption on the premises.
- (4) *Beer, wine and liquor* shall have the same meanings as provided in F.S. §§ 563.01, 564.01, 565.01, as those Sections may be amended or renumbered from time to time.
- (5) *Establishment* shall have the same meaning as alcoholic beverage establishment.

(6) *Extended Hours of Operation Permit* shall mean a permit issued by the City of Jacksonville Beach that allows an alcoholic beverage establishment to operate and sell alcoholic beverages for purposes of consumption on the premises between the hours of 12:00 midnight and 2:00 a.m.

(7) *Restaurant*, as defined in F. S. § 509.013 (5)(a), shall mean and include any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared before being delivered to another location for consumption. For the purposes of this Chapter, the definition of a restaurant shall include any business with a special license issued by the Division of Alcohol and Tobacco of the Florida Department of Business and Professional Regulation.

(8) *Transfer of ownership* shall mean a transfer of a license, change of officers or directors, or transfer of interest as defined and regulated under the provisions of F. S. § 561.32.

(c) *Restricted hours of sale and operation.* Except as provided in Section 4-2. (d), no alcoholic beverage establishment licensed under the state alcoholic beverage laws to sell alcoholic beverages (beer, wine, or liquor), shall sell or offer for sale, or serve or offer to serve, any beer, wine, liquor, or alcoholic beverages of any kind, regardless of alcoholic content, or be open for operation, on any day of the week between the hours of 12:00 midnight and 6:00 a.m.

(d) *Permit required for certain alcoholic beverage establishments to sell alcoholic beverages between the hours of 12:00 midnight and 2:00 a.m.*

(1) *Permit required.* Any alcoholic beverage establishment licensed under the state alcoholic beverage laws to sell, offer for sale, or deliver alcoholic beverages, for purposes of consumption on the premises, between the hours of 12:00 midnight and 2:00 a.m., but in any case no later than 2:00 a.m., on any day of the week, shall make application with the City Clerk for an Extended Hours of Operation Permit.

(2) The alcoholic beverage establishment shall complete an application form provided by the City, including, but not limited to, the name and street address where notices related to this section are to be mailed. An annual fee, in an amount set by resolution of the City Council and payable upon issuance, shall be charged for the permit. The application form shall include, but not be limited to, the following information:

- a) Name and street address of the owner of the alcoholic beverage establishment,
- b) Valid business tax receipt for the alcoholic beverage establishment,
- c) Verification of compliance by the alcoholic beverage establishment with City zoning regulations,
- d) Specific type of state alcoholic beverage license held by the alco-

holic beverage establishment.

e) If the establishment holds a state alcoholic beverage license other than a 4-COP Quota License, the establishment shall submit a copy of the proposed seating diagram, to include any proposed dining area.

(3) The City Manager or designee shall review the application and, if the application is complete, and the alcoholic beverage establishment is in compliance with the Code of Ordinances and state alcoholic beverage laws, a permit shall be issued allowing the alcoholic beverage establishment to sell alcoholic beverages, as restricted by the alcoholic beverage establishment's state beverage license, for purposes of consumption on the premises, between the hours of 12:00 midnight and 2:00 a.m. on every day of the week.

(4) Such permit shall be renewed by the City annually on or before the 30th day of September, unless any of the following occur:

- a) The permit ~~has been suspended by the City,~~ is under suspension at the time of renewal;
- b) The alcoholic beverage establishment's state beverage license has been revoked or suspended; or
- c) A transfer of ownership, as defined in Section 4-2. (b)(9) *Definitions.*, or a change in location of the establishment has occurred, and this information was not provided to the City.

