

**Minutes of Regular City Council Meeting  
held Monday, October 21, 2013, at 7:00 P.M.  
in the Council Chambers, 11 North 3<sup>rd</sup> Street,  
Jacksonville Beach, Florida.**



**CALL TO ORDER:**

Mayor Charlie Latham called the meeting to order.

**OPENING CEREMONIES:**

Invocation was by Council Member Vogelsang; followed by the Salute to the Flag.

**ROLL CALL:**

Mayor: Charlie Latham

Council Members: Keith Doherty Steve Hartkemeyer Christine Hoffman  
Tom Taylor 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. Taylor, seconded by Mr. Hartkemeyer, and passed, to approve the following minutes, as presented:

- Regular City Council Meeting held October 7, 2013
- City Council Workshop held October 9, 2013

**ANNOUNCEMENTS**

- Mr. Taylor announced that City of Jacksonville Council President Bill Gulliford has appointed a Consolidated Task Force. The members will hold a Town Hall Meeting at Fletcher Auditorium, Thursday, October 24, 2013, from 6:00 to 7:30 p.m.
- Mayor Latham made the following announcements:
  - Attended a Town Hall Meeting on October 8, 2013, with 14 members of Jacksonville Beach Churches. He advised it was a good exchange of information and will likely continue meeting every six months.
  - Awarded a Proclamation of Esteem to Atlantic Beach Mayor Borno for his work on the Transportation Policy Organization for North Florida and for his service to all three-beach cities.
  - Attended the Ferry Fest with Mr. Taylor on Saturday, October 12, 2013. He congratulated Elaine Brown and Mitch Reeves for their hard work to keep the Ferry alive for another year. As the Beaches new TPO representative, he voted along with the members of the TPO Board to provide an additional \$190,000 (monies were received from the Federal

Ferry Discretionary Fund) to the City of Jacksonville for the repairs to be completed on the Ferry this December while it is in dry dock.

- Represented the City of Jacksonville Beach at the 90<sup>th</sup> birthday party of Ms. Tiny Little, who has been a very important member of the community through her participation in numerous church groups.
- Introduced Dr. Shreena Patel, owner of Beaches Orthodontic,s at a ceremony celebrating her establishment of the Beaches Branch of “Smiles for a Lifetime.” The organization provides free orthodontic care, when medically necessary, for children who cannot afford the treatment.
- Mayor Latham and his wife Kathryn attended the Mission House Fundraiser held on Saturday, October 19, 2013, at the Sawgrass Beach Club. In addition, he extended his congratulations to Ms. Lori Anderson for a very successful fundraiser.
- Represented Jacksonville Beach at the official opening of the Beaches Historical Society Chapel, Sunday, October 20, 2013. There was a very good turnout, and sincere congratulations to Mr. Maartin Van De Gutch, Ms. Peggy Cornelius and the entire team for their efforts in moving and preparing the church for the public.

#### **COURTESY OF THE FLOOR TO VISITORS**

##### Speakers:

- Susan West, 512 Palm Tree Road, Jacksonville Beach  
Ms. West provided a handout and voiced her concerns regarding drainage of stormwater in the area of Palm Tree Road and 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Avenues North.
- Pat Stone-Smith, 415 South 3<sup>rd</sup> Street, Jacksonville Beach  
Ms. Stone spoke in opposition to paid parking.
- John Galarneau, 2002 Grove Street, Jacksonville Beach  
Mr. Galarneau expressed his concerns about the direction of redevelopment and said that the City was losing its focus of the Vision Plan.

At this time, Mayor Latham advised that there would be a workshop on paid parking following the council meeting. However, public input would be during the regular council meeting. He added that the workshop’s purpose was to allow Council members to review options and that no decision would be made to implement paid parking or not.

##### Speakers (cont.):

- Mick DuRocher, 41 Millie Drive, Jacksonville Beach  
Mr. DuRocher spoke in opposition to paid parking.

