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

OPENING CEREMONIES:

Council Member Vogelsang 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, Keith Doherty, Christine Hoffman, Bruce Thomason, Phil Vogelsang, Jeanell Wilson

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

APPROVAL OF MINUTES

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

- Regular City Council Meeting held on September 19, 2016

ANNOUNCEMENTS:

COURTESY OF THE FLOOR TO VISITORS:

Speakers:

- Jim Overby, 21 Burling Way, Jacksonville Beach, commented on the appearance of the City. He added it could be improved through landscaping on Beach Boulevard and by the removal of a nonconforming sign at the corner of 3rd Street and 5th Avenue North.

- Jim Sorrell, 1410 Pinewood Road, Jacksonville Beach, stated his concerns regarding land development procedures and zoning application requirements.

- George Candler, 502 16th Avenue South, Jacksonville Beach, spoke regarding the noise ordinance and the negative impact on the quality of life. Next, as a member of

the City of Jacksonville Beach Firefighter's Pension Board, he spoke about the rate of return for pension funds.

MAYOR AND CITY COUNCIL

CITY CLERK:

CITY MANAGER:

(a) Item #16-479, Presentation on Airshow, Dave Herrell, Sports and Entertainment Officer for the City of Jacksonville

Dave Herrell, Sports and Entertainment Officer for the City of Jacksonville, stated there are several upcoming events that will be great opportunities to showcase the region. Following the Florida/Georgia college football game on October 29th, 2016, the Navy/Notre Dame college football game on November 5th, 2016, will also be held in Jacksonville.

He reported the schedule for the Sea & Sky Spectacular on November 5th, 2016, is still being finalized and anticipates it will be completed in the next ten days. This year there is a VIP cabana that will provide seating at the Sea Walk Pavilion.

He stated upcoming activities in Jacksonville will show how friendly Jacksonville is to our military community.

(b) Item #16-480, Approval of a Revocable Encroachment Permit for the Donna Foundation to Install Commemorative Pavers in the Oceanfront Park

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to approve the Revocable Encroachment Permit with the Donna Foundation for a commemorative paver project at the Oceanfront Park.

Mr. Forbes explained there was a workshop on August 1st, 2016, to discuss an agreement that would allow the Donna Foundation to have a commemorative paver project in either Latham Plaza or Oceanfront Park. City staff has recommended Oceanfront Park for the project. In the agreement, the City agrees to allow the Donna Foundation to install commemorative pavers in Oceanfront Park. The City will not be responsible for maintaining or repairing the pavers. The Donna Foundation agrees that:

- Installation plans must be approved by the Public Works Director;
- The project will be installed by a licensed contractor;
- The project will be maintained by the Foundation;
- The Foundation, at its own expense, will keep in good repair any pavers or other fixtures constructed, placed, or maintained on the property;
- The project will be inspected monthly by the Foundation;

- $1,000,000 liability insurance covering the project will be maintained and that the City will be named as additional insured on the policy;
- Upon termination of this Agreement, the City will not be responsible for any maintenance of the pavers installed by the Foundation and may remove the pavers or replace them with other pavers at its sole discretion;
- The agreement may be terminated by either party with 90 days' notice.

Ms. Wilson asked if the monthly inspections would be monitored by the City. Mr. Forbes answered that if the City finds any problems with the pavers that need to be repaired, then a notice would be sent to the Donna Foundation. If it is not repaired within a reasonable time, then the City would repair the paver and bill the Donna Foundation for the costs of the repairs.

Ms. Wilson asked if the agreement is terminated by either party, would the pavers be removed. Mr. Forbes replied that the pavers would remain.

Ms. Wilson stated her concerns with setting a precedent for other organizations wanting to start similar projects in the future. Mr. Forbes answered that is always a possibility and the contract is worded to protect the City. However, both he and the City Attorney are very concerned with this agreement setting a precedent.

Mr. Thomason agreed with Ms. Wilson regarding creating a precedent. He added that he supports the project.

Mr. Doherty asked Mr. Forbes under what circumstances would the City terminate the contract. Mr. Forbes replied it could be terminated for nonperformance.

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

(c) Item #16-481, Recommend the Appointment of Susan Haag as an Alternate Special Magistrate

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to appoint Susan Haag as the City's Alternate Special Magistrate and authorize the Mayor and City Manager to execute a Special Magistrate agreement with her.

Mr. Forbes explained an Alternate Special Magistrate was appointed on September 6, 2016. That appointee was unable to accept the position. Having an Alternate Special Magistrate enables the City to have a backup when the Special Magistrate is unable to attend the hearings.

