

**Minutes of Regular City Council Meeting
Held Monday, March 20, 2006 at 7:00 P.M.
In the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida.**



Call to Order

The meeting was called to order by Mayor Fland Sharp.

Opening Ceremony

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

Roll Call

Mayor: Fland Sharp

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

Also present were City Manager George Forbes, 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 of the Regular Council Meeting held March 6, 2006, as presented.

Communications

In the City Attorney's absence, Mayor Sharp announced that there would be a "Shade Meeting" at 5:30 p.m. on April 3, 2006, and the purpose would be to discuss all ongoing City of Jacksonville Beach litigation.

Courtesy of Floor to Visitors

Mayor Sharp opened Courtesy of the Floor to Visitors; no one came forward to address the Council.

Mayor "a"

Certificate of Appreciation – David Dahl, Planning Commission

Mayor Sharp read and presented a Certificate of Appreciation to David Dahl for his service as a member of the Planning Commission and expressed his appreciation to Mr. Dahl for his contribution to the community.

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City Clerk “a”

Appointment of Trustees to the Police Officers’ and Firefighters’ Pension Boards

It was moved by Ms. Spence, seconded by Ms. Sibley, to reappoint the following persons as Trustees to the Firefighters’ and Police Officers’ Retirement Boards (*terms to expire March 31, 2008*):

- **Firefighters’ Retirement System:** Bruce Anderson and Grady Kearsey
- **Police Officers’ Retirement System:** Joseph Dunn and Marvin DuPree

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

Motion carried unanimously.

City Manager “a”

Monthly Financial Reports for February 2006

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, and passed, to accept the financial reports for the month of February 2006.

City Manager “b”

Request for Approval to Assist City of Cocoa Beach, Florida with Various Scrap Electrical Equipment

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to authorize the City Manager to transfer ownership of up to three surplus streetlights and two surplus overhead distribution transformers to the City of Cocoa Beach, Florida.

Discussion: Mr. Forbes explained that the City of Cocoa plans to use the items as “dummy” overhead electric utility equipment, to mount video cameras for ongoing investigations.

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

Motion carried unanimously.

City Manager “c”

Recommendation on Awarding Bid No. 0506-7 – Shetter Avenue Infrastructure Improvements Project

Motion No. 1: It was moved by Ms. Spence, seconded by Ms. Sibley, for the City Council to approve the unit price bid award for Bid No. 0506-7, Shetter Avenue

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Infrastructure Improvements Project, to *Miranda Contracting*, at a cost, based on estimated quantities, of \$1,842,33.00 plus a 10% contingency for a total cost not to exceed \$2,026,566.30.

Discussion: Mr. Forbes explained that this project is part of JTA's project to widen Beach Boulevard. JTA's construction plans require the City to remove, relocate and rebuild its water and sewer infrastructure existing with the boulevard right-of-way. In addition, the City's project will cover roadway reconstruction, curbing, and new concrete sidewalks.

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

Motion carried unanimously.

Motion No. 2: It was moved by Ms. Spence, seconded by Ms. Sibley, for the City Council to approve funding of the construction administration for this project with the design firm, *Waitz & Moye Engineers*, for the price of \$92,846.22 plus a 10% contingency, for a total cost not to exceed \$102,130.84.

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

Motion carried unanimously.

ORDINANCES

Ordinance No. 2006-7911 – Second Reading

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7911, on its second reading by title; whereupon Ms. Reagan 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 SECTION 5-23 “DEFINITIONS” AND SUBSTITUTING A NEW SECTION 5-23 “DEFINITIONS”. BY RESCINDING SECTION 5-24 “DANGEROUS DOGS.” AND SUBSTITUTING A NEW SECTION 5-24 “DANGEROUS DOGS.” AND BY AMENDING SECTION 5-24.1. “ATTACK OR BITE BY DANGEROUS DOG” SUBSECTION 5-24.1(2); 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. 2006-7911, on its second reading, as read by title only.

