

**Minutes of Regular City Council Meeting
held Monday, July 21, 2014, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida.**



CALL TO ORDER:

Mayor Charlie Latham called the meeting to order.

OPENING CEREMONIES:

Mayor Latham requested a moment of silence for Council Member Tom Taylor's recently deceased father, Roger Taylor.

Salute to the Flag.

ROLL CALL:

Mayor: William C. Latham

Council Members:	Keith Doherty	Steve Hartkemeyer	Christine Hoffman
	Tom Taylor - <i>Absent</i>	Phil Vogelsang	Jeanell Wilson

Also present were City Manager George Forbes, City Attorney Susan Erdelyi, and City Clerk Judy Bullock.

APPROVAL OF MINUTES

It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, and passed, to approve the following minutes, as presented:

- Regular City Council Meeting held June 16, 2014

ANNOUNCEMENTS

Council Member Keith Doherty –

- Mr. Doherty stated that he had been contacted about the condition of the Dog Park. He explained that the grass was dead, the fountain was not working, and the park was in very poor condition. Mr. Doherty suggested that a sprinkler system be installed, the sod replaced or some type of synthetic material be used, the fountain replaced or repaired, and the park be restored, especially since the City charges a membership fee for its use.
- Mr. Doherty advised that he had been contacted by some residents regarding the addition of a soccer field and asked if the property north of The Sanctuary could be utilized.

Mayor Latham –

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- Mayor Latham congratulated City staff for a very successful Fourth of July celebration.
- Mayor Latham explained that he had a meeting with Fred McKinnies, President of Jacksonville Housing Authority, and City of Jacksonville Councilmember Bill Gulliford to discuss the “Choice Neighborhood Initiative.” He added that some of the City’s residents have expressed concerns regarding the program and there will be another meeting scheduled in the near future to address those concerns.
- Mayor Latham expressed his gratitude to Fire Chief Gary Frazier on the joint hurricane drill held on July 10, 2014, with the City of Neptune Beach, City of Atlantic Beach, and City of Jacksonville participating with Jacksonville Beach to have plans in place, should they be needed.

COURTESY OF THE FLOOR TO VISITORS

Speakers:

- Sandy Golding, 1203 North 18th Avenue, Jacksonville Beach

Ms. Golding stated that she had requested a copy of the audio recording of a recent council meeting and she was unable to hear many of the councilmembers comments because they did not have their microphones on. Ms. Golding also suggested that the City consider posting the audio and/or video of council meetings on the web.

MAYOR AND CITY COUNCIL

(a) Presentation of WaveMaker Award to Kurtis Loftus

Mayor Latham read and presented the award to Mr. Loftus for his numerous contributions and as an outstanding leader of the community.

Mr. Loftus expressed his appreciation for the award.

(b) Presentation of Certificate of Appreciation to Beaches Girl Scout Troop No. 1202

Mayor Latham read and presented the Certificate of Appreciation to members of Troop No. 1202, for providing service to the community by assembling the Safety Bags for distribution, which teaches children about safety when walking, bicycling, or skateboarding.

City Clerk Judy Bullock displayed the contents of the bags and advised that the target group is children age 12 and under. She added that the items are funded by Florida Department of Transportation and the University of Florida and this is the fourth year the City Clerk’s Office has provided the safety bags.

CITY CLERK

(a) Appointment of One Regular Member and One Alternate Member to the Planning Commission

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Motion: It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, to appoint one Regular member and one Alternate member to the Planning Commission.

Mr. Forbes advised that the recommendation was to reappoint Mr. Callan to a new four-year term; appoint Mr. Dorson as First Alternate; and appoint one of the applicants as Second Alternate.

Councilmembers concurred with the recommendation to reappoint Mr. Callan for a four-year term and to appoint Mr. Dorson as First Alternate.

Roll call vote to reappoint William Callan to a four-year term (expiring June 30, 2018) on the Planning Commission resulted in all ayes - Doherty, Hartkemeyer, Hoffman, Vogelsang, Wilson, and Mayor Latham. Reappointment was unanimous.

Roll call vote to appoint Lee Dorson as First Alternate on the Planning Commission (to complete Rick Knight's unexpired term, which will expire on January 31, 2015) resulted in all ayes - Hartkemeyer, Hoffman, Vogelsang, Wilson, Doherty, and Mayor Latham. The appointment was unanimous.

