

**Minutes of Regular City Council Meeting  
Held Monday March 21, 2005 at 7:00 P.M.  
In the Council Chambers, 11 North 3<sup>rd</sup> Street,  
Jacksonville Beach, Florida.**

**Call to Order**

Mayor Pro-Tem Linda Spence called the meeting to order.

**Opening Ceremony**

Invocation by Mayor Pro-Tem Spence; Salute to the Flag.

**Roll Call**

Mayor: Fland Sharp (*absent*)

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

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

**Approval of Minutes**

Motion: It was moved by Mr. Matthews, seconded by Ms. Sibley, and passed, to approve the minutes for the following meetings, as presented:

Workshop held March 7, 2005  
Regular Meeting held March 7, 2005

**Communications**

Council member Dick Matthews explained that there is a national award for volunteer organizations. The award, "1000 Points of Light" recognizes outstanding volunteer organizations throughout the country. Mr. Matthews advised on March 16, 2005, The Beaches Council on Aging and the Dial-A-Ride program was the recipient of this prestigious award. He went on to give a brief history of the Dial-A-Ride Program and acknowledged the current President of the Dial-A-Ride Program, former Council member, Bennie Furlong.

**Courtesy of Floor to Visitors**

Speaker: Art Graham, Council member, City of Jacksonville, provided a briefing to Council members concerning a joint meeting that was held between Duval and St. Johns Counties.

He provided a handout to Council members and advised that the meeting addressed mutual concerns and issues, i.e. growth, water, etc. Mr. Graham explained that St. Johns County growth rate is expected to exceed the growth rate of Duval County in

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the coming years. He added that water may become an issue, as there has already been talk, on a state level, of pumping water from Northeast Florida to South Florida. Mr. Graham also advised that beach access in St. Johns County is an issue, whereas beach accesses in Jacksonville Beach are protected. He remarked that Jacksonville Beach will see more beach visitors, as St. Johns County beaches become inaccessible.

**City Manager “a”  
Monthly Financial Reports for February 2005**

Motion: It was moved by Mr. Matthews, seconded by Ms. Christian, and passed, to accept the monthly financial reports for February 2005.

Motion carried unanimously.

**ORDINANCES:  
ORDINANCE NO. 2005-7900 – SECOND READING**

Mayor Pro-Tem Spence requested that the Assistant City Clerk read Ordinance No. 2005-7900 on its second reading by title; whereupon Ms. Bullock read the following:

**“AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; BY AMENDING SECTION 163.19A OF THE CITY OF JACKSONVILLE BEACH POLICE OFFICERS’ RETIREMENT SYSTEM, TO PROVIDE FOR COMPLIANCE WITH THE EARLY RETIREMENT PROVISIONS OF FLORIDA STATUTES, CHAPTER 185, BY ADDING THE EARLY RETIREMENT PROVISION OF AGE FIFTY (50) WITH TEN (10) YEARS OF SERVICE, AND BY CHANGING THE EARLY RETIREMENT BENEFIT REDUCTION FROM A VARIABLE PERCENT TO NOT MORE THAN THREE PERCENT (3%) PER YEAR FOR EACH YEAR PRIOR TO NORMAL RETIREMENT DATE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.”**

Motion: It was moved by Mr. Matthews, seconded by Ms. Sibley, to adopt Ordinance No. 2005-7900, as amended, to retain the existing early retirement provision of 20 years of service regardless of age; and add the early retirement provision of age 50 with 10 years of service, as read by title only on its second reading.

Roll call vote: Ayes – Buck, Christian, Knight, Matthews, Sibley and Mayor Pro-Tem Spence.

Motion carried unanimously.

