

**Minutes of Regular City Council Meeting
Held Monday April 18, 2005 at 7:00 P.M.
In the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida.**



Call to Order

Mayor Fland Sharp called the meeting to order.

Opening Ceremony

Invocation by Council member Rick Knight; Salute to the Flag.

Roll Call

Mayor: Fland Sharp

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

Also present were City Manager George Forbes and Assistant City Clerk Judy Bullock.

Approval of Minutes

Motion: It was moved by Ms. Spence, seconded by Ms. Christian, and passed, to approve the minutes of the following meeting, as presented:

Regular Meeting held April 4, 2005

Communications

Council member Spence advised that she had participated in the “American Cancer Society’s Relay for Life” with the Florida First Coast Civitan Club over the weekend. She also advised, to date, over \$48,000 has been raised this year, which is up from last year’s \$35,000.

Courtesy of Floor to Visitors

No one came forward to address the Council.

City Manager “a”

Monthly Financial Report for March 2005

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to accept the monthly financial report for the month of March 2005.

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

Motion carried unanimously.

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City Manager “b”

Report on the Status of a New Post Office for Jacksonville Beach (Jody Sloan)

Jody Sloan, United States Postal Service, Facilities Branch, in Atlanta, Georgia, addressed the Council concerning a location for a new Jacksonville Beach post office. She explained that tonight’s meeting is the official start to finding a new location for the post office. Ms. Sloan advised that they are looking for property that would accommodate an expanded facility, based on the present and future needs of the community.

It has been determined that they will need approximately 18,000 square feet of space for a carrier and retail facility. This would require approximately 5 to 6 acres of land. If a site cannot be located, then they will look for two locations, a carrier annex (where mailed is handled) and a retail location for customers. In looking for a single location, the preferred boundaries are 20th Avenue North to J Turner Butler Blvd, and the ocean to the Intracoastal Waterway. If separate locations are required, the preferred boundaries are 10th Avenue North to 16th Avenue South, and the ocean to the Intracoastal Waterway.

Ms. Sloan opened her presentation for questions or comments.

Ms. Christian and Mr. Buck commented on the rising property values at the beach and urged the postal service to move forward as quickly as possible.

Mayor Sharp asked what the size requirements would be for two separate locations.

Ms. Sloan responded that approximately 3 acres would be needed for the carrier annex site and the retail location would require 4,000 to 5,000 square feet, which means the retail location could be in a shopping center.

Ms. Sibley asked if leasing a large retail space was possible.

Ms. Sloan replied that their policies require that they own the property if it is over 6,400 square feet.

Mayor Sharp advised Ms. Sloan if there is anything the City can do to assist, to please let them know.

City Manager “c”

Approval of Dune Walkover Installation

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to authorize the City Manager to take the action necessary to delete the walkover structure proposed for 18th Avenue South and instead reconstruct the 34th Avenue South walkover.

Discussion: Mr. Forbes explained, based on the discussion at the April 4th meeting, staff reviewed the conditions at 18th Avenue South and found the dunes to be reaching

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heights of 8 to 10 feet and in good condition. They then visited the walkover at 34th Avenue South, they found the dune is still growing at around 3 to four feet and that the profile of the beach has changed drastically, leaving the current structure unusable. Following the review, it was determined that reconstruction of the 34th Avenue South walkover should replace the proposed walkover at 18th Avenue South.

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

Motion carried unanimously.

City Manager “d”

Approval of Budget Increase Due to Unforeseen Utility Conflicts with Stormwater Improvements Projects

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to approve a budget increase of \$49,500 for the Stormwater Improvements Project – Various Locations – Group “B”, with *Jensen Civil Construction* to adjust unforeseen utility conflicts, for a total construction project cost not to exceed \$1,018,917.10.

Discussion: Mr. Forbes advised that during the stormwater improvement project, the contractors encountered unforeseen conflicts with water mains at two of the four locations (22nd Avenue South and 1st Street; Millie Drive and Sandra Drive). Since these modifications are necessary, it is recommended that the Council increase the budget for the project to pay for the water main adjustments.

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

Motion carried unanimously.

