

**Minutes of Regular City Council Meeting
Held Monday, February 7, 2005 at 7:00 P.M.
In the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida.**

Call to Order

Mayor Sharp called the meeting to order.

Opening Ceremony

Invocation by Mayor Sharp.

Salute to the Flag.

Roll Call

Mayor: Fland Sharp

Council members: Lee Buck Penny Christian Rick Knight (*absent*)
Dick Matthews Martha Ann Sibley Linda Spence

Also present were City Manager George Forbes, City Attorney Stephen Stratford, City Clerk Heidi Reagan and Assistant City Clerk Judy Bullock.

Approval of Minutes

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, and passed, to approve the minutes for the Workshop Meeting held January 12, 2005 and the Regular Meeting held January 18, 2005, as presented.

Courtesy of Floor to Visitors

Mayor Sharp opened Courtesy of the Floor to Visitors.

Speakers: Maxine Terrell, 204 South 9th Street, Jacksonville Beach, Representing "PRIDE Neighborhood Association"

Ms. Terrell addressed the Council concerning the widening of Beach Boulevard and Penman Road and its effect on the Lee Kirkland Cemetery. She advised that it is believed that there are graves under parking lots and buildings (*former site of Nick's Pizza and a trailer park*). On behalf of the community, Ms. Terrell requested that the City accept the recommendation of The Southeastern Archeological Research Company that was submitted on November 4th. Their recommendation was that a mechanical scraping be performed of the area prior to any construction or digging.

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

Carl Smith, 551 South 6th Avenue, Jacksonville Beach

Mr. Smith extended his appreciation to the past and current Councils for the way the City staff handled the Super Bowl activities and visitors in Jacksonville Beach.

Sandy Golding, 1203 North 18th Avenue, Jacksonville Beach, Representing
"Beaches Watch"

Ms. Golding thanked the Council for the improvements that have been made in relation to communication with the City and providing access to information for the citizens (*i.e. establishment of e-mail addresses for the Mayor and Council members; updating and addition of information contained on the City's website; opening the January 12, 2005 Workshop to public comments; and allowing public input on the three 9th Street Workshops*).

Rev. Jeff L. Vinson, 1602 Arden Way, Jacksonville Beach

Rev. Vinson requested the Council's assistance concerning a dog attack. He stated that he was attacked by unlicensed dogs that were running loose and had been reported on two previous occasions. He added that Animal Control did not pick up the dogs following the attack and has offered no assistance with the problem.

Mayor Sharp requested that the City Manager provide Council members with a report on the procedures to be followed after a "dog bite" has been reported, including what the state law requires. Also, if the law requires that the animal is picked up following a bite, that it is done each and every time. The mayor also requested that there be no instances where a dog is not picked up, following a "bite".

Mr. Forbes responded that there is another side to this story and advised that he would research the laws and report back to the Council.

City Clerk "a"

**Appointment to the Codes Enforcement Board; First Alternate Position; term to expire
11/30/06**

Motion: It was moved by Ms. Spence and seconded by Ms. Sibley, to appoint Ms. Beth Acheson (currently the 2nd Alternate) to the position of 1st Alternate on the Codes Enforcement Board, term to expire November 30, 2006.

Roll call vote: Ayes – Buck, Christian, Matthews, Sibley, Spence and Mayor Sharp. Motion carried unanimously.

Nomination for position of 2nd Alternate, term to expire November 30, 2006:

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

Ms. Sibley nominated Matthew Bierschied.

Mr. Matthews nominated Bill Zielinski.

Roll call vote: Christian - Bierschied; Matthews - Zielinski; Sibley - Bierschied; Spence - Zielinski; Buck - Bierschied; and Mayor Sharp - Bierschied.

Mr. Bierschied was appointed to the Codes Enforcement Board, in the position of 2nd Alternate by a vote of 4-2.

City Manager “a”

Request for Approval to Accept Cash Contribution from Sunrise Surf Shop to the Parks and Recreation Department

Motion: It was moved by Ms. Spence, seconded by Sibley, and passed, for approval to accept a cash contribution from Sun Rise Surf Shop to the City’s Parks & Recreation Department (\$2,800).

At this time, Mayor Sharp was presented with a “check” for \$2,800 by Sun Rise Surf Shop owner, Dan Brooks.

City Manager “b”

Request for Approval to Donate 4 Surplus Filing Cabinets to the American Red Cross Volunteer Life Saving Corps

Motion: It was moved by Ms. Spence, seconded by Ms. Christian, and passed, to approve the donation of four (4) surplus filing cabinets to the American Red Cross Volunteer Life Saving Corps.