(5) The City shall be notified immediately, and the alcoholic beverage establishment shall apply for a new permit if a transfer of ownership, as defined in Section 4-2(b)(9) *Definitions.*, or a change in location of the establishment has occurred. Until such time as the alcoholic beverage establishment makes application, is approved, and receives a new permit, the privilege of extended hours for the sale of alcoholic beverages shall be suspended. Failure to renew the Extended Hours of Operation Permit on or before the 30th day of September of each year, or to pay the annual fee as set by resolution of the City Council, shall be cause for the immediate suspension of extended hours privileges pursuant to Section 4-2. (e) *Notice of violations, hearings, and penalties.*

(6) No alcoholic beverage establishment is authorized to sell or serve alcoholic beverages for purposes of consumption on the premises after 12:00 midnight unless it ~~has received an~~ possesses a valid Extended Hours of Operation Permit from the City. No alcoholic beverage establishment is authorized to sell or serve alcoholic beverages, or be open for business operation, after 2:00 a.m. and before 6:00 a.m. on any day of the week.

(7) The provisions of this section shall not impair or affect the right of an alcoholic beverage establishment with a state alcoholic beverage license to remain open and sell alcoholic beverages between the hours of 6:00 a.m. and 12:00 midnight.

(e) *Notice of violations, hearings, and penalties.* The ability of an alcoholic beverage

establishment to sell, offer for sale, deliver or permit to be consumed upon the premises any alcoholic beverage between the hours of 12:00 midnight and 2:00 a.m. on any day of the week is hereby declared to be and is a privilege subject to suspension, and no person may reasonably rely upon a continuation of that privilege. As a condition of the continuation of the privilege, alcoholic beverage establishments are required to take all necessary steps to minimize illegal activities.

(1) *Illegal activities included.* The following are representative, but not all-inclusive, of activities that may result in suspension of the privilege of extended hours of operation for authorized alcoholic beverage establishments to sell alcoholic beverages for purposes of consumption on the premises:

- a) Illegal activities requiring a police response that occur on or adjacent to the premises of an alcoholic beverage establishment ~~requiring a police response~~. Particular emphasis will be given to illegal activities of the owner, employees, patrons of the establishment, or others associated with the establishment; including, but not limited to, the use, sale, or delivery of controlled substances, allowing underage drinking, continuing to sell alcoholic beverages after closing time, violation of open container laws, serving alcoholic beverages to intoxicated persons, disturbances, batteries, driving under the influence (DUI), disorderly intoxication, violations of the Florida Fire Prevention Code, and other violations of law during all hours of operation. The City shall consider whether the need for police services is the result of the establishment's failure or inability to maintain proper order and control during ~~extended~~ all hours of operation;
- b) Failure of any restaurant, as defined in Section 4-2(b)(~~87~~), ~~and~~ which possesses a 4-COP-SRX (Special Restaurant) state alcoholic beverage license as addressed ~~issued~~ under the provisions of F. S. § 561.20(2)(a)4;
 1. To maintain at least 2,500 square feet of service area,
 2. To be equipped to serve 150 persons full course meals from a menu, at tables at ~~one~~ all times during all hours of operation,
 3. To keep the kitchen shall remain open and be capable of preparing food and filling customers' orders up to 30 minutes before time of closing.
 4. To keep all tables and chairs upright and in place during all hours of operation as per diagram submitted to the city during the permitting process, and or
 5. To derive at least fifty-one (51%) percent of its gross revenue from the sale of food and nonalcoholic beverages. Failure to derive at least fifty-one (51%) percent of its gross revenue from the sale of food and nonalcoholic beverages shall be based on the findings of an audit of the 4-COP-SRX licensee by the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation, irrespective of any sanctions or penalties imposed by said Division pursuant to that audit.