City Manager “e”

Purchase of Radio Equipment to Improve Communications with Florida Law Enforcement Agencies

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, for approval for the Mayor and City Manager to execute an agreement with the State of Florida to accept funds to purchase radio equipment that will enable the Jacksonville Beach Police Department to communicate with law enforcement agencies throughout the state.

Discussion: Mr. Forbes explained that the radio equipment will enable our police department to communicate with law enforcement agencies and officers in cities and counties throughout the state. He added that when the grant funds have been expended, it will cost the city approximately \$10,000 per year to operate the system and for equipment maintenance and technical support.

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

Motion carried unanimously.

**City Manager “f”
Draw from Law Enforcement Trust Fund for Exercise Equipment**

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, for approval to expend \$5,594.80 from the Law Enforcement Trust Fund to purchase an exercise machine from Life Fitness for the police department and to declare the step trainer as surplus property.

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

Motion carried unanimously.

**City Manager “g”
Purchase of Emergency Power Generators for Two Sewage Lift Stations**

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to approve the City’s participation in the *JEA* (Jacksonville Electric Authority) contract to purchase two emergency standby power generators from *Ring Power* as discussed in the memorandum from Ty Edwards, Public Works Director, dated April 7, 2005. (*Lift Station No. 6, 18 Sandra Drive, 25kw generator - \$40,383.00; Lift Station No. 18, 901 N 22nd Street, 50kw generator - \$43,355.00*)

Discussion: Mr. Forbes advised that the 2004 hurricane season proved to be an extreme test of the operational limits of our sewage lift stations. He explained that the city has 35 lift stations throughout the sewage collection system. Only ten of those stations have permanent standby emergency power generators. It was determined that the city needs to be able to operate for 72 hours on its own during a major storm/power outage. As a result, the city plans to install two emergency power generators at the two stations where pumping was longest during Hurricane Frances.

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

Motion carried unanimously.

**City Manager “h”
Request for Approval to Purchase a Replacement 4320 John Deere 4 Wheel Drive Tractor with Loader Bucket and Box Blade for Streets Division, Public Works**

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Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to approve the City's participation in Orange County Schools' Contract to purchase a John Deere 4-Wheel Drive Tractor with Loader Bucket and Box Blade for Public Works. (\$26,500)

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

Motion carried unanimously.

City Manager “i”

Recommendation on Awarding Bid No. 0405-4 – Crushed Limerock – 12 to 36 Months Requirements

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, for the City Council to award Bid No. 0405-4, Crushed Limerock; 12 to 36 months requirements to *Pritchett Trucking*, the low bidder meeting specifications. (*Year 1 of 3 - \$16.78 per ton; Year 2 of 3 - \$17.94 per ton; Year 3 of 3 - \$18.97 per ton*)

Discussion: Ms. Sibley asked if there was a special reason why only one bidder submitted a proposal.

Mr. Forbes responded that he had the same concerns. However, this is a relatively small contract and he checked with other cities to see what they were paying and the vendor has offered a very competitive price and is within a few cents of what other cities are paying.

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

Motion carried unanimously.

City Manager “j”

Award of Production Services Contract for a Professional Fireworks Company to Provide Pyrotechnic Display on the 4th of July – RFP No. 5-0405

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to award RFP No. 5-0405 *Pyrotechnic Production Services* for one (1) year, with the provision to renew for four (4) additional one-year terms with the approval of the City Manager. (*City of Jacksonville Beach has \$10,000 budgeted for fireworks and anticipated donations of \$5,000 each from Atlantic Beach, Neptune Beach and the City of Jacksonville*)

Discussion: Mr. Forbes advised that this is the same company that did last year's 4th of July fireworks display. Last year's display was \$15,000 and this year's will cost approximately \$25,000 due to the contributions from the other cities. He added that the display will be shot from the end of the pier.

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

Motion carried unanimously.

**City Manager “k”
Approval of Contracting for Asphalt Repairs**

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, for City Council approval of the City’s participation in the City of Atlantic Beach Contract No. 0405-8, and any extensions thereof, for asphalt repairs with *Tom’s Asphalt Repair Company*.

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

Motion carried unanimously.