City Manager “c”

Approval of Dedication to the City and Acceptance for Maintenance of Water and Sewer Infrastructure Improvements for the South Beach Village Subdivision

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to approve the dedication to the City and acceptance for maintenance of the water and sewer infrastructure improvements that were installed in the South Beach Village Subdivision.

Roll call vote: Ayes – Matthews, Sibley, Spence, Buck, Christian and Mayor Sharp. Motion carried unanimously.

City Manager “d”

Request for Approval to Purchase Replacement Vehicle for Truck #504, Distribution & Collection Division, Public Works

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to approve the purchase of a replacement 3/4-ton heavy duty work truck with utility body for Public Works from the Florida State Bid Contract No. 070-001-05-1 (\$25,248).

Roll call vote: Ayes – Sibley, Spence, Buck, Christian, Matthews and Mayor Sharp. Motion carried unanimously.

City Manager “e”

Request for Approval of Design Change for Sewer Relocation Project due to the Beach Boulevard Widening

Motion: It was moved by Ms. Spence, seconded by Ms. Christian, to approve the design change to reroute a portion of the sewage collection system located in Beach Boulevard to Shetter Avenue as detailed in a memo from Ty Edwards dated January 19 ~~25~~, 2005, and titled “Approval of design change for sewer relocation project due to the Beach Boulevard Widening.” *(Mr. Edwards advised that the memorandum date of January 19th had been corrected to January 25th and requested the official record of the meeting reflect the correction.)*

Mr. Forbes explained that Beach Boulevard will be widened to six lanes and a new bridge will be constructed. However, the city has utilities in the Beach Boulevard right-of-way and it will be a considerable cost to the City to relocate the utilities. Mr. Forbes added that Public Works Director Ty Edwards and the engineers proposed a solution for approximately five blocks of sewer lines. The lines will be rerouted down Shetter Avenue which will avoid conflicts with the road construction and allow easier access for future repairs.

Ms. Spence referenced Ms. Terrell’s comments and requested that due consideration be given to any human remains that may be in the vicinity, and give them proper respect.

Roll call vote: Ayes – Spence, Buck, Christian, Matthews, Sibley and Mayor Sharp. Motion carried unanimously.

City Manager “f”

Request for Approval to Construct Additional Dune Walkovers and Replace a Sidewalk and Curb along the West Side of 2nd Street South from 1st to 2nd Avenue

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to approve the change order with *Miranda Contracting* as detailed in a memorandum from Ty Edwards dated February 2, 2005, and titled “Approval of Change Order to Construct Additional Dune Walkovers and Replace Sidewalks, Curb, and Alley Driveway Aprons.”

Mr. Forbes advised that Mr. Paxson, Deputy City Manager, was able to obtain a matching funds grant for dune walkovers. To date, 44 walkovers have been built and the city now has the

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

opportunity to build six additional walkovers. The change order will also provide for repairs to a sidewalk next to Pablo Towers, and will set aside additional monies to be utilized for sidewalk repairs in other areas of the city.

Mr. Buck asked if this change order also included a handicapped walkover.

Mr. Forbes responded that there is one new handicapped ramp and plans to modify a ramp already in place. The ADA compliant ramps are all located in areas where there is a large amount of public parking (i.e. Beach Boulevard, Oceanfront Park, 19th Avenue North and the new pier). He added that the new handicapped ramp will be installed at 16th Avenue South.

Roll call vote: Ayes – Buck, Christian, Matthews, Sibley, Spence and Mayor Sharp. Motion carried unanimously.

**City Manager “g”
Recommendation on Awarding Bid No. 0405-3 – Lake Spraying**

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, for approval to award Bid #0405-3 *“Lake Spraying”* to Clear Waters, Inc., the low bidder meeting specifications, at a cost of \$649.00 per month for a period of two years with an optional third year with the City Manager’s approval.

Roll call vote: Ayes – Christian, Matthews, Sibley, Spence, Buck and Mayor Sharp. Motion carried unanimously.