Motion: It was moved by Mr. Doherty, seconded by Mr. Vogelsang, to appoint Britton Sanders as Second Alternate on the Planning Commission (to complete Lee Dorson's unexpired term, which will expire on January 31, 2015).

Roll call vote: Ayes - Hoffman, Vogelsang, Wilson, Doherty, Hartkemeyer, and Mayor Latham; motion carried unanimously.

(b) Appointment of Two Regular Members to the Board of Adjustment

Motion: It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, to appoint two Regular members to the Board of Adjustment.

Mayor Latham reviewed the recommendation to reappoint John Moreland to a new four-year term, which will expire on August 6, 2018; and to reappoint Thomas Buck to a second four-year term, which will expire on August 6, 2018.

Councilmembers concurred with the recommendation to reappoint Mr. Moreland and Mr. Buck to new four-year terms.

Roll call vote to reappoint Mr. Moreland resulted in all ayes – Vogelsang, Wilson, Doherty, Hartkemeyer, Hoffman, and Mayor Latham. Reappointment was unanimous.

Roll call vote to reappoint Mr. Buck resulted in all ayes – Wilson, Doherty, Hartkemeyer, Hoffman, Vogelsang, and Mayor Latham. Reappointment was unanimous.

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CITY MANAGER

(a) Monthly Financial Reports – Month of June 2014

Motion: It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, to approve the Monthly Financial Reports for the month of June 2014.

Roll call vote: Ayes - Doherty, Hartkemeyer, Hoffman, Vogelsang, Wilson, and Mayor Latham; motion carried unanimously.

(b) Acceptance of the Local Justice Assistance Grant (JAG) No. 2014-H2977-FL-DJ, in the Amount of \$15,539

Motion: It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, to approve the acceptance of Justice Assistance Grant in the amount of \$15,539 for traffic radars, and in-car video equipment, as described in a memo from Chief Dooley, dated July 7, 2014.

Mr. Forbes explained that the grant would be used for one in-car audio/visual unit to be used by one of the City's traffic officers; and three radar units, with one being a laser unit.

A brief discussion ensued regarding certification of police officers in the use of radar units, the type of grant, and existing equipment.

Roll call vote: Ayes - Hartkemeyer, Hoffman, Vogelsang, Wilson, Doherty, and Mayor Latham; motion carried unanimously.

(c) Award Bid No. 1314-07 for SF6 145kV, 40kA Transmission Gas Circuit Breakers

Motion: It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, to award Bid No. 1314-07 for SF6 145kV, 40kA transmission gas circuit breakers to *Alstom Grid*.

Mr. Forbes advised that the City has eight transmission line oil circuit breakers in service that are over thirty years old and are at the end of their useful life. He added that parts are no longer commercially available to make repairs on the equipment. The recommendation is to replace four of the units this year and the remaining four units next year.

Roll call vote: Ayes - Hoffman, Vogelsang, Wilson, Doherty, Hartkemeyer, and Mayor Latham; motion carried unanimously.

(d) Award Bid No. 1314-08 for the Supply of Unleaded Gasoline and Diesel Fuel to the Lowest Qualified Bidder, *James River Solutions*

Motion: It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, to award Bid No. 1314-08 for the supply of Unleaded Gasoline and Diesel Fuel to *James River*

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Solutions, as described in the memorandum from the Purchasing Administrator, dated July 7, 2014.

Roll call vote: Ayes - Vogelsang, Wilson, Doherty, Hartkemeyer, Hoffman, and Mayor Latham; motion carried unanimously.

RESOLUTIONS

ORDINANCES

(a) ORDINANCE NO. 2014-8057 – Second Reading

Mayor Latham requested that the City Clerk read Ordinance No. 2014-8057, by title only; whereupon Ms. Bullock read the following:

“AN ORDINANCE OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, DIVISION 7, FIREFIGHTERS’ RETIREMENT SYSTEM, OF THE CITY OF JACKSONVILLE BEACH CODE OF ORDINANCES, AMENDING SECTION 2-164.2, DEFINITIONS; AMENDING SECTION 2-164.7, NORMAL RETIREMENT CONDITIONS; AMENDING SECTION 2-164.8, VESTED TERMINATION OF MEMBERSHIP; AMENDING SECTION 2-164.9, AMOUNT OF A PENSION; AMENDING SECTION 2-164.19A, EARLY RETIREMENT; AMENDING SECTION 2-164.20, MEMBER CONTRIBUTIONS; AMENDING SECTION 2-164.31, RESERVE FOR PENSION PAYMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.”