**ORDINANCES:
ORDINANCE NO. 2005-7901 – SECOND READING**

Mayor Sharp requested that the Assistant City Clerk read Ordinance No. 2005-7901 on its second 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.”; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.”

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2005-7901, as amended in the April 5, 2005, memorandum from the Police Chief entitled, “Proposed Amendments to Chapter 5 of the Codes of Ordinances Regarding Dangerous Dogs.” Ms. Spence read the following amendments to the ordinance, for the record:

- *Sec. 5-23. “Definitions.” – clarifies the definition of Codes Enforcement Board to identify the City Council as the authority for creation of the Board.*
- *Sec. 5-24. “Dangerous dogs.” – creates a new subsection (5) that requires the owner of a dog, previously designated by another jurisdiction as*

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dangerous, to notify the animal control officer or the Police Department that the dog is in the city temporarily or is being moved into the city.

- *Sec. 5-24.1 "Attack or bite by dangerous dog." – amends a portion of the current wording by adding a subsection (2)(a) designator and creates a new subsection (2)(b) that states the owner of a dog not previously declared as dangerous, that attacks and causes sever injury or death to a person, and who had no prior knowledge of the dog's dangerous propensities, is guilty of a non-criminal infraction.*
- *Sec. 5-24.2. "Penalty." – amended to include the non-criminal offense noted in 5-24.1 (2)(b) above.*

Speaker: Joy Bright, 1602 Arden Way, Jacksonville Beach, described the attack suffered by Rev. Vinson and stated that the same dogs had accosted her on her own porch in 2004. Ms. Bright remarked that the Police Department and Animal Control has done nothing to assist them and the dogs continue to run loose in the neighborhood.

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

Motion carried unanimously.

ORDINANCE NO. 2005-7902 – SECOND READING, AS AMENDED – PUBLIC HEARING

Mayor Sharp requested that the Assistant City Clerk read Ordinance No. 2005-7902 on its second reading, as amended, by title, with a public hearing being held; whereupon Ms. Bullock read the following:

“AN ORDINANCE AMENDING A PLANNED UNIT DEVELOPMENT (PUD) DISTRICT WITHIN THE CITY OF JACKSONVILLE BEACH, FLORIDA, ENACTED PURSUANT TO ORDINANCE NO. 94-7601, AS PROVIDED UNDER THE JACKSONVILLE BEACH LAND DEVELOPMENT CODE, CHAPTER 34 OF CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH.” *(Expansion of Target at South Beach Parkway Shopping Center)*

(At the April 4, 2005, City Council meeting, an amendment to Ordinance No. 2005-7902, concerning landscaping to be installed along the easterly wall of the addition was approved. That amendment has been incorporated into Ordinance No. 2005-7902, as Section 4.)

Mayor Sharp read the following statement for the record:

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“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.

I will now open the public hearing on Ordinance No. 2005- 7902.”

Applicant: Brenda Durden, 9428 Baymeadows Road, Jacksonville, representing Target Corporation, advised that the hearing had been properly advertised and duly noticed. She added that Target Corporation agrees with the language in the ordinance and, in their opinion, they have provided competent substantial evidence for approval, including a recommendation for approval from city staff. Ms. Durden advised that Mr. Eggert and Mr. Shilling were also in attendance and willing to address any questions the council may have.

Mayor Sharp asked if the representative of Planning & Development wished to respond to any of the comments by the applicant.

Bill Mann, Senior Planner of Planning & Development, declined.

There being no one wishing to address the ordinance, Mayor Sharp 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

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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 Sharp – none other than staff

Council member Knight – Mr. Eggert, Ms. Durden and Mr. Shilling

Council member Sibley – Ms. Durden, Mr. Eggert, Mr. Shilling and staff

Council member Spence – Ms. Durden, Mr. Eggert and Mr. Shilling and staff

Council member Matthews – Ms. Durden, Mr. Eggert, Mr. Shilling and staff

Council member Buck – Ms. Durden, Mr. Eggert, Mr. Shilling and staff

Council member Christian - Ms. Durden, Mr. Eggert, Mr. Shilling and staff

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2005-7902, amending Ordinance No. 94-7601, as amended, governing the *South Beach Parkway Shopping Center* by modifying the approved Preliminary PUD Development Plan and Landscape Plan for the shopping center to allow a 16,530 square foot expansion of the existing *Target* retail store, and approve the attached finding of fact (*copy on file*).