**RESOLUTIONS:
RESOLUTION NO. 1719-2005 – PUBLIC HEARING**

Mayor Sharp requested that the City Clerk read Resolution No. 1719-2005 by title; whereupon Ms. Reagan read the following:

“A RESOLUTION AMENDING A RESOLUTION AND DEVELOPMENT ORDER OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, RESOLUTION NO. 1247, AS AMENDED BY RESOLUTION NO. 1295, RESOLUTION NO. 1400-94, RESOLUTION NO. 1460-95, AND RESOLUTION NO. 1581-99, APPROVING A DEVELOPMENT ORDER FOR THE SOUTHEND COMMUNITY REDEVELOPMENT PROJECT AREA PURSUANT TO CHAPTER 380, FLORIDA STATUTES, TO INCREASE THE AUTHORIZED AMOUNT OF COMMERCIAL DEVELOPMENT, TO ALLOW THE DEVELOPMENT OF 51,000 SQUARE FEET OF COMMERCIAL USE IN PHASE 2, AND TO EXTEND PHASE 2 THROUGH 2005; FINDING THAT THE AMENDMENTS ARE CONSISTENT WITH THE JACKSONVILLE BEACH 2010 COMPREHENSIVE PLAN ELEMENTS, THE JACKSONVILLE BEACH LAND DEVELOPMENT CODE, AND THE STATE COMPREHENSIVE

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

**PLAN AND THAT THE AMENDMENT IS NOT A SUBSTANTIAL
DEVIATION FROM THE DEVELOPMENT ORDER; PROVIDING FOR
AN EFFECTIVE DATE AND FOR OTHER PURPOSES.”**

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Resolution No. 1719-2005, as read by title.

For clarification, Mayor Sharp advised that there are two items on the agenda that deal with the Home Depot issue, a resolution and an ordinance to be considered later.

Mr. Forbes explained that the resolution under consideration amending the Development Order would change the Development of Regional Impact, which the entire Southend Redevelopment District falls under. If approved by the council, the resolution increases the amount of commercial area within the project from 630,000 sq. ft. to 681,000 sq. ft. and to extend Phase 2 of development through 2005, to accommodate the proposed Target store and Home Depot store expansions. The resolution and the ordinance both require public hearings and the resolution can be approved without approving the ordinance on the Home Depot store. However, the ordinance cannot be approved without adoption of the resolution.

During the Public Hearing the following persons spoke:

Karen Ostergren, 530 Jacksonville Drive, Jacksonville Beach, spoke in opposition.

Richard C. Stoddard, Rumph, Stoddard & Christian, 3100 University Boulevard South, Jacksonville, representing the Sanctuary Home Owners' Association, Proctor Ace Hardware and Turner Ace Hardware, spoke in opposition. Mr. Stoddard also submitted petitions against a Home Depot store. *(Per a request from Council member Matthews, it is noted, that upon contact with the Secretary of the Sanctuary Home Owners' Association, it was found that Mr. Stoddard does not represent the Sanctuary Home Owners' Association).*

Ward Koutnik, 6620 Southpoint Drive South, Jacksonville, spoke in opposition. Mr. Koutnik distributed copies of a traffic analysis to council members and advised that he had performed the original traffic and road study for the Southend area. Mr. Koutnik stated that a Home Depot store would result in significant traffic and parking problems.

Paul M. Harden, 1301 Riverplace Boulevard, Jacksonville, representing Home Depot spoke in favor of the resolution. Mr. Harden explained that the resolution is not actually related to the expansion of Target or the proposed site of the Home Depot. He explained that it will merely convert current available space to retail/commercial use. He stated that Home Depot would deal with all impacts of the store site. Mr. Harden added that a traffic study had been completed and that the Home Depot store would generate much less traffic than indicated by Mr. Koutnik. He advised that they would be adding parking spaces and there would be no trucks during the day. He also addressed some of the concerns raised by the speakers in opposition to the store. He advised that they will ask

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

delivery trucks not to idle to eliminate exhaust fume concerns; and utilize electric carts for lifting instead of gas powered. Mr. Harden assured the council that he was prepared to address all concerns of neighboring properties.

W. Dean Thompson, 2067 Green Heron Point, Jacksonville Beach, spoke in opposition. He distributed a written challenge to the legality of the Public Notice that was published for the resolution.

James F. Overby, 21 Burling Way, Jacksonville Beach, spoke in opposition and distributed a Florida State Highway System Level of Service Summary for Duval County.

Tom Mnich, 3618 South 1st Street, Jacksonville Beach, spoke in opposition.

William G. Dresser, 192 St. George Court, Jacksonville Beach, spoke in opposition and submitted petitions.

Jerry Williamson, 3804 Duval Drive, Jacksonville Beach, spoke in opposition.

Dan Broderick, 3618 South 1st Street, Jacksonville Beach, spoke in opposition.

Anne Smathers, 3922 Duval Drive, Jacksonville Beach, spoke in opposition.

Claudia Dresser, 192 St. George Court, Jacksonville Beach, spoke in opposition.

Carol Larsen, 410 Jacksonville Drive, Jacksonville Beach, spoke in opposition.