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- Ken Marsh, 2027 Gail Avenue, Jacksonville Beach  
Mr. Marsh stated that the City needed to be clear on its objectives and what problem they are trying to solve before implementing paid parking.
- Bill Stevens, 733 North 2<sup>nd</sup> Avenue, Jacksonville Beach (owner of Beachside)  
Mr. Stevens spoke in opposition to paid parking.
- Vincent McGuire, 127 North 1<sup>st</sup> Avenue, Jacksonville Beach (owner of Campeche Bay)  
Mr. McGuire spoke in opposition to paid parking.
- Tony Hall, 1224 Seabreeze Avenue, Jacksonville Beach (owner of Jax Beach Surf Shop)  
Mr. Hall spoke in opposition to paid parking.
- Sunny Montes, 131 North 1<sup>st</sup> Avenue, Jacksonville Beach (employee of Zetas)  
Ms. Montes spoke in opposition to paid parking.
- Evan Rady, 729 South 6<sup>th</sup> Avenue, Jacksonville Beach (affiliated with Ocean Grille)  
Mr. Rady spoke in opposition of paid parking and suggested that the City impose a tax based on the square footage of the business to pay for security.
- Jamin Trinidad, 556 Sea Spray Avenue, Atlantic Beach (employee of Yoga Berry)  
Mr. Trinidad spoke in opposition to paid parking.
- Jon McGowan, 5 North 17<sup>th</sup> Avenue, Jacksonville Beach (President of Better Jacksonville Beach)  
Mr. McGowan provided Council members with a handout, and spoke in opposition to paid parking and suggested that the Council concentrate on security by increasing the number of CAPE Officers or hire a Private Security Company.

**MAYOR AND CITY COUNCIL**

(a) Appointment of a Temporary Special Magistrate for Code Enforcement

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to authorize the Mayor and City Manager to execute a contract with Sonya Hoener to serve as a temporary Special Magistrate for the City of Jacksonville Beach, until a permanent Special Magistrate can be appointed by the City Council.

Mr. Forbes explained that the City's Special Magistrate Crystal Broughan resigned on October 14, 2013. Due to ongoing violations of City Codes, an Interim Special Magistrate needs to be appointed. He reviewed Ms. Sonya Hoener's background and advised that the City Attorney recommended her for appointment.

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

**CITY CLERK**

**CITY MANAGER**

(a) Monthly Financial Reports – Month of September 2013

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to approve the Monthly Financial Reports for the month of September 2013.

Mr. Forbes briefly reviewed the monthly financial reports and advised there was an error on page five in the paragraph following item seven that says:

“The cash and investments report attached reflects a net decrease in cash...”

The word “decrease” should read “increase”.

Amended motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to approve the Monthly Financial Reports for the month of September 2013, as corrected.

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

(b) Approve Improvements to the Adult Softball Field No.1 at Wingate Park

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to approve the improvements to Softball Field No. 1 at Wingate Park, as described in the memorandum from the Parks and Recreation Director, dated October 10, 2013.

Mr. Forbes explained that these ball fields are used for adult sports and are in use annually from February to November. He added that each League that plays on the fields pays a fee of \$50, which is used, for improvements/maintenance to the fields. Through customer surveys, the leagues have requested that the turf be replaced. Currently, monies are available to replace approximately 1/3 of the grass on Softball Field No. 1, which would be Phase I. The replacement grass is a variety of Bermuda grass, known as “Celebration”, and it has shown to be a heartier grass with better recovery from heavy use.

Mr. Doherty asked about the necessity to replace the grass and Ms. Wilson asked if funding from the City of Jacksonville would be available.

Mr. Forbes responded to the issue of funding and stated that monies from the City of Jacksonville would be used to rebuild the basketball courts at Carver Center. He added that the funds have not been received, but to his understanding, the City is to receive a substantial amount of funds.

Mr. Meadors addressed the question on the necessity of the replacement. He explained that the current turf was installed more than 10 years ago. The field is in need of this type of maintenance

due to holes, weed infiltration. He added that all of the grass would be replaced in increments, as funding becomes available.

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

(c) Approve Cemetery Improvements at H. Warren Smith Cemetery

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to approve the improvements to the H. Warren Smith Cemetery, as described in the memorandum from the Parks and Recreation Director, dated October 10, 2013.