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

Motion carried unanimously.

Ordinance No. 2006-7913 – Second Reading

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7913, on its second reading by title; whereupon Ms. Reagan read the following:

“AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, BY AMENDING CHAPTER 18 - “NOISE”, SUBSECTION 18-3(h), “OUTSIDE SOUND AMPLIFICATION PERMITS” BY REINSERTING PARAGRAPHS 1, 2, 3, 5, 6 AND 7, REPEALING ORDINANCES IN CONFLICT HEREWITH, PROVIDING AN EFFECTIVE DATE.”

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7913, on its second reading, as read by title only; which is a technical correction that re-states Section 18-3(h) of the Noise Ordinance.

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

Motion carried unanimously.

Ordinance No. 2006-7914 – Second Reading

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7914, on its second reading by title; whereupon Ms. Reagan read the following:

“AN ORDINANCE ENACTED PURSUANT TO SECTION 100.3605(2), FLORIDA STATUTES, CHANGING THE QUALIFYING PERIOD FOR NOMINATION OF CANDIDATES FOR THE GOVERNING BODY OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AND ESTABLISHING AN EFFECTIVE DATE.”

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7914, on its second reading, as read by title only.

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

Motion carried unanimously.

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Ordinance No. 2006-7915 – First Reading – Public Hearing

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7915, on its first reading by title, holding a public hearing; whereupon Ms. Reagan 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; BY ADDING A NEW SECTION 34-160 *TRAFFIC IMPACT STUDIES OF DIVISION I GENERAL APPLICABILITY*; AND AMENDING SECTION 34-175 *CONTENTS OF APPLICATION*, SECTION 34-205(J) *CONTENTS OF APPLICATION*, SECTION 34-226(J) *CONTENTS OF APPLICATION*, AND SECTION 34-256(T) *CONTENTS OF APPLICATION*; ALL SECTIONS BEING PART OF ARTICLE VI *DEVELOPMENT REVIEW PROCEDURES OF THE COMPREHENSIVE LAND DEVELOPMENT CODE FOR THE CITY OF JACKSONVILLE BEACH*; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES:”

Mayor Sharp 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.

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In addition, the Council has received a copy of the application and the staff and Planning Commission reports on this rezoning request.

Public Hearing: Mayor Sharp opened the public hearing on Ordinance No. 2005- 7915; and asked that Senior Planner Bill Mann come forward to explain the proposed changes.

Mr. Mann advised that the amendment was prepared as a result of the Council Workshop held on October 17, 2005. The proposed amendment would shift the responsibility for preparation of a required traffic impact study from the applicant to the City. The cost of the study would be reimbursed to the City by the applicant. He added this type of study would be required for applications for projects requesting approval of a site-specific comprehensive plan amendment; rezonings, including PUD and RD; and conditional use and development plan approvals for major developments.

There being no one wishing to address the Council, 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 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

Council member Knight – Conversations- Sandy Golding, Dean Thompson and attended the February 2006 Beaches Watch Meeting

Council member Sibley - none

Council member Spence – none

Council member Matthews – none

Council member Christian – none

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7915, on its first reading, as read by title only.

Mayor Sharp read the following:

“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

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Development Code, and the Council is required to approve a clear statement of specific findings of fact stating the basis upon which such fact were determined and the decision was made.”

Mayor Sharp opened the floor for discussion.

Discussion: Mr. Matthews expressed his concerns about the City having the studies performed and the possibility that only one firm would be utilized. He added that he was opposed to the ordinance.

Ms. Sibley asked Mr. Forbes if the proposed amendment would be beneficial or if is merely a reaction to something that occurred at a meeting.

Mr. Forbes responded that the proposed amendment originated from Council members concerns that studies presented by developers might be biased.

Ms. Spence requested confirmation that the City would not be contracting with a single firm to perform the studies.

Mr. Forbes advised that it is the City’s intent to have two to four companies available to perform the traffic impact studies.