- c) Complaints verified and documented by police arising from adverse effects of extended hours of operation upon neighboring properties, including, but not limited to, excessive noise, illegal parking, vandalism, generation of trash or garbage on or adjacent to the establishment, loitering by intoxicated persons, or exterior lighting on neighboring residential properties;
- d) Violations of any provisions of the City of Jacksonville Beach Code of Ordinances; including, but not limited to, Chapter 18, relating to noise and sound limitations;
- e) Failure to obtain an Extended Hours of Operation Permit, or failure to renew the permit as required;
- f) Violations of state statutes and/or fire codes related to the maximum permissible occupancy at the alcoholic beverage establishment location;
- g) *Sales by employees during prohibited hours.* No person, or any agent, servant, or employee of any person licensed under the state alcoholic beverage laws shall sell, or offer for sale, any beer, wine, liquor, or alcoholic beverage of any kind during prohibited hours.
- h) *Gifts.* It is a violation of this section for any person, or any agent, servant or employee of any person licensed under the state alcoholic beverage laws, during prohibited hours as set forth in this section, to gratuitously give any kind of alcoholic beverage, whether conditioned upon the purchase of any kind of alcoholic beverage or product of any nature, at any inflated price or otherwise, or in the form of a so-called bonus predicated upon another purchase, or as a gift.

(2) *Successive violations.* In order to invoke the enforcement provisions of this section, a violation must be traceable to the particular alcoholic beverage establishment against which action is taken, and must be verified and documented by a police officer, code enforcement officer, or fire department official.

- a) 1st Notice of Violation Warning Except as provided, a first violation by an alcoholic beverage establishment of any section of the Code of Ordinances or state statutes shall result in a written notice of violation that will not require an appearance before the special magistrate, warning and not a Notice of Violation. Issuance of a written 1st notice of violation warning for a violation of this ordinance shall not prevent the filing of charges against the alcoholic beverage establishment or any person with any other violation of the Code of Ordinances or state statutes. If the first violation is the result of a felony criminal offense being committed on the premises, or the incident resulting in a felony criminal offense being committed began on the premises of the establishment, the first violation may be presented to the special magistrate for consideration of the suspension of the extended hours permit.
- b) 2nd Notice of violation. A subsequent violation of any section of the Code of Ordinances or state statutes by an alcoholic beverage establishment within one hundred, eighty (180) days of issuance of a written 1st notice of violation warning shall result in a 2nd notice of violation.

The 2nd notice of violation shall be issued by a police officer. The 2nd notice of violation shall be left with the owner, proprietor, manager, or highest-ranking employee then on the premises of the alcoholic beverage establishment. Issuance of a 2nd notice of violation for a violation of this ordinance shall not prevent the filing of charges against the alcoholic beverage establishment or any person with any other violation of the Code of Ordinances or state statutes.

- c) *Special magistrate.* A 2nd notice of violation shall be taken before the City's Special Magistrate for consideration of suspension of the alcoholic beverage establishment's Extended Hours of Operation Permit. The Special Magistrate shall exercise jurisdiction over such matters as set forth in Article VI, Sec. 2-170 of the Code of Ordinances of the City of Jacksonville Beach.
- d) *Action by the Special Magistrate.* Upon completion of the hearing, the Special Magistrate shall deliver a ruling either that no action shall be taken against the alcoholic beverage establishment's Extended Hours of Operation Permit, or that the Extended Hours of Operation Permit shall be suspended. A suspension of the Extended Hours of Operation Permit for a first finding by the special magistrate of a violation shall be not less than thirty (30) days nor more than ninety (90) days. ~~as determined by the Special Magistrate.~~ A second and any subsequent finding by the special magistrate of a violation of the Extended Hours of Operation Permit within one year (365 days) of the date of completion of the most recent suspension period shall result in a suspension of not less than ninety (90) days nor more than one hundred and eighty (180) days. In addition to any suspension of the Extended Hours of Operation Permit, the Special Magistrate may issue a fine of not more than five hundred dollars (\$500.00) per violation of this ordinance. The Special Magistrate shall base his/her ruling upon substantial, competent evidence presented that supports a finding of non-compliance with this section. The special magistrate's written order of suspension of the extended hours of operation permit shall state the effective date of suspension and shall give the alcoholic beverage establishment at least ten calendar days notice of the suspension.
- e) *Failure of alleged violator to appear.* If an alcoholic beverage establishment served with a Notice of Violation fails to appear at the hearing after having received proper notice, the Special Magistrate shall take testimony from city staff, and other relevant testimony, as available, and shall deliver a ruling either that no action shall be taken against the alcoholic beverage establishment's Extended Hours of Operation Permit, or that the Extended Hours of Operation Permit shall be suspended for a period of time as set forth in Section 4-2. (e)(2)(d) of this ordinance. A ruling that the Extended Hours of Operation be suspended shall take effect on the ~~fourth~~ eleventh calendar day after the ordered is issued and provided to the alcoholic beverage establishment. The enforcement of such order shall be stayed if the alcoholic beverage establishment files a request for a rehearing with the City Clerk's office before the date the order is scheduled to take effect. In such case, the alcoholic beverage establishment shall be rescheduled