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

(d) Item #16-482, Acceptance of the Local Justice Assistance Grant (JAG) #2016-H3720-FL-DJ, in the Amount of $11,445

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to approve the acceptance of Justice Assistance Grant #2016-H3720-FL-DJ in the amount of $11,445 for the items described in this memo from Chief Dooley dated August 31, 2016.

Mr. Forbes explained this is a grant that will be used for five portable cameras, five car window tint meters, four handheld metal detector wands, 100 police sashes for plain clothes officers, one camcorder, and wireless sound system, and a portable sound system.

Police Chief Pat Dooley stated the camcorder and wireless sound system would be used for promotional processes and interviews outside of criminal investigations. The portable sound system is used for special events. The sashes will be used during events to readily identify law enforcement.

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

(e) Item #16-483, Approval to Execute a Contract for Professional Tennis Services with Daniel L. Carozza, Jr., in Response to RFP No. 10-1516 Titled RFP to Hire Tennis Professional and Tennis Instructor

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to approve a contract for Professional Tennis Services with Daniel L. Carroza, Jr., as outlined in the memorandum from the Parks and Recreation Director dated September 24, 2016.

Mr. Forbes explained eight Requests for Proposal for a tennis professional were sent out and three were received. Daniel Carozza, Jr. was selected. The tennis professional will be an independent contractor and not an employee of the City. The instruction schedule will include a maximum of 20 hours per week at Huguenot Park and a maximum of nine hours per week at South Beach Park. The time table of hours will be determined by the City. The City will collect all tennis instruction revenues and pay 70% of the instruction price to the tennis professional. The tennis professional has the right to operate a small pro shop at Huguenot Park and will pay the City 5% of the revenues. There is now a facilities manager who runs the Tennis Center and he will work with the tennis professional.

Mr. Vogelsang asked what is to prevent the tennis professional from scheduling tournaments all of the time since the tennis professional receives 70% of lessons and tournaments. Mr. Forbes answered that the facilities manager determines who plays and when they play.

Mr. Thomason pointed out in the agreement on Page 1, Section 2, Term of Agreement, that it refers to the agreement being renewed up to three additional years yet does not state in what manner it may be renewed. He asked Mr. Forbes if the

agreement would come before the City Council each year. Mr. Forbes answered it would be determined on an annual basis by the City Manager.

Mr. Thomason added that also on Page 1 of the agreement, it states "and give 90 days' notice on or about October 1 of clinic rate changes to be effective January 1, 2017." October 1 has already passed so the date should be changed to be a full 90 days. Mr. Forbes answered the rates are listed in the back of the agreement, and the City had anticipated getting the agreement signed sooner. He stated the agreement is satisfactory as it reads.

Mr. Thomason pointed out on Page 13 of the Agreement, Exhibit C, Patron Code of Conduct, the last line of the second paragraph reads "staff is directed to call Jacksonville Beach Police Department, or school police, as appropriate." Mr. Thomason stated that school police would not be called for this issue. Mr. Forbes stated "or school police, as appropriate" will be deleted.

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, and passed unanimously, to modify the agreement on Page 13 to remove the words "or school police, as appropriate."

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

(f) Item #16-484, Approve an Emergency Purchase for Services with Golf Range Netting Inc., for the Installation of 30,000 Square-feet of Protective Netting and Associated Hardware at Beaches Energy Services' Jacksonville Beach Substation

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to approve an emergency purchase for services with Golf Range Netting, Inc., for the installation of a protective netting system for Beaches Energy Services' Jacksonville Beach substation.

Mr. Forbes explained the protective netting at the Beaches Energy Services' Jacksonville Beach substation is old and was damaged during the last storm. This had come before the City Council due to the difference in costs of the two quotes received. The higher quote includes a seven-year warranty, and the materials are of higher quality.

Allen Putnam, Director of Beaches Energy Services, stated it would take three to four weeks for the installation of the new netting. He added that the poles are in good condition and would be replaced if needed.

Mr. Thomason asked if pole replacement is included in the quote. Mr. Putnam answered pole replacement is included in the quote and the poles can withstand 120 mph wind.

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

RESOLUTIONS:

ORDINANCES:

(a) Item #16-485, ORDINANCE NO. 2016-8079 (Second Reading)

Mayor Latham requested that the City Clerk read Ordinance No. 2016-8079 (Second Reading), by title only, whereupon Ms. Scott read the following:

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA AMENDING THE CITY OF JACKSONVILLE BEACH'S CODE OF ORDINANCES BY ADDING CHAPTER 22, ENTITLED NUISANCES CAUSED BY HUMAN SIGN SPINNERS ON PUBLIC PROPERTY AND PUBLIC RIGHTS-OF-WAY DIRECTING COMMERCIAL MESSAGES TO PASSING MOTORISTS; PROVIDING DEFINITIONS, VIOLATION, REMEDIES, FINES AND PENALTIES, AND AMENDING SECTION 2-173 OF THE CITY OF JACKSONVILLE BEACH'S CODE OF ORDINANCES TO EXTEND THE JURISDICTION OF THE SPECIAL MAGISTRATE TO INCLUDE CHAPTER 22; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR CODIFICATION. (This Ordinance prohibits outdoor sign spinners on public property.)