There being no further comments, Mayor Sharp closed the discussion.

Roll call vote: Matthews, no; Sibley, yes; Spence, yes; Christian, yes; Knight, yes; and Mayor Sharp, yes.

Motion carried by a vote of 5-1.

Ordinance No. 2006-7916 – First Reading – Public Hearing

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7916, on its first reading by title, holding a public hearing; whereupon Ms. Reagan 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 AMEND SECTION 34-233. ASSIGNABILITY AND TRANSFERABILITY WHEN THERE IS A CHANGE OF OWNERSHIP OF A DWELLING UNIT AUTHORIZED AS A CONDITIONAL USE; TO

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**REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT
HEREWITH; AND FOR OTHER PURPOSES:”**

Mayor Sharp 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.

Public Hearing: Mayor Sharp opened the public hearing on Ordinance No. 2005-7916; and requested that Senior Planner Bill Mann come forward to explain the proposed changes.

Mr. Mann explained that the proposed amendment was initiated by the staff and preliminarily reviewed by the Council at the October 17, 2006, workshop. As it is written, the change in ownership of an approved conditional use residential dwelling unit (detached, attached, or condominium) that is located in C-1 or C-2 zoning district must be approved by the Planning Commission. While it is helpful to have changes in ownership of a commercial conditional use, there is little value to requiring the buyer of a single-family home, town-home or condominium go through this process. He added that these types of ownership changes are invariably approved, and only serve to delay the real estate transaction process. Mr. Mann summarized, that the proposed amendment would eliminate the requirement for obtaining approval before a dwelling unit can be conveyed to another person.

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There being no one wishing to address the Council, 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 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
Council member Knight – none
Council member Sibley - none
Council member Spence – none
Council member Matthews – none
Council member Christian – none

Mayor Sharp read the following:

“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 fact were determined and the decision was made.”

Mayor Sharp opened the floor for discussion. As no member of the Council wished to comment on the ordinance, the discussion was closed.

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7916, on its first reading, as read by title only.

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

Motion carried unanimously.

Ordinance No. 2006-7917 – First Reading – Public Hearing

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7917, on its first reading by title, holding a public hearing; whereupon Ms. Reagan read the following:

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Mayor Sharp 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.

Public Hearing: Mayor Sharp opened the public hearing on Ordinance No. 2005-7917; and requested that Senior Planner Bill Mann come forward to review the proposed changes.

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Mr. Mann explained that the proposed amendment is basically a typographical omission that would revise Section 34-340(c)(4)f., to be consistent with the City Charter provision which limits the height of all buildings to 35 feet. He added that this particular section was inadvertently not revised when the Land Development Code was amended to correspond with the Charter amendment.

Mayor Sharp asked if this is just a housekeeping item and Mr. Mann concurred.

There being no one wishing to address the Council, 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 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
Council member Knight – none
Council member Sibley - none
Council member Spence – none
Council member Matthews – none
Council member Christian – none

Mayor Sharp read the following:

“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 fact were determined and the decision was made.”

Mayor Sharp opened the floor for discussion. As no member of the Council wished to comment on the ordinance, the discussion was closed.

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7917, on its first reading, as read by title only.

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

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Motion carried unanimously.

Ordinance No. 2006-7918 – First Reading – Public Hearing

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7918, on its first reading by title, holding a public hearing; whereupon Ms. Reagan 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, BY AMENDING DIVISION 2. SUPPLEMENTAL STANDARDS, SECTION 34-407 *OUTDOOR RESTAURANTS AND BARS* OF ARTICLE VIII. SITE DEVELOPMENT STANDARDS TO MODIFY THE LIMITATIONS AND CONDITIONS FOR OUTDOOR RESTAURANTS AND BARS; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND FOR OTHER PURPOSES:”

Mayor Sharp 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.

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In addition, the Council has received a copy of the application and the staff and Planning Commission reports on this rezoning request.