Mr. Forbes explained that the City has successfully negotiated pension reform with the General Employees’, Police Officers’, and Firefighters’ union. The City strives to maintain a fiscally responsible retirement system and the ordinance amends the Firefighters’ Retirement Plan to reflect the pension reform changes.

Motion: It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, to adopt Ordinance No. 2014-8057, amending Chapter 2, Article V, Division 7, ‘Firefighters’ Retirement System’, of the Code of Ordinances of the City of Jacksonville Beach, on its second reading.

Roll call vote: Ayes - Wilson, Doherty, Hartkemeyer, Hoffman, Vogelsang, and Mayor Latham; motion carried unanimously.

(b) ORDINANCE NO. 2014-8058 – First Reading – (PUBLIC HEARING)

Mayor Latham requested that the City Clerk read Ordinance No. 2014-8058, by title only, holding a public hearing; whereupon Ms. Bullock read the following:

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“AN ORDINANCE ESTABLISHING A *REDEVELOPMENT DISTRICT: RD ZONING DISTRICT* WITHIN THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS PROVIDED UNDER CHAPTER 34 OF THE CODE OF ORDINANCES OF SAID CITY. (602 N. 1st Street, *Mango’s bar*)”

Mayor Latham read the following for the record:

“This ordinance for the rezoning of property is before this Council for a public hearing and consideration on its first reading. Under the laws of the State of Florida, an application for the rezoning of 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 his or her 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 rezoning 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 City Council has received a copy of the application and the staff and Planning Commission and Community Redevelopment Agency recommendations on this rezoning request. I will now open the Public Hearing on Ordinance No. 2014-8058.”

Public Hearing

Mayor Latham opened a Public Hearing on Ordinance No. 2014-8058, and requested that the applicant or agent for the applicant make their presentation.

Applicant/Agent:

Steven Diebenow, One Independent Drive, Suite 1200, Jacksonville Florida, stated that he was present on behalf of the applicant.

Mr. Diebenow’s presentation included PowerPoint slides and a printed copy was distributed to councilmembers (copy on file). He added that Tony Perez, General Manager of Surfer Magazine was present and would address the Council.

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Mr. Diebenow stated that the proposed project fits in with what the City is trying to achieve through the use of consultants in the Central Business District. He added that this would be the first “Surfer” [The Bar] in the continental U.S., as the only one is located in Oahu, Hawaii. Mr. Diebenow stated that addition of this business would make Jacksonville Beach a *Destination*. He advised that the applicants are not asking for any incentives, or for relief from the signage code or parking requirements. In addition, the proposed project would be a tremendous improvement over what exists today. It would be a mixed-use project and would bring pedestrians back to the area. Mr. Diebenow added that the Community Redevelopment Agency has approved the project and the Planning Commission voted to recommend approval of the project, with a few conditions, which provides competent and substantial evidence to support the application.

Mr. Diebenow then described the proposed project. They are not adding another bar, but using one of the liquor licenses available in the City and stated that the number of 4COP Licenses are based on population and can increase if the population increases. The project will meet the parking requirements and the prospective owners of the business are committed to bettering the community. Surfer, The Bar, will offer lunch and dinner daily via a permanent food truck and there will be food preparation areas inside the business. Customers can access the food truck and patrons can choose to dine inside the building or on the rooftop. He added that the business would provide a family-friendly environment and provide a common gathering space for sharing stories or listening to live music.

Mr. Diebenow reviewed the hours of operation (11:00 a.m. to 2:00 a.m.), explained that 35 to 40 percent of revenues will be from the sale of food. He then went over the technical changes being requested. The first would be for Council to allow the business to be built, even though it would be within 500 feet of a similar existing establishment (Land Development Code 34-393(2)) (Surfer, The Bar, would be within 190 ft. of Lynch’s Irish Pub and approximately 463 ft. of Bo’s Coral Reef).

They are also requesting Council approval for an exterior/interior ratio of approximately 45%, which would be about 3,400 sq. ft. The existing Land Development Code (LDC 34-407(b)), allows the outdoor customer service area not to exceed 20% of the first 3,000 sq. ft. of enclosed area, plus 10% of enclosed sq. ft. over 3,000. He added that there would be no amplified music or live bands outside, only televisions facing the structure. At this time, Mr. Diebenow requested that Tony Perez, General Manager of Surfer Magazine, address the Council.

Tony Perez, General Manager of Surfer Magazine, 319 Lugonia Street, Newport Beach, California, spoke in favor of the project.