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to adopt Ordinance No. 2016-8079, adding a new Chapter 22 to the City Code of Ordinances entitled, Nuisances Caused by Human Sign Spinners on Public Property and Public Rights-of-Way directing Commercial Messages to Passing Motorists.

Mr. Forbes stated that this ordinance defines a human sign spinner as a person that holds or controls a human commercial advertising sign and who waves, twirls, spins or otherwise uses some form of action or movement to attract the attention of any passing motorist or vehicular traffic to any commercial advertising message that is displayed on the sign. He added that if this ordinance passes, then human sign spinners will not be allowed in the City of Jacksonville Beach on public property.

Mr. Thomason asked the City Attorney if the ordinance would allow someone to stand still and hold the sign. Susan Erdelyi, City Attorney, replied that if that person meets the criteria of the Code, that person could be a nuisance and the Code could be applied.

Ms. Wilson stated she was not for passing this ordinance at this time as sign spinners do not appear to be a problem. She also stated that politicians would be in violation even though they are exempt while campaigning.

Mr. Forbes reminded the City Council that the Sign Code was completely revised in December 2015. The revision excluded sign spinners and mobile billboard advertising as the Sign Code is based on signs in the ground.

Ms. Hoffman stated that she is in support of this ordinance as it will make a difference on the City's roadways.

Roll call vote: Ayes – Buck, Hoffman, Thomason, and Mayor Latham.
Nays – Wilson, Doherty, and Vogelsang.
The motion passed by a 4-3 vote.

(b) Item #16-486, ORDINANCE NO. 2016-8080 (Second Reading)

Mayor Latham requested that the City Clerk read Ordinance No. 2016-8080 (Second Reading), by title only, whereupon Ms. Scott read the following:

AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA; AMENDING CHAPTER 31 OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES, BY ADDING A NEW ARTICLE V ENTITLED MOBILE BILLBOARD ADVERTISING; PROVIDING DEFINITIONS, VIOLATION, REMEDIES, FINES AND PENALTIES, AND AMENDING SECTION 2-173 OF THE CITY OF JACKSONVILLE BEACH'S CODE OF ORDINANCES TO EXTEND THE JURISDICTION OF THE SPECIAL MAGISTRATE TO INCLUDE CHAPTER 31, ARTICLE V; PROVIDING SEVERABILITY; EFFECTIVE DATE; AND PROVIDING FOR CODIFICATION.

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to adopt Ordinance No. 2016-8080, amending Chapter 31, Traffic and Motor Vehicles of the City Code of Ordinances, by adding a new Article V, Mobile Billboard Advertising.

Mr. Forbes stated that mobile billboard advertising is defined as any vehicle or wheeled conveyance which carries, pulls, or transports any sign for the primary purpose of commercial advertising along the streets or highways of the city. This ordinance prohibits this type of vehicle from operating in the City. However, they do not apply to a vehicle which displays an advertisement or business identification of its owner, so long as such vehicle is engaged in the usual business of regular work of the owner, and is not used mainly to display advertisements. Buses and taxicabs are also exempt from these regulations.

Mr. Forbes added that under the definition of vehicle signs in the Land Development Code, signs less than 20 square-feet are exempt from this ordinance.

Mr. Thomason asked Mr. Forbes if the 20 square-feet exemption was per vehicle or per sign and could the total be cumulative if there is more than one sign on the vehicle. Mr. Forbes answered one side of the sign would be counted.

Bill Mann, Planning and Development Director, confirmed there could be multiple signs as long as each of them did not exceed 20 square-feet.

Ms. Wilson stated she is not for passing a law that is not a problem yet and wrapped vehicles also face a possibility of being in violation.

Mr. Mann explained that these are not new regulations but are being re-introduced as they were not included in the new Sign Code.

Mr. Doherty stated he is in support of this ordinance as it refers to mobile billboard advertising as opposed to secondary advertising. Mobile billboard advertising would be more of a distraction than a human sign spinner.

Ms. Hoffman commented that the vehicles with the signs drive slower for the people to see them and she does see it as a safety issue.

Mr. Thomason commented that he is not sure what problem is trying to be solved and he added that he is not for the ordinance as it is being twisted to allow multiple signs on one vehicle.

Ms. Erdelyi explained that her interpretation of the definition of vehicle signs as it reads is 20 square-feet per vehicle.

Mr. Forbes suggested tabling the ordinance in order to clarify the intent of the ordinance.