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**ORDINANCE NO. 2005-7899 – FIRST READING - PUBLIC HEARING**

Mayor Pro-Tem Spence requested that the Assistant City Clerk read Ordinance No. 2005-7899 on its first reading by title, with a public hearing being held; whereupon Ms. Bullock read the following:

**“AN ORDINANCE TO AMEND AN ORDINANCE ENACTING AND ESTABLISHING A COMPREHENSIVE LAND DEVELOPMENT REGULATION AND OFFICIAL ZONING MAP FOR THE INCORPORATED AREA OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS AUTHORIZED BY CHAPTER 163.3202, FLORIDA STATUTES, TO INSERT CERTAIN TECHNICAL CORRECTIONS TO THE BUILDING HEIGHT REGULATIONS OF THE LAND DEVELOPMENT CODE RESULTING FROM THE APPROVAL OF AN AMENDMENT TO SECTION 52. ZONING AUTHORITY OF THE JACKSONVILLE BEACH CITY CHARTER; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.”**

Mayor Pro-Tem Spence read the following statement 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 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 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 rezoning request.

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I will now open the public hearing on Ordinance No. 2005- 7899.”

It was noted that the City of Jacksonville Beach is the applicant.

Mr. Forbes explained that the ordinance merely implements the City Charter changes on building height (35 foot limit), as voted on by the citizens in the November 2004, election. He added that this ordinance will amend the Land Development Code to insert the 35-foot building height limitation.

Mayor Pro-Tem Spence asked if the City Attorney or the Director of Planning and Development wished to speak to the issue. Both declined.

There being no one in the audience wishing to address the ordinance, Mayor Pro-Tem Spence closed the public hearing and read the following:

“Before requesting a motion on this ordinance, beginning with myself, each of the members of the council 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”

*Ex Parte Communications* –

Mayor Pro-Tem Spence - spoke with staff members  
Council member Knight - spoke with staff members  
Council member Sibley - spoke with staff members  
Council member Matthews – spoke with staff members  
Council member Buck - spoke with staff members  
Council member Christian - spoke with staff members

Motion: It was moved by Mr. Matthews, seconded by Ms. Christian, to adopt Ordinance No. 2005-7899, as read by title only on its second reading.

Mayor Pro-Tem Spence read the following statement for the record:

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

Mayor Pro-Tem Spence opened the floor for Council discussion.

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Council member Buck stated that he had attended the Planning Commission meeting and that there were two items in the ordinance that, in his opinion, were redundancies (page 2, Building Height 3(f) and Sec. 4-6).

Substitute Motion: Mr. Buck offered a substitute motion, seconded by Mr. Matthews, to adopt the original ordinance as presented to the Planning Commission, by deleting the two (underlined) additional references to building height.

Discussion

Mr. Forbes advised if the original motion to adopt the ordinance is approved, then essentially, the Council will have removed any redundancies as the only reference to height limitation in the Land Development Code is in the Height Section, not in the Permitted Uses.

Mr. Buck and Mr. Matthews withdrew the substitute motion.

There being no further discussion, Mayor Pro-Tem Spence closed the discussion and called for the vote on the original motion.

Roll call vote: Ayes – Christian, Knight, Matthews, Sibley, Buck and Mayor Pro-Tem Spence.

Motion carried unanimously.

Mr. Forbes advised that this is only the first reading of the ordinance; it requires a second reading before it becomes law, which will take place in two weeks.

**ORDINANCE NO. 2005-7901 – FIRST READING**

Mayor Pro-Tem Spence requested that the Assistant City Clerk read Ordinance No. 2005-7901 on its first reading by title; whereupon Ms. Bullock read the following:

**“AN ORDINANCE AMENDING CHAPTER 5, “ANIMALS AND FOWL”, ARTICLE II, DIVISION 1, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY RESCINDING SECTIONS 5-23. “DEFINED.”; 5-24. “ANIMAL CONTROL OFFICER.”; AND 5-32. “VICIOUS DOGS RUNNING AT LARGE; DEFINED.”; CREATING NEW SECTIONS 5-23. “DEFINITIONS.”; 5-24. “DANGEROUS DOGS.”; 5-24.1. “ATTACK OR BITE BY DANGEROUS DOG.”; AND 5-24.2. “PENALTY.””**

Speaker: Rev. Jeff Vinson, 1602 Arden Way, Jacksonville Beach, spoke in favor of the ordinance and advised that he will be undergoing surgery for the injuries sustained during a vicious dog attack in January. He also referenced the state laws regarding dangerous animals and stated that they have not been followed and they should have

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been enacted on the night of the attack. Rev. Vinson asked about the results of any investigation conducted to date.