Debbie Young, 410 & 436 Jacksonville Drive, representing Jacksonville Orthopaedic Institute, spoke in opposition. Ms. Young suggested separating the expansion of Target and the Home Depot issue, as there is a large wooded area behind Target. She commented that the proposed Home Depot site is already built out.

Dr. John Von Thron, 410 Jacksonville Drive, Jacksonville Beach, spoke in opposition.

Dr. James Fletcher, 482 Jacksonville Drive, Jacksonville Beach, spoke in opposition. He also distributed a letter from the physicians in the South Beach Professional Park and photographs of the Home Depot on Atlantic Boulevard to Council members.

Frank Journey, 1116 Blue Heron Lane West, Jacksonville Beach, spoke in opposition.

Brenda Durden, 9428 Baymeadows Road, #625, Jacksonville, representing Target Stores, spoke in favor of the resolution. Ms. Durden explained that there are two issues before the council. One, the resolution under consideration is to amend the Southend DRI, and is referred to as the Notice of Proposed Change, which will allow the council to consider the PUD ordinance for the proposed Home Depot. In March and April, hearings are scheduled for the PUD for the expansion of the Target store. She requested that the

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

Council approve the resolution and advised that the City's Redevelopment Agency is actually the applicant and they unanimously recommended the change. Ms. Durden explained that part of the approval process requires that the Notice of Proposed Change be submitted to several state agencies including the FDOT, DCA, and the Regional Planning Council. Those agencies have reviewed the change found that it is not a substantial deviation. She advised that the speakers heard tonight have been specific to the proposed location of the Home Depot, which will be heard later tonight. She urged the Council to recognize and acknowledge the difference; approve the DRI and then consider the Home Depot issue.

There being no further speakers, the public hearing closed and discussion returned to the Council.

Ms. Sibley asked Mr. Lindorff when Phase 2 began. Mr. Lindorff responded that the phasing has to do with what is actually being built in the area. He explained, increasing the amount of space available for commercial use will keep Phase 2 open. In response to Ms. Sibley's original question as to when Phase 2 began, Mr. Mann advised it was from 1999 to 2003. Mr. Lindorff also confirmed that this change was part of the original plan for the Southend Redevelopment area.

Mr. Matthews reminded council members that the resolution must be adopted to consider expansion of the Target store.

Ms. Christian stated that after listening to the comments from speakers she has several concerns regarding amending the PUD/DRI. The main issue is that it will set a precedent for the future. It is important to look at and understand what the amendment covers and doesn't cover. She advised that she has nine questions that she would like the Planning & Development Department to address, which will provide the council with guidance for the future.

Amended Motion: Ms. Christian offered an amended motion to table the resolution until the nine questions can be answered and considered at a future workshop.
Motion died for lack of a second.

Mayor Sharp asked Ms. Christian to read the questions for the record; whereupon Ms. Christian read the following:

1. How does amending the DRI/PUD produce development in keeping with the City of Jacksonville Beach Code of Ordinances and Comprehensive Plan?
2. How do the proposed amendments to the DRI/PUD provide for development which is in harmony with the general purpose and intent of the City of Jacksonville Beach Land Development Code and Comprehensive Plan?
3. How do the proposed amendments to the DRI/PUD provide for a more desirable environment than possible under the existing regulations?

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

4. How do the proposed amendments to the DRI/PUD provide for enhanced appearance of the property through the preservation of natural features and open space in excess of that which currently exists?
5. How do the proposed amendments to the DRI/PUD provide for an environment of stable (Webster: "healthful and well balanced") character compatible with the surrounding areas?
6. How do the proposed amendments to the DRI/PUD provide for retention of existing property values on adjacent properties currently used for restaurant, medical, retail and residential purposes?
7. What items were discussed during the pre-application conference for these proposed amendments to the PUD?
8. What does the record of the pre-application conference state in response to City of Jacksonville Beach Ordinance 34-345.e.4.b, 34-348.e.4.d, 34-348.e.4.g?
9. A valid traffic study is needed from the FDOT and those issues regarding concurrency.

Mr. Buck advised that he concurs with Mr. Matthews. He added that he has met with the city and spoken to several people and feels that the resolution under consideration should be approved. Then consider the individual expansion requests.

Ms. Sibley asked if there is a way to separate the Target and Home Depot issues.

Mr. Forbes responded that it is not really a matter of separating the issues; the council could certainly reduce the amount of commercial square footage that the DRI would be increased by.