Mr. Forbes advised that work is underway on improvements to the two City-owned cemeteries. As funds have become available, improvement projects have been continuous. In their efforts to continue to improve the appearance of H. Warren Smith Cemetery, the following improvements are recommended:

- Extend the retaining wall from the corner of Beach Boulevard to the first cemetery entrance to match the newly installed retaining wall.
- Reroute the existing sidewalk so that it runs in front of the north end of the retaining wall. Currently one section of the sidewalk dead ends in front of the wall.
- Install a concrete slab under the new bus shelter.
- Replace the railroad tie curbing inside the cemetery with a concrete curb.

Mr. Forbes added that funds are available from the Cemetery Capital Improvement Fund. He explained that a portion from the sale of each burial lot is set aside for improvements and maintenance to the cemetery.

Ms. Wilson stated that she is in favor of the improvements and voiced her concern that the cost of the project would deplete the fund. She also asked if there were any lots available for sale.

Mr. Forbes responded that there are remaining lots for sale in both cemeteries and there are approximately 450 cremorial niches with space to add more in the future.

Mr. Meadors advised that there are about 70 lots still available. He added that 67% of the cost for a burial lot goes into the fund for improvements to the cemeteries.

Mr. Forbes explained that the City actually owns the land in the cemeteries and when someone purchases a burial space, they are buying a perpetual easement.

Mr. Taylor stated that he was not in favor of the retaining wall and that it should be replaced with landscaping.

Mr. Doherty suggested that the City use fencing.

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Mr. Meadors explained that there is an elevation issue and if the retaining wall were not built, it would create a very steep slope. He added that staffing cuts has left only one employee to mow and maintain the cemeteries, which makes the use of landscaping prohibitive.

Roll call vote: Ayes- Vogelsang, Wilson, Hartkemeyer, Hoffman, and Mayor Latham; Nays – Doherty and Taylor. The motion carried by a vote of 5 to 2.

- (d) Authorize Change Order for the Construction of the Stormwater Improvements Project on Republic Drive and Sanctuary Way North

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to authorize the Stormwater Improvements Project on Republic Drive and Sanctuary Way North, by change order to Unit Price Bid No. 1213-04, with *G&H Underground Construction, Incorporated*, and authorize Construction Administration Services with the project's design firm, *Waitz & Moye*, as described in the memorandum from the Public Works Director, dated October 3, 2013.

Speakers:

- David Scott, 3694 Sanctuary Way North, Jacksonville Beach  
Mr. Scott spoke in opposition to the clearing and closing of the canal located by his property at Republic Drive (west end) to Lake Sanctuary. He cited the numerous hardwood trees that would be removed and stated that he has lived in his home for 19 years with no flooding issues. Mr. Scott added that he had only received four days' notice of the proposed project.
- Carolyn Conner, 3682 Sanctuary Way North, Jacksonville Beach  
Ms. Conner spoke in opposition to the clearing and closing of the canal located by her property at Republic Drive (west end) to Lake Sanctuary. She stated that the water flows quickly through the canal next her property. Ms. Connor also voiced her concerns regarding removal of the numerous trees and added that she had not received sufficient notification of the proposed project.

Mayor Latham disclosed that he and other members of the Council had visited the property and that the project may need further research.

Mr. Forbes explained that the pond receives stormwater from Constitution Cove, which eventually flows into the Intracoastal Waterway. Staff is requesting approval for two projects, with three separate pieces. The first is installation of 50 lineal feet of new 24" PVC pipe and a headwall structure. Mr. Forbes advised that he is not generally in favor of filling in drainage canals. However, in this instance there are concerns about access to clean the canal. He stated that the canal is part of the City's 40' drainage easement.

Mr. Forbes recommended that Council consider moving forward with Part B and a portion of Part A of the project, leaving the remainder of the canal between the homes intact. He added that Public Works can monitor the area and the City can take action if needed.

Mayor Latham asked where the area of concern is located and if any complaints of flooding had been received.