Mayor Sharp 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 Sharp opened the floor for Council discussion.

Discussion: Mr. Forbes recommended that the Findings of Fact be read for the record; whereupon Ms. Bullock read the following:

“Findings of Fact

Subject: Ordinance 2005-7902 proposing an amendment to the Planned Unit Development (PUD) Ordinance governing the *South Beach Parkway Shopping Center*, to allow the construction of a 16,530 square foot expansion of the existing Target Corporation retail store.

1. The City Council previously held a public hearing and approved a minor modification to the development order for the *South Beach Development of Regional Impact (DRI)*

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authorizing an increase in the commercial square footage allotment in the South Beach Community Redevelopment District to accommodate this proposed expansion.

2. There are adequate public facilities available to serve the proposed project.
3. The project will have a minimal impact on traffic flow along the streets and roads serving the project as verified by the *Traffic Impact Assessment – Target Expansion, Jacksonville Beach, Florida* prepared by Kimley-Horn & Associates (February 2005) and will not negatively affect the existing level of service of those roadways.
4. The proposed use of the property is consistent with the Future Land Use Element and Map for the Jacksonville Beach 2010 Comprehensive Plan.
5. The testimony presented at the Council’s public hearing included statements in favor and opposing the PUD amendment. The statements opposing the amendment did not include any substantial and competent evidence to dispute the evidence offered by the applicant supporting this finding of fact.

Approved by the Jacksonville Beach City Council on April 18, 2005.”

There being no further discussion, Mayor Sharp closed the discussion and called for the vote.

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

Motion carried unanimously.

ORDINANCE NO. 2005-7903 – SECOND READING

Mayor Sharp requested that the Assistant City Clerk read Ordinance No. 2005-7903 on its second reading by title; whereupon Ms. Bullock read the following:

“AN ORDINANCE AMENDING SECTION 5-28, “LEASH REQUIRED FOR DOGS IN PUBLIC PLACES”, OF CHAPTER 5, “ANIMALS AND FOWL; ARTICLE II, DIVISION 1, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY PROVIDING AN EXCEPTION TO THE LEASH REQUIREMENTS FOR DOGS WHILE WITHIN THE

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PHYSICAL BOUNDARIES OF THE CITY'S DOG PARK; CREATING A NEW SECTION 5-34, "DEFECATION DISPOSAL"; AND CREATING A NEW SECTION 5-44, "RABIES INOCULATION AND TAG REQUIRED FOR DOG PARK"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE."

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2005-7903 to update the City's animal control ordinances regarding dogs inside the Dog Park and removal of dog defecation by dog owners.

Discussion: Mr. Forbes advised that adoption of this ordinance will accomplish the following:

1. It will allow dogs in the new Dog Park to be unleashed.
2. The ordinance requires immediate removal of dog defecation by its owner/handler within the new Dog Park as well as from any other property within the city.
3. Lastly, it requires dogs to have a current rabies inoculation and to be wearing a current rabies tag at all times with the boundaries of the Dog Park.

Ms. Sibley asked how difficult it will be to enforce the removal of dog defecation throughout the city.

Police Chief Bruce Thomason responded that it will be an enforcement issue and they plan to publicize through the department and use warnings to begin enforcement.

Mr. Buck reiterated Ms. Sibley's concerns of enforcement.

Chief Thomason advised that if an officer witnesses a violation, the department will take action or a citizen can call the department if there is a violation and they [Police Department] will take action. He closed by assuring the council that they will do their best to enforce the ordinance.

Mr. Knight commented that it will be an educational program and the persons who currently clean-up after their pet will continue and those who don't will continue to be a problem.

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

Motion carried unanimously.

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Adjournment

There being no further business coming before the Council, Mayor Sharp adjourned the meeting at 7:44 P.M.

Judy L. Bullock,
ASSISTANT CITY CLERK

Council Approval: _____

Date: _____