Public Hearing: Mayor Sharp opened the public hearing on Ordinance No. 2005-7918; and requested that Senior Planner Bill Mann explain the proposed amendment.

Mr. Mann explained that the proposed amendment was initiated by staff after being approached by a downtown property owner. It would revise the standard for conditional use approval for an outdoor restaurant or bar that deals with the separation of the activities where no live music, other type of entertainment, or amplified sound is involved. The original purpose of adopting the standards was to address the issues of parking and noise associated with some outdoor activities. As a consequence, establishments who simply wished to have outdoor dining without entertainment of any kind were also limited by the separation requirements. He advised that the proposed amendment would clarify that a restaurant or bar with no live music, etc. may be approved even if they are within 100 feet of an occupied residential use. Mr. Mann added that the separation requirement for lodging use (hotel/motel) is eliminated completely. The proposed ordinance also revises the manner in which the distance is calculated to allow for the presence of an intervening structure between the outdoor area and the nearest occupied dwelling, and also to direct that the 100 foot distance be measured from the perimeter of the seating area itself, as opposed to measuring from the property line of the property containing the seating area.

Mr. Mann concluded by advising that an applicant for an outdoor restaurant or bar seating area would still have to be granted "Conditional Use" approval by the Planning Commission and that certain existing restaurants and those wishing to lease space in the downtown location cannot even apply for conditional use now if they are within 100' of a hotel use. He provided the example of the first floor commercial space of the new development "Metropolitan" and stated that there is an unfair advantage for those existing grandfathered establishments that managed to establish their outdoor seating areas before the City began regulating them in 2001.

Speakers: Susie White, 535 Canal Road, Ponte Vedra, spoke in opposition to the ordinance; but added if adopted there should be regulations and penalties.

Helen Pickette, 826 North 13th Avenue, Jacksonville Beach, spoke in opposition to the ordinance.

Lloyd W. Archibald, 127 North 7th Avenue, Jacksonville Beach, spoke in favor of the ordinance; but added that there should be noise limits and stiff penalties for violations.

Mike Riley, 119 North 7th Avenue, Jacksonville Beach, spoke in opposition to the ordinance.

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Thad Moseley, 3701 Duval Drive, Jacksonville Beach, spoke in opposition to the ordinance.

Wendell Finner, 420 Lower 8th Avenue South, Jacksonville Beach, advised that he was originally in favor of the ordinance, but after hearing the other speakers, he has decided that the Council needs more information before taking action on the ordinance.

John Alexon, 51 South Roscoe Boulevard, Ponte Vedra Beach, spoke in favor of the ordinance.

Dean Thompson, 2067 Green Heron Point, Jacksonville Beach, distributed a handout to Council members and spoke in opposition to the ordinance.

Robert Johnson, 416 North 17th Avenue, Jacksonville Beach, spoke in opposition to the ordinance.

Kate Clifford, 420 Ponte Vedra Boulevard, Ponte Vedra, and owner of the business *Strategic Sites*, spoke in favor of the ordinance.

Tony Davenport, 55 Tallwood Road, Jacksonville Beach, spoke in opposition to the ordinance.

Lance Folsom, 1022 North 23rd Street, Jacksonville Beach, spoke in opposition to the ordinance.

Scott Chesnut, 224 South 2nd Avenue, #16, Jacksonville Beach spoke in favor of the ordinance.

Linda Hall, 1620 North 4th Street, Jacksonville Beach, spoke in opposition to the ordinance.

Rob Paulger, 426 North 16th Avenue, Jacksonville Beach, spoke in opposition to the ordinance.

Patricia Owings, 290 Coral Way, Jacksonville Beach, spoke in favor of the ordinance (*works for Strategic Sites*).

Marvin Kramer, 205 South 1st Street, Jacksonville Beach, spoke in favor of the ordinance.

Jeffrey Flaig, 534 North 17th Avenue, Jacksonville Beach, spoke in opposition to the ordinance.