Mr. Forbes responded to Rev. Vinson's question and advised that a report compiled by the Police Department is available at the Police Station.

Speaker: Adam Bright, 1602 Arden Way, Jacksonville Beach, inquired about the availability of a report to be submitted to Council by the City Manager. Mr. Bright stated that during a conversation with Lt. Corbitt of the Jacksonville Beach Police Department, he was advised that this ordinance would be retroactive to the date of Rev. Vinson's attack and asked if that was possible. He also asked if council members had received an e-mail message from him, as he had received only one response and it was from Mary Stephens. Mr. Bright ended comments by advising that he was not in agreement with the proposed ordinance.

Mr. Forbes reiterated that a report was completed by the Police Department and it is available at the Police Station.

City Attorney Stephen Stratford advised that the ordinance would not be retroactive.

Mayor Pro-Tem Spence assured Mr. Bright that his comments and concerns would be taken under advisement and that the Mayor, City Manager and Police Chief are working to resolve any problems.

Mr. Forbes advised that the ordinance is based on state law and suggested, prior to the second reading, the ordinance be amended as follows:

Section 5-24.2 Penalty – changed from “by a fine not exceeding \$500” to “a fine of \$500 per day; pursuant to Chapter 1, Section 111 of the Jacksonville Beach Code of Ordinances”

Section 5-24 Dangerous dogs. - Reduce the number of procedures required for a dog to be found to be a “dangerous dog” to a streamlined process where the Animal Control Officer conducts an investigation and if sufficient cause is found to declare the animal dangerous, the case would go directly to the Codes Enforcement Board. *(The proposed ordinance currently requires the animal control officer to conduct an investigation; the Codes Enforcement Board would then review the documentation and make an initial determination as to whether there is sufficient cause to classify the dog as dangerous, then conduct a hearing, and allow for an appeal/hearing in the county courts.)*

Mr. Forbes commented, if the Council is agreeable to the changes, he would recommend Section 5-24.2 Penalty, be amended tonight and request that the City Attorney begin working on the other recommended amendments to the ordinance before the second reading.

Mayor Pro-Tem Spence stated that she would entertain a motion to amend the ordinance.

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Mr. Buck asked if the ordinance would protect young children. He cited Sections 5-23(4) and 5-24(1)(b). Mr. Buck went on relate an instance where a young child entered someone else's property to retrieve a toy and asked if the ordinance is worded to protect that child from a "dangerous" dog.

Mr. Forbes explained, if a dog has been declared dangerous, the law would require the animal to be confined indoors or in an enclosure/pen with a top so there would be no access to the animal. He advised if there is an instance [which is rare] of a "dangerous" dog that the ordinance contains many provisions to protect the public (i.e. proper enclosure, permanent identification of the dog, registration and payment of an annual fee of \$50, and possible destruction of the animal).

Ms. Sibley asked if someone makes a complaint and the investigation doesn't result in substantial evidence that the dog is dangerous, what the next step would be for the complainant.

Police Chief Bruce Thomason advised, if the investigation doesn't find that the animal is dangerous, then no charges would be filed and the complainant could pursue civil action.

Mr. Stratford confirmed Chief Thomason's response.

*Note: While a roll call vote was taken which resulted in all ayes by Council members; a motion to adopt the ordinance was not made and seconded. As a result of the oversight, Ordinance No. 2005-7901 will be placed on the next Council Agenda as a First Reading.*

**Adjournment**

There being no further business coming before the Council, Mayor Pro-Tem Spence adjourned the meeting at 8:40 P.M.

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Judy L. Bullock,  
ASSISTANT CITY CLERK

Council Approval: \_\_\_\_\_

Date: \_\_\_\_\_