Mr. Perez stated, if approved, this location would be the first in the contiguous United States. He explained that they have Talk Story, family movies on Friday evenings, acoustical music, etc. and raise money for numerous charities. It was noted that the location in Hawaii is at a large resort with retail stores.

Speakers -

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Mayor Latham opened the floor to persons wishing to speak to the issue:

- Joseph Loretta, 1887 Green Heron Court, Jacksonville Beach, spoke in favor.
- Mike Stang, 1020 North 19th Street, Jacksonville Beach spoke neither in favor of nor in opposition. He advised that he had concerns regarding the parking.
- Daniel Terry, 11369 Canvas Back Court, Jacksonville, spoke in favor.
- Dane Jefferys, 720 Bonita Road, Atlantic Beach, spoke in favor.
- Eddie Berrang, 102 North 6th Avenue, Jacksonville Beach, spoke in favor.

Mayor Latham advised that he had cards from the following persons in favor of the application, but do not wish to address the Council:

- Grady Hale, 61 Fairway Lane, Jacksonville Beach
- Leah Walker, One Independent Drive, Ste. 1200, Jacksonville
- Tom Rady, 527 Davis Street, Neptune Beach
- Jeff Crego, 2093 Hidden Cove Creek, Atlantic Beach
- Rod Mason, 2373 Osprey Lakes Drive, Jacksonville
- Richard Thompson, 408 South 15th Avenue, Jacksonville Beach

Persons wishing to address the Council continued:

- Lee Buck, 136 North 17th Avenue, Jacksonville Beach, spoke in opposition, and asked if the retail space had been increased. Mayor Latham advised that the retail space had been increased from 1,000 ft. to 3,000 ft.
- George Candler, 507 South 16th Avenue, Jacksonville Beach spoke in opposition.
- Paul West, 593 Margaret Street, Neptune Beach, spoke in favor.
- Jim Walker, 120 South 10th Avenue, Jacksonville Beach, spoke in favor.
- Mike Binder, 111 South 25th Avenue, Jacksonville Beach, voiced concerns regarding changing the Code for a single business.
- Holly Smith-Hale, 61 Fairway Lane, Jacksonville Beach, spoke in favor.
- Brenda Shields, 315 North 18th Street, Jacksonville Beach, spoke in opposition and voiced concerns about the lack of a restaurant, if children would be allowed in the establishment, and parking.

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- Fred Jones, 1300 Kings Road, Neptune Beach, spoke in favor and about capping parking.
- Curtis Dvorak, 1031 South 1st Street, #1407, Jacksonville Beach, spoke in favor.
- Lance Folsom, 1022 North 23rd Street, Jacksonville Beach, distributed copies of his e-mails to councilmembers, and spoke in opposition.
- Jim Overby, 21 Burling Way, Jacksonville Beach, spoke in opposition.
- Bruce Thomason, PO Box 50556, Jacksonville Beach, spoke in opposition.

Recess

Mayor Latham advised that there would be a brief recess (9:06 p.m.) and that the public hearing would resume following the recess.

Reconvene

The meeting was reconvened at approximately 9:12 p.m.

Mayor Latham asked if anyone else in the audience would like to address the Council.

There being no further speakers, Mayor Latham asked if City Attorney Susan Erdelyi had any comments or wished to address any of the applicants or the public comments/questions.

Ms. Erdelyi reminded Councilmembers that if they had any written or personal *ex parte* communications, they are required to disclose the identity of the person and the content of the communication.

Mayor Latham asked Planning and Development Director Steve Lindorff if he would like to address any of the discussion.

Mr. Lindorff advised that Mr. Diebenow had referred to the number of available 4COP liquor licenses, and how they are determined during his presentation. Mr. Lindorff explained that the City Charter has a quota of twelve of these licenses and it is based on the population as of 1950. He added that it is capped at twelve and cannot be increased without amending the City Charter.

Rebuttal of Applicant or Agent

Mr. Diebenow stated that their project meets the parking requirements of twenty-two regular spaces and one handicapped space. This was instead of asking for a parking exception and building a larger structure. He reiterated that the revenue ratio will be approximately 35% from food and 65% from beverages and that does not include the retail income. Twenty-five percent of the structure is dedicated to retail. Additionally they will have about fifty

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employees and will provide adequate security. In addition to the food truck there will be food preparation inside the building. Mr. Diebenow stated that the Community Redevelopment Agency voted four to one that the proposed project meets the City's requirements and the Planning Commission recommended approval of the proposed project.