for a hearing before the Special Magistrate. At that hearing, the Special Magistrate shall take testimony from the alcoholic beverage establishment, and other relevant testimony, as available, and shall deliver a ruling upholding the previous order suspending the Extended Hours of Operation Permit, amending the order suspending the Extended Hours of Operation Permit, or rescinding the order suspending the Extended Hours of Operation Permit. If the Special Magistrate upholds a suspension of the Extended Hours of Operation Permit, such suspension shall take effect the next calendar day after the ruling is issued.

- f) Any alcoholic beverage establishment that has had an Extended Hours of Operation Permit suspended cannot avoid the consequences of the Special Magistrate's action by changing its business name or corporate status, as set forth in F. S. § 561.32.
- g) The enforcement procedures contained herein are alternative procedures, and the City reserves the right to arrest, prosecute, or take action utilizing alternative procedures authorized by law.

SECTION 2. That Section 4-3, "Drinking in public; prima facie evidence", of Chapter 4 of the Code of Ordinances of the City of Jacksonville Beach, Florida, be amended, and the same shall read as follows:

Sec. 4-3. Drinking in public; prima facie evidence.

(a) *Drinking in public places.* It shall be unlawful for any person to consume or drink any beer, wine, liquor, or other alcoholic beverage on any public street, sidewalks, boardwalk, or other public place not duly licensed to permit consumption of beverages on the premises.

(b) *Drinking of alcoholic beverages on premises of alcoholic beverage establishment.*

(1) *Consumption.* It shall be unlawful for any person to consume or drink any beer, wine, liquor, or other alcoholic beverage on the premises of any establishment, except on a patio or porch where tables and chairs are provided and approved and licensed for outdoor consumption, or within the building which is the address of the establishment.

(2) *Consumption.* This section shall not be construed to authorize the consumption of any alcoholic beverages on any premises where such consumption would otherwise be prohibited by the provisions of an alcoholic beverage license or by a zoning regulation of the city or by the laws of the state.

(c) *Prima facie evidence.* Possession of an open container containing an alcoholic beverage by any person in the areas prohibited by this section shall be prima facie evidence of a violation of this section.

SECTION 3. If any provision of this Ordinance or the particular application of this Ordinance shall be held invalid by any Court, administrative agency or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases shall remain in effect.

SECTION 4. That all other ordinances or parts of ordinances in conflict with this ordinance are, to the extent the same may be in conflict, repealed.

SECTION 5. Codification of this ordinance in the Code of Ordinances of the City of Jacksonville Beach is hereby authorized and directed.

SECTION 6. This ordinance shall take effect ninety (90) days from the date of its adoption.

DONE IN OPEN MEETING THIS _____ DAY OF _____, A.D. 2016.

William C. Latham, MAYOR

Laurie Scott, CITY CLERK



City of
Jacksonville Beach
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www.jacksonvillebeach.org

To: George D. Forbes, City Manager
From: Patrick K. Dooley, Chief of Police
Subject: Proposed revisions to Chapter 4 “Alcoholic Beverages” of the Code of Ordinances of the City of Jacksonville Beach, Florida, by amending section 4-5, “Temporary Extension of Premises.”
Date: July 11, 2016

ACTION REQUESTED

Adopt Ordinance 2016-8075, amending section 4-5, “Temporary Extension of Premises” of Chapter 4 “Alcoholic Beverages” of the Code of Ordinances of the City of Jacksonville Beach, Florida.