Ms. Hoffman asked if the terms "primary purpose of commercial advertising" cover the purpose of the ordinance.

Ms. Erdelyi explained the concern is an enforcement issue. She recommended changes be made to the ordinance to clarify the intent.

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to table this agenda item give City staff an opportunity to make a clarification to the ordinance.

Mr. Vogelsang stated he did not have a problem with the ordinance as it reads with Ms. Erdelyi's interpretation of 20 square-feet of the vehicle with commercial advertising.

Mr. Doherty agreed with Mr. Vogelsang that he did not have a problem if its purpose is mobile billboard advertising.

Roll call vote: Ayes – Buck, Hoffman, Thomason, Wilson, and Mayor Latham.
Nays – Doherty and Vogelsang.
The motion passed to table the item by a 5-2 vote.

(c) Item #16-488, ORDINANCE NO. 2016-8082(First Reading)

Mayor Latham requested that the City Clerk read Ordinance No. 2016-8082 (First Reading), by title only, whereupon Ms. Scott read the following:

AN ORDINANCE TO REPEAL IN ITS ENTIRETY CHAPTER 18 "NOISE," OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AND REPLACING IT WITH A NEW CHAPTER 18 THAT INCLUDES SECTION 18-7 "LOW VOLUME OUTDOOR

AMPLIFIED AND ACOUSTIC SOUND," 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. (This Ordinance would allow restaurants and bars with outdoor seating to play low volume music.)

Motion: It was moved by Ms. Wilson and seconded by Ms. Hoffman, to adopt Ordinance No. 2016-8082, that repeals the existing Chapter 18, Noise, in its entirety, and replaces it with a new chapter on noise that includes a section on Low Volume Outdoor Amplified and Acoustic Permits.

Mr. Forbes explained this issue had been discussed for over a year. The ordinance allows for outdoor dining with background sound played at low volume. This is a pilot project that expires on December 31, 2018, unless re-adopted by the City Council. Low volume is defined in the ordinance as "sound played at a level such that a person outside of the property line of the source of the sound, speaking in a normal tone of voice, is plainly audible and can be heard clearly and understandably by another person standing a maximum of 36 inches away from the person speaking, without the aid of a listening device. Section 18-7(4)(i) will allow the current 16 businesses permitted under the 2002 Outdoor Sound Amplification Permit ordinance to be "grandfathered," to operate under that portion of the ordinance. However, any change in the ownership, name, or location of the business immediately terminates their grandfathered permit. They can only obtain a new outdoor sound permit under the low volume sound standards, Section 18-7(g).

Mayor Latham stated he had concerns regarding the amount of time the Planning Commission had to review the outdoor seating changes in the Land Development Code and Noise Ordinance changes.

Georgette Dumont, the member of the Planning Commission, stated the Planning Commission discussed outdoor seating changes in the Land Development Code and had not received the Noise Ordinance. The Planning Commission voted to send the outdoor seating back to the Planning Department to review the Noise Ordinance as the two ordinances are connected.

Mayor Latham suggested holding a workshop to have the Planning Commission, City Council, and citizens talking together regarding this issue.

Mr. Thomason agreed that a workshop would be the appropriate course of action.

Mr. Buck agreed there should be more discussion in a workshop.

Ms. Hoffman stated her support of a workshop as this was a big packet of information and more left to be discussed.

Ms. Wilson agreed there should be more time to discuss this issue and receive more input.

Mr. Doherty stated he had submitted Form 8B, Memorandum of Voting Conflict, and asked Ms. Erdelyi since this item may be tabled should he rescind it. Ms. Erdelyi answered he should still submit it and indicate on the form there was no vote on the item.

Speakers:

- Brenda Shields, 315 18th Street N, Jacksonville Beach, stated the Noise Ordinance would give opportunities for many outdoor dining establishments to have outdoor music and believes citizens will be able to hear the music in their backyards.
- Mick DuRocher, 41 Millie Drive, Jacksonville Beach, stated his concerns are the lack of information regarding decibels allowed and who is going to enforce the regulations.
- Darrell Shields, 315 18th Street N, Jacksonville Beach, stated the trial period should be for one year and not two years. He also stated the Code Enforcement Officer should have night time duties. He had concerns regarding the decibel readings being done by Police Officers.

Ms. Hoffman stated she is support of revising the Noise Ordinance. She is also in support of balancing the needs of the businesses and the needs of the citizens. She commented she is in support of the sound permit process in order to have control.

Motion: It was moved by Ms. Wilson and seconded by Mr. Vogelsang to table this item until a workshop can be held.

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

There being no further business, the meeting adjourned at 8:50 P.M.

Submitted by: Laurie Scott
City Clerk

Approval:

William C. Latham, MAYOR

Date: 10/17/16