City Engineer Marty Martirone came forward to respond to Council members questions. He responded that the purpose of the project is to improve drainage. There is a 36” pipe that flows from Constitution Cove into the pond, which has flooded in the past and there have been reports of flooding from residents in Constitution Cove.

Mr. Doherty asked where the water in Part B originates and what size is the pipe under the roadway in Part A.

Mr. Martirone replied that Part B is probably road drainage as it is a 24” pipe and the pipe underneath the roadway is 36”.

Mr. Doherty advised that when he visited the property, the water was flowing through the canal.

Ms. Wilson expressed her appreciation to the City for being proactive in preventing flooding; however, Mr. Scott and Ms. Connor’s property would be negatively impacted if the trees are removed and the canal closed.

Mr. Taylor also stated that he visited the property and there was no problem with water flow in the canal, however the water on the other side of the roadway was rather high. He added that he agrees with Mr. Forbes recommendation.

Mayor Latham suggested that Council consider voting against the project, as presented and have the upstream flow reevaluated.

Mr. Forbes advised that Council has two options, one would be to turn down the project, and the other would be to approve Part B and the portion of Part A up to the drainage canal.

Following a lengthy discussion, Council members concurred to vote on the original motion and if it was not approved, they requested that staff reevaluate the project and bring back to Council.

Roll call vote: Nays- Vogelsang, Wilson, Doherty, Hartkemeyer, Hoffman, Taylor, and Mayor Latham; motion failed unanimously.

## **RESOLUTIONS**

## **ORDINANCES**

### **(a) ORDINANCE NO. 2013-8033 – SECOND READING – PUBLIC HEARING**

Mayor Latham requested that Ordinance No. 2013-8033, be read by title; whereupon Ms. Bullock 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.” (South Beach Regional Shopping Center – This Will Modify the Approved Planned Unit Development to Allow the Construction of an Additional 12,000 Sq. Ft. of Tenant Space, and a Minor Increase in Wall Signage)”**

Mayor Latham read the following statement for the record:

“This ordinance to amend the rezoning of this 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 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 rezoning 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 zoning amendment request.”

**Public Hearing**

Mayor Latham opened the public hearing on Ordinance No. 2013-8033 and asked if the applicant or their agent was present and if they would like to make a presentation.

Speaker:

- Mr. Doug Skiles, Envision Design Plus Engineering  
Representing Equity One, Property Owner  
2002 San Marco Boulevard, Jacksonville, FL

Mr. Skiles came forward and stated he was there to respond to any questions.

Mr. Forbes referred to a newspaper article he distributed to Council member regarding the new “Trader Joes” business that will occupy the new construction under consideration. He added that the new business would have a positive effect on Jacksonville Beach.

There being no further speakers, and no one wished to speak in favor or against the motion, 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 asked if the City Clerk’s Office had received any additional written communications; Ms. Bullock responded no.

Mayor Latham stated that he had contacted Mr. Skiles on behalf of the Governor, who wanted to contact new businesses coming into the area.

Mayor Latham requested that the City Clerk poll the Council members, as follows:

- Mr. Vogelsang - None
- Mr. Hartkemeyer - None
- Mr. Taylor - None
- Ms. Wilson - None
- Mr. Doherty - None
- Ms. Hoffman – None

Mayor Latham requested a motion on the ordinance.

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to adopt Ordinance No. 2013-8033, as amended, amending Ordinance No. 7411, as amended, governing South Beach Regional Shopping Center to allow construction of a total of 12,066 square feet of new tenant space, and to allow an additional 90 square feet of wall signage on the east face of the Sandcastle building, as read by title.

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

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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.”

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

Motion: It was moved by Mr. Taylor, seconded by Mr. Hartkemeyer, to approve the Findings of Fact for Ordinance No. 2013-8033, dated October 7, 2013.

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

**ADJOURNMENT**

There being no further business coming before the Council, Mayor Latham adjourned the meeting at 8:47 p.m. and announced that a Workshop would begin at 8:55 p.m.

Submitted by: Judy L. Bullock  
City Clerk

Approval:

/s/William C. Latham  
William C. Latham, Mayor

Date: November 4, 2013