BACKGROUND

Section 4-5 of the City’s Code of Ordinances specifies the conditions that must be met in order for an establishment licensed to serve alcoholic beverages to obtain a permit for a temporary extension of licensed premises. For such establishments meeting the criteria, a permit may be issued for a maximum period of two business days. In addition, a maximum of two temporary premises extension permits may be issued in a calendar year.

Changes to Section 4-5 are being proposed to (1) clarify that a live band, disc jockey and the use of sound amplifications are allowed under a temporary extension of licensed premises permit and (2) to correct scrivener’s errors. Regulation of live or amplified music will fall under Chapter 18-Noise, of the Code of Ordinances.

The proposed changes to Section 4-5 are the following:

1. Subsection (e), corrects a scrivener’s error;
2. Subsection (e)(4), if applicable, adds a requirement for the site plan to include the location and orientation of any sound producing device, band, or disc jockey and any sound amplification system;



3. Subsection (e)(10), revises the requirement for details about sound amplification systems to include a live band and/or disc jockey; and
4. Subsection (g)(5), clarifies the requirements for complying with Chapter 18-Noise of the Code of Ordinances by specifying the relevant subsections that apply to the outdoor sound. It also removes the wording that refers to “outdoor amplified sound permits” which are no longer issued by the City.

RECOMMENDATION

Adopt Ordinance 2016-8075 amending specified sections of Chapter 4, Section 4-5, “Temporary Extension of Premises.”

Introduced By: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2016-8075

AN ORDINANCE AMENDING CHAPTER 4 “ALCOHOLIC BEVERAGES”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY AMENDING SECTION 4-5 “TEMPORARY EXTENSION OF LICENSED PREMISES”, PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City of Jacksonville Beach, Florida wishes to list the conditions under which an aAlcoholic beverage establishment with a license for on-premises consumption of alcoholic beverages can receive a permit for a temporary extension of licensesd premises.

THEREFORE, BE IT ORDAINED BY THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. That Chapter 4 – Alcoholic Beverages of the City of Jacksonville Beach, Florida Code of Ordinances is amended by adding a new Section 4-5, which shall read as follows:

Sec. 4-5. - Temporary extension of licensed premises.

- (a) It shall be unlawful for any establishment as defined in this chapter, or for its agent, servant or employee to permit the consumption of any alcoholic beverages in or upon any area outside of or adjacent to the building, room or area identified as the licensed premises in the establishment's state alcoholic beverage license.
- (b) It shall not be a violation of subsection (a) for an establishment or its agent, servant, or employee to engage in the activity prohibited by subsection (a) if the establishment obtains permits for the temporary extension of its licensed premises ("temporary premises extension permit") from the city and the State of Florida.
- (c) A temporary premises extension permit may be approved for a maximum period of two (2) business days. A maximum of two (2) temporary premises extension permits may be issued by the city for a qualified establishment per calendar year. No temporary premises extension permit shall be issued for any activity after 2:00 a.m. on a federal holiday.
- (d) To obtain a temporary premises extension permit, an establishment must meet the following conditions:

- (1) Apply for and obtain a temporary premises extension permit in accordance with subsection (e) below.
 - (2) Assure that the area authorized for the sale of alcoholic beverages shall be located on private property, directly adjacent to and accessible from the establishment's main business premises where alcoholic beverages are sold in the normal course of business.
 - (3) Submit a site plan identifying the area where the establishment proposes to sell or dispense alcoholic beverages, and providing the overall square footage of that area. The area authorized for the sale of alcoholic beverages shall be contained by a minimum forty-two (42) inch high wall or fence. The area shall also be included within the establishment's premises as described in the alcoholic beverage license issued by the state as an area within which the establishment is temporarily permitted by the state to serve alcoholic beverages.
 - (4) Enforce the maximum capacity of persons as set by the city fire marshal after he/she reviews the site plan and assigns a maximum capacity to the extended premises area.
 - (5) Mark the access point(s) into and out of the extended license area with signs informing patrons that alcoholic beverages are not to be taken past the perimeter of the area shown on the site plan, and staff the access points with personnel to assure that this condition is properly enforced.
 - (6) Provide sufficient trash receptacles to serve patrons and to prevent littering.
 - (7) Obtain all necessary building permits and other licenses and approvals for any tent or other structure erected to facilitate use of the area covered by the permit. Under no circumstances shall any ground surface on private property be punctured or otherwise damaged by the placement or removal of any tent or other structure unless the establishment first has the appropriate qualified party perform an inspection for the purpose of locating water, wastewater, electrical, underground or fiber optic cable, or gas lines; and if such damage occurs, the establishment shall be liable for the full cost of repairs. If a permit is issued and there are breaches to any private property owner's asphalt or concrete surface, the establishment is fully responsible for any expenses associated with repairing the damages.
 - (8) Comply with all applicable laws, rules, and regulations in the operation of its business within the permitted area.
- (e) An authorized representative of an establishment may submit a written application to the city manager or his/her designee requesting a temporary premises extension permit. The application shall contain the following:
- (1) A detailed description of the event proposed to be conducted.
 - (2) An estimate of the number of people anticipated to attend the event.
 - (3) An application fee in an amount set by the city council by resolution.
 - (4) A site plan outlining the area where the establishment proposes to sell or dispense alcoholic beverages with identification of the access points into and out of the extended area. The site plan shall identify the overall square footage of the area where alcohol is to be served and consumed. If applicable, the site plan shall include the location and orien-

tation of any sound producing device, band or disc jockey and any sound amplification system.

- (5) If applicable, documents shall be submitted showing that all necessary building permits and other licenses and approvals for any tent or other structure erected to facilitate use of the area covered by the permit have been obtained.
 - (6) The proposed date(s) for the temporary premises extension permit and the proposed hours when alcoholic beverages will be served in the extended area.
 - (7) Details on how the establishment intends to enforce, restrict or control access to the temporary use area.
 - (8) Information outlining how increased parking needs will be met.
 - (9) A plan for police protection and crowd and traffic control.
 - (10) Details concerning entertainment including a live band, disc jockey and /or the use of sound amplification systems.
 - (11) Information on whether the establishment has had its extended hours of operation permit suspended and/or obtained any temporary extension of premises permits in the previous twelve-month period from the date of application.
- (f) The city manager or his/her designee shall coordinate review of the permit application by the applicable city departments. The city reserves the right to disapprove any request and, in doing so, shall take the following into consideration:
- (1) Whether the hours of operation of the event would create a nuisance to the peaceful use of nearby areas, such as residential areas or would cause a traffic hazard;
 - (2) Whether inspection by the building official, police chief or designee, fire chief or designee, or other authorized public official, determines that the site is insufficient to accommodate the anticipated number of attendees;
 - (3) Whether adequate parking exists to accommodate the anticipated number of attendees;
 - (4) Whether the permit application and its attachments are fully completed and properly signed;
 - (5) Whether the permit application contains a material falsehood or misrepresentation;
 - (6) Whether the permit applicant or the establishment has on prior occasions caused damages or nuisance or been previously suspended in connection with the city's prior grant of a temporary premises extension permit;
 - (7) Whether the permit applicant or establishment has in the prior twelve-month period from date of the application received a suspension of its extended hours of operation permit; and
 - (8) Whether the city manager or his/her designee, applying objective criteria, determines that granting the permit would result in an unreasonable danger to the health, safety or welfare of the public.
- (g) A permit may be issued if the establishment has met the application requirements in subsections (d) through (f) above and maintains compliance with all applicable laws and regula-

tions relating to the sale of or dispensing of alcoholic beverages and shall agree to, but shall not be limited to, the following provisions:

- (1) The designated event date(s), and the hours during which alcoholic beverages will be sold or consumed. The city shall retain the right to approve or disapprove such dates and hours.
 - (2) A plan for enforcing, restricting, or controlling access to the temporary use area, which must be approved by the city manager or designee, and any other governmental agency which may have jurisdiction.
 - (3) A plan for police protection and crowd and traffic control. The plan and the personnel necessary to implement the plan shall be approved by the chief of police or his designee, and all resources necessary to implement the plan shall be furnished at the expense of the individual or organization. The costs for provision of city public safety personnel and equipment at events required to have such services under this chapter shall be determined by the city police department in accordance with departmental policies. The payment of such expenses shall be the responsibility of the establishment.
 - (4) The establishment shall ensure that the temporary use area and adjacent properties and rights of way are cleared of all trash, debris, or other materials related to the temporary premises extension permit no later than twelve (12) hours after the permit expires.
 - (5) Any activity or event within an area of temporary licensed premises extension shall comply with the standards of Chapter 18-3 (Noise limitations) & 18-4 (Noises prohibited)—Noise of the Code of Ordinances of the City of Jacksonville Beach, Florida. ~~Pursuant to Chapter 18, the use of outside sound amplification equipment within the temporary licensed premises extension area shall only be allowed through the application and approval of an outside sound amplification permit.~~
 - (6) The establishment shall indemnify and hold the city, its officials, and employees harmless from any claim arising from the temporary premises extension permit.
 - (7) The city reserves the right to immediately revoke the temporary permit, and to suspend or terminate the event or any portion of it, if any of the elements of the agreement are violated, or if deemed necessary for the protection of the general peace, property, life or limb. In such case, all fees and charges shall be nonrefundable.
- (h) The discretion granted to the city manager or his/her designee under this section to grant exceptions, require the presence of police officers at a function, or terminate any permit issued under subsection (b), may be exercised for any purpose or in any manner which is lawful under the Constitution or Laws of the United States or the state. This discretion shall be exercised with regard to the protection of life, limb and property, and the preservation of the public safety, health and welfare, according to the judgment of the city manager or designee based on the facts and circumstances of each case.

SECTION 3. Codification of this ordinance in the City Code of Ordinances is authorized and directed.

SECTION 4. This ordinance shall take effect upon its passage and publication as required by law.

DONE IN OPEN MEETING THIS _____ DAY OF _____, A.D. 2016.

William C. Latham, MAYOR

Laurie Scott, CITY CLERK



POLICE DEPARTMENT
Patrick K. Dooley
Chief of Police

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To: George D. Forbes, City Manager
From: Patrick K. Dooley, Chief of Police
Subject: Proposed addition to Chapter 4 “Alcoholic Beverages” of the Code of Ordinances of the City of Jacksonville Beach, Florida, by creating a new section 4-6, “Severability.”
Date: July 11, 2016

ACTION REQUESTED

Adopt City Ordinance 2016-8076, creating a new section 4-6, “Severability” of Chapter 4 “Alcoholic Beverages” of the Code of Ordinances of the City of Jacksonville Beach, Florida.

BACKGROUND

Creating a section 4-6, of the City’s Code of Ordinances which provides for severability to all sections of chapter 4, “Alcoholic Beverages”.

The section provides for codification and effective date.

RECOMMENDATION

Adopt Ordinance 2016-8076, which creates a new section of Chapter 4, Section 4-6, “Severability.”



Introduced By: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2016-8076

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA; CREATING A NEW SECTION OF CHAPTER 4 ALCOHOLIC BEVERAGES; CREATING LANGUAGE AND PROVIDING FOR SEVERABILITY OF ALL SECTIONS OF CHAPTER 4 PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

Sec. 4-6. Severability

SECTION 1. Each separate provision of this chapter and ordinances herein shall be deemed to be severable. If any provision, word or section within this chapter or ordinances herein are deemed unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provision, section or word of this chapter or ordinances.

SECTION 2. All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 3. Codification of this ordinance in the City Code of Ordinances is authorized and directed.

SECTION 4. This ordinance shall take effect upon its adoption in accordance with the law.

DONE IN OPEN MEETING THIS _____ DAY OF _____, A.D. 2016.

William C. Latham, MAYOR

Laurie Scott, CITY CLERK