Close Public Hearing

There being no further speakers, 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 the persons and the substance of any *ex parte* communications. 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 advised that he had filed his communications with the City Clerk, which are available from the City Clerk's Office as a public record.

- December 18, 2013 Mayor Latham met with Robert Tilka and Greg Saig regarding a potential business opportunity for replacing Mangos Bar with a new bar. He invited Mr. Lindorff and Senior Planner Bill Mann to join the meeting. The discussion was in general terms about the proposed bar.
- June 30, 2014, received e-mail from Mr. Diebenow requesting a meeting, which was declined because he has a personal policy of not participating in *ex parte* communications prior to a hearing. The communication had two attachments, which were not opened.
- July 4, 2014, received an e-mail from Lance Folsom (which was distributed to councilmembers earlier in the meeting).
- July 8, 2014, 7:19 p.m. received a text and a phone call from Robert Tilka requesting a lunch meeting, which was declined. Mayor Latham also requested that Mr. Tilka contact him via e-mail, rather than by text.
- July 9, 2014, e-mail from Lance Folsom in opposition.
- July 14, 2014, message from Warren Smith in favor.
- July 15, 2014, message from Stephanie Piraino in opposition.
- July 17, 2014, letter from Brenda Shields in opposition.
- July 20, 2014, message from Lance Folsom on parking.
- July 20, 2014, message from Georgette Dumont in opposition.
- July 15, 2014, letter from Tony Perez, Surfer Magazine, thanking them for their consideration.

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Mayor Latham asked the City Clerk if there were any other communications not covered, to which Ms. Bullock responded there was not.

Mayor Latham requested that the City Clerk ask each Councilmember if they had any *ex parte* communications.

Councilmember Hoffman –

- July 7, 2014, at 9:00 a.m. met with Steve Diebenow at Starbucks in Jacksonville Beach and they discussed the presentation given tonight, layout and design to the building and any changes that had been made.
- July 15, 2014, letter from Tony Perez in support, addressed to the Mayor, and copied to the Councilmembers.
- July 4 and July 20, 2014, received letter from Lance Folsom in opposition.
- July 21, 2014, message from Georgette Dumont in opposition.
- July 21, 2014, Facebook message this a.m. from Terry DeLoach in support.

Councilmember Doherty –

- Received same communications as the Mayor and fellow Councilmembers.
- July 20, 2014, message from Georgette Dumont in opposition.
- July 15, 2014, letter from Tony Perez in support, addressed to the Mayor, and copied to the Councilmembers.
- Telephone conversation with Mr. Saig.
- Meeting with Mr. Tilka.
- July 9, 2014, informal meeting with Mr. Saig and Mr. Tilka to discuss the drawings of the building presented tonight and their vision for the Surfer.

Councilmember Wilson –

- Received same e-mails/messages as received by other Councilmembers.
- Phone call from Robert Tilka
- Request from Mr. Diebenow for a meeting, which she declined.
- No discussions other than requesting a meeting.

Councilmember Hartkemeyer –

- Received same e-mails/messages as received by other Councilmembers.
- 3 e-mails from Lance Folsom
- E-mail from Georgette Dumont
- Phone call from Steve Diebenow asking for a meeting, which he declined.
- Telephone conversation with Steve Lindorff and staff.

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Councilmember Vogelsang –

- June 11, 2014, had lunch with Mr. Diebenow and discussed the plans of the building, as presented tonight, and reviewed the proposed modifications following the Planning Commission meeting.
- Received same e-mails/messages as received by other Councilmembers.

At this time, Mayor Latham requested a motion on Ordinance No. 2014-8058.

Motion: It was moved by Mr. Hartkemeyer, seconded by Mr. Vogelsang, to adopt Ordinance No. 2014-8058, establishing a *Redevelopment District: RD Zoning District* within the City of Jacksonville Beach, Florida, as provided under Chapter 34 of the Land Development Code of the Jacksonville Beach Code of Ordinances. (Applicant – *Surf Works, LLC, c/o Robert Tilka*)

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 that the basis upon which such facts were determined and how the decision was made.”

Mayor Latham opened the floor to the Council for discussion.

Mayor Latham advised that he had extensively reviewed the Land Development Code, Vision Plan, and the Comprehensive Plan and compared the proposed project to the City’s current regulations and that he is opposed to the application, as written, because it does not meet the intent of the Land Development Code and the Vision Plan. Mayor Latham added that he would be open to reconsider the application, after the City has received the recommendations of the consultants, *Hospitality Inc.* and *Retail Strategies*.