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Terry DeLoach, 405 South 32nd Avenue, Jacksonville Beach, representing the Planning Commission (*Chairperson*) spoke in favor of the ordinance and advised that the proposed changes will allow all businesses to apply to the Planning Commission for a Conditional Use approval for an outdoor restaurant or bar seating area. He further advised that the Planning Commission could set restrictions on any conditional use granted.

There being no one else wishing to address the Council, 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 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 – Phone calls- Ms. Logan, Ms. Johnson, Ms. Lotz, Ms. Strausburg, an unidentified gentleman, Sandy Golding, David Smith David Cole;
Correspondence- Mr. Moseley, Mr. Shields, David Smith

Council member Knight – Conversations- Sandy Golding, Dean Thompson, Terry DeLoach, David Dahl, David Smith, Thad Moseley, David Walker, David Cole, Dean Jones, Lance Folsom, Liza Mitchell, Paul Schmidt; Correspondence- Thad Moseley, David Smith, Dean Thompson

Council member Sibley – Conversations/Correspondence/Messages- Thad Moseley, Ms. Edwards, Dean Jones, Ms. McCree, Mr. Shields, David Smith, Ms. Johnson

Council member Spence – Conversations/Correspondence/Messages- Thad Moseley, Darrell Shields, David Smith, Ms. St. John, Ms. Edwards, Ms. Johnson

Council member Matthews – Conversations- Mr. Catano, Mr. Beardall;
Correspondence- Sam Pratt & Geoff Beardall, Thad Moseley, Patricia O’Neill, David Smith

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Council member Christian – Correspondence- Geoff Beardall, Thad Moseley, David Smith, Conversations- Sandy & Jim Golding, Terry DeLoach, Mildred Pierson, Russell Mayo, Mr. Shields and an unidentified caller

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7918, on its first reading, as read by title only.

Mayor Sharp read the following:

“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 fact were determined and the decision was made.”

Mayor Sharp opened the floor for discussion and asked Mr. Mann to respond to concerns raised by the speakers.

Mr. Mann reviewed the standards for amplified music and explained that most conditional uses are issued with a restriction of no amplified music. As for the panacea, that adoption of the proposed amendment would open the door for outdoor establishments; the requirement to apply to the Planning Commission would still be in place and they base their decision on each unique location. Mr. Mann addressed the comments concerning residents receiving notification of the ordinance, and explained that individual notices are not provided to property owners for this type of amendment, however the proposed amendment was advertised in the newspaper on two separate occasions. He also spoke to the concerns about the business formerly know as “Billy’s” and advised that indoor approval was granted, no outdoor seating dining or drinking is permitted.

Mr. Forbes requested that Mr. Mann explain the *Conditional Use* process and advised that a Conditional Use must be issued if all requirements/standards are met; the decision is not just at the discretion of the Planning Commission.

Mr. Mann advised that when the Planning Commission receives an application for a *Conditional Use*, they could approve the request, deny the request, or approve with conditions. As for the notification requirements, written notice must be provided to all property owners within 300 feet of the applicant’s property; the property is clearly posted and a legal advertisement is ran in the newspaper.

Under discussion by Council members, concerns were raised about regulations and restrictions. Council members concurred additional information would be helpful and requested that a workshop be held on the ordinance. During council discussion, Mayor Sharp passed the gavel to

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Mayor Pro-tem Spence and commented that he would like to see more “good” restaurants in the area, however, he has some concerns with the proposed amendments.

Ms. Spence returned the gavel to Mayor Sharp.

There being no further discussion, Mayor Sharp closed the discussion.

Substitute Motion: It was moved by Mr. Knight, seconded by Ms. Sibley, and passed, to hold a workshop on Ordinance No. 2006-7918.

Mayor Sharp requested that the Workshop be scheduled for a date after the April 3, 2006, Shade Meeting is held.

Substitute motion carried unanimously.

Recess

Mayor Sharp called a five-minute recess.

Reconvene

The meeting was reconvened at 9:13 p.m.