Mr. Lindorff advised that the issue before the council is basically housekeeping in nature. The resolution is creating square footage that can only be granted the use of via an amendment to the PUD. All of the developments in the Southend Redevelopment District are Planned Unit Developments and the square footage could be authorized to be used anywhere within that area in accordance with the plan. Adoption of the resolution would not be taking something out of the air and putting it on the ground. The council would simply be setting a number that they could grant to a specific user through a PUD amendment. If the council decides not to adopt the resolution then both issues, expansion of Target and the proposed Home Depot would simply go away and then get on with trying to determine the future of the now empty Kmart store.

Mayor Sharp confirmed with Mr. Lindorff that the DRI includes both issues, Target and Home Depot, because they are both within the Southend Redevelopment District.

Ms. Spence advised that trying to split the DRI would be unnecessarily complicating the issue. She stated that the council should vote on approving the DRI then allow the Home Depot issue to

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

pass or fail on its own merits. Ms. Spence added that the council would also be considering expansion of the Target store in the future.

There being no further discussion, Mayor Sharp advised that the roll call vote would be on the original motion to approve Resolution No. 1719-2005.

Roll call vote: Matthews, yes; Sibley, no; Spence, yes; Buck, yes; Christian, no and Mayor Sharp, no. Motion failed by a 3-3 vote. *(Note – four affirmative votes are required for adoption)*

RESOLUTION NO. 1720-2005

Mayor Sharp requested that the City Clerk read Resolution No. 1720-2005 by title; whereupon Ms. Reagan read the following:

“A RESOLUTION OF THE CITY OF JACKSONVILLE BEACH, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE ALL GRANT APPLICATIONS AND OTHER DOCUMENTS RELATED TO SAID GRANT APPLICATIONS BETWEEN THE FLORIDA INLAND NAVIGATION DISTRICT (FIND) AND THE CITY OF JACKSONVILLE BEACH, TO FUND THE CRADLE CREEK, PHASE II PROJECT ON THE 2005 WATERWAYS PROJECT LIST.”

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Resolution No. 1720-2005, as read by title.

Mr. Matthews voiced his concerns about inadequate parking. He explained that there are only 5 available parking spaces and two are dedicated for handicapped visitors. Mr. Matthews asked if cars could be allowed to park along 15th Street.

Mr. Forbes advised, if passed, the resolution would provide a \$300,000 matching funds grant to help pay for the project. He added that, if additional parking should be needed, they could consider adding parking along 15th.

Roll call vote: Ayes – Sibley, Spence, Buck, Christian, Matthews and Mayor Sharp. Motion carried unanimously.

**ORDINANCES:
ORDINANCE NO. 2005-7896 – SECOND READING**

Mayor Sharp requested that the City Clerk read Ordinance No. 2005-7896 on its second reading by title; whereupon Ms. Reagan read the following:

“AN ORDINANCE RENAMING A PORTION OF CERTAIN STREETS AND NAMING A NEW UNNAMED STREET IN THE JACKSONVILLE BEACH HEIGHTS SUBDIVISION.”

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2005-7896 on its second reading, as read by title.

Roll call vote: Ayes – Spence, Buck, Christian, Matthews, Sibley and Mayor Sharp. Motion carried unanimously.

ORDINANCE NO. 2005-7897 – FIRST READING

Mayor Sharp requested that the City Clerk read Ordinance No. 2005-7897 on its first reading by title; whereupon Ms. Reagan read the following:

“AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; AMENDING CHAPTER 10, FIRE AND LIFE SAFETY; TO INCLUDE AMENDING ARTICLE III, FIRE PREVENTION AND LIFE SAFETY, SEC. 10-3.03, CODES ADOPTED; TO PROVIDE REFERENCE TO THE STATE ADOPTED FLORIDA FIRE PREVENTION CODE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.”

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2005-7897 on its first reading, as read by title.

Roll call vote: Ayes – Buck, Christian, Matthews, Sibley, Spence and Mayor Sharp. Motion carried unanimously.

ORDINANCE NO. 2005-7898 – FIRST READING – PUBLIC HEARING

“AN ORDINANCE TO AMEND 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. *(This Ordinance amends the Planned Unit Development for the South Beach Regional Shopping Center to allow for the conversion of the former K-Mart tenant space to a Home Depot retail store.)*

This ordinance was not considered as Resolution No. 1719-2005 failed.

**Minutes of Regular City Council Meeting
held Monday, February 7, 2005**

Adjournment

There being no further business coming before the Council, Mayor Sharp adjourned the meeting at 8:46 P.M.

Heidi Reagan, CITY CLERK

Council Approval: _____

Date: _____