Mr. Vogelsang suggested that the application be postponed or tabled to address the concerns or until the consultants’ recommendations are in, rather than vote it down. Mr. Vogelsang asked if the applicant is entitled to another public hearing.

Mr. Forbes responded that there is only one public hearing, but this is only the first reading of the ordinance. Normally, there would be a second reading in two weeks, unless it is postponed, then it would come before the council, at a later date.

Mr. Vogelsang stated that he would be voting in favor of the application, as presented. He added that the Council takes time and consideration in who they appoint to the Community Redevelopment Agency and Planning Commission and by voting against their recommendations, the Council is discounting their knowledge and decisions.

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Mr. Doherty advised that he would be abstaining from the discussion and vote, due to a conflict of interest.

Ms. Wilson extended her appreciation for the presentation and stated that she is not sure that this is the right location for the proposed project. She added that the location in Hawaii is part of a very large resort and a destination for surfers. Ms. Wilson stated that she concurred with Mayor Latham.

Ms. Hoffman advised that she is in favor of the location and that it is perfect for an ocean view bar. It is a beautiful building, right on the road, which encourages walkability in the area. Ms. Hoffman stated that this project is something you would see in a city such as San Diego. She added that this hearing has also shown that the City has many outdated regulations and requirements. Due to Mr. Doherty recusing himself and Mr. Taylor's absence, she would like to table the issue so it can be reconsidered at a later date, which would also allow the applicants to address the concerns.

Amended Motion: It was moved by Ms. Hoffman, seconded by Mr. Vogelsang, to table the issue until Mr. Taylor is present.

Roll call vote: Doherty, abstain; Hartkemeyer, yes; Hoffman, yes; Vogelsang, yes; Wilson, no; Mayor Latham, no. Motion failed with a 3 to 2 vote. (Mr. Forbes explained that the City Charter states that it takes four votes from the Council to pass any action other than to adjourn.)

Mr. Hartkemeyer advised that he also has many of the same concerns as the Mayor. He added that parking is definitely an issue in the downtown area. Mr. Hartkemeyer stated that the design is very appealing, however it is a bar, and he could not support the project.

Mr. Diebenow asked if the applicant could request a deferral, as they would appreciate the opportunity to address the concerns and present the project to the Council again.

Mr. Vogelsang spoke in favor of allowing Mr. Diebenow to take into account the concerns voiced by the Councilmembers and present the project again.

Ms. Wilson commented that there would be a second hearing on the ordinance.

Mr. Forbes advised that this is the only public hearing and if the ordinance were passed on its first reading, it would then go to a second reading.

City Attorney Susan Erdelyi asked if Mr. Doherty's conflict of interest was relevant in the vote to table.

Due the motion to table failing, Ms. Bullock asked if the original motion should be under consideration at this time.

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Mr. Forbes stated that he needs direction from the Council as to when to bring the issue back. Additionally, a motion to table must be to a time certain.

Mayor Latham asked if the public hearing would be repeated.

Mr. Forbes advised that the ordinance would be a first reading, as the public hearing has been held. He added that the applicant would be able to make his presentation and the public would be allowed to speak.

Motion: It was moved by Ms. Hoffman, seconded by Mr. Vogelsang, to table the ordinance for two weeks.

Mr. Forbes advised that the Council packet might be the same as it is now, unless Mr. Diebenow provides any new information very quickly. Otherwise any new information would be distributed at the council meeting.

Mr. Lindorff explained, for continuance of a public hearing or meeting, the law states that the body conducting the hearing or meeting, on its own motion, or at the request of any person, may continue the meeting to a fixed date, time, and place. Additionally, the applicant shall have the right to request and be granted one continuance; however all subsequent continuances shall be granted at the discretion of the body conducting the hearing.

Amended motion: It was moved by Mr. Vogelsang, seconded by Ms. Hoffman, to table the issue for one month (August 18, 2014).

Mr. Diebenow advised that one month would be acceptable.

Roll call vote: Ayes - Hartkemeyer, Hoffman, Vogelsang, Wilson, Doherty, and Mayor Latham; motion carried unanimously.

ADJOURNMENT

There being no further business coming before the Council, Mayor Latham adjourned the meeting at 10:13 p.m.

Submitted by: Judy L. Bullock
CITY CLERK

Approval:

/s/William C. Latham

William C. Latham, MAYOR

Date: August 4, 2014