Ordinance No. 2006-7919 – First Reading – Public Hearing

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7919, on its first reading by title, holding a public hearing; whereupon Assistant City Clerk Judy 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 BY AMENDING PARAGRAPH (b)(1) AND ADDING A NEW PARAGRAPH (b)(2) OF SECTION 34-424. SITE CLEARING AND TREE PROTECTION STANDARDS OF DIVISION 3. SITE CLEARING AND LANDSCAPE STANDARDS OF ARTICLE VIII. SITE DEVELOPMENT STANDARDS TO ADD ADDITIONAL EXEMPT SPECIES OF TREES SUBJECT TO OBTAINING A TREE REMOVAL PERMIT, REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND FOR OTHER PURPOSES:”

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.

Public Hearing: Mayor Sharp opened the public hearing on Ordinance No. 2005-7919; and asked that Senior Planner Bill Mann come forward to review the proposed changes.

Mr. Mann advised that the proposed amendment was initiated by the City Council and explained, under the current tree protection provisions, the only kinds of trees that are exempt from mitigation requirements upon their removal are pine trees and palm trees. He further stated that the proposed changes clarify that cedar trees are not included in the pine tree exemption and that palm trees that are planted as part of the required trees in a landscape plan would now be protected. The other proposed changes would now include invasive plant materials that are either prohibited or discouraged in Florida; with one exception, the “Carolina Laurel cherry” which was added to the list of exempt trees at the specific request of Council member Knight.

There being no one wishing to address the Council, 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 application. An *ex parte* communication refers to any meeting or discussion with

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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

Council member Knight – Conversations- Bennie Furlong, Steve Hartkemeyer, Mr. Stevens, Paul Schmidt and Josh Knight

Council member Sibley - none

Council member Spence – none

Council member Matthews – none

Council member Christian – none

Mayor Sharp read the following:

“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 fact were determined and the decision was made.”

Mayor Sharp opened the floor for discussion. As no member of the Council wished to comment on the ordinance, the discussion was closed.

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7919, on its first reading, as read by title only.

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

Motion carried unanimously.

Ordinance No. 2006-7920 – First Reading – Public Hearing

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7920, on its first reading by title, holding a public hearing; whereupon Assistant City Clerk Judy 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; BY AMENDING SECTION 34-41 OF ARTICLE IV. DEFINITIONS TO ADD A DEFINITION FOR A “GROUND-MOUNTED

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MONUMENT SIGN”, AMENDING SECTION 34-445 OF DIVISION 4. SIGNS OF ARTICLE VIII. SITE DEVELOPMENT STANDARDS BY REPEALING PROVISIONS ALLOWING POLE MOUNTED GROUND SIGNS, ESTABLISHING STANDARDS FOR GROUND-MOUNTED MONUMENT SIGNS, REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES:”

Mayor Sharp 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.

Public Hearing: Mayor Sharp opened the public hearing on Ordinance No. 2005-7920; and asked that Senior Planner Bill Mann come forward to explain the proposed changes.

Mr. Mann advised that the proposed amendment was initiated by the City Council and explained the purpose of the amendment is to limit the type of freestanding, ground signs to monument-type signs only. This means that pole-mounted or pylon signs would no longer be permitted. Mr. Mann further explained that the current code allows all types of freestanding signs with a maximum size of 100 square feet and can be up to 30 feet tall. Under the proposed amendment, the height of the ground-mounted monument sign would be limited to eight feet with a maximum

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width of twelve feet. For multi-tenant, shopping center type of development, the calculations would allow for a larger sign.

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 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 – Conversations- Terry DeLoach, Karen DeLoach, David Cole

Council member Knight – Conversations- David Cole

Council member Sibley – none

Council member Spence – Conversations- David Cole

Council member Matthews – Conversations- Terry DeLoach

Council member Christian – Conversations/Messages- Terry and Karen DeLoach

Mr. Forbes advised that the other beach communities have adopted sign regulations that require all future signs to be monument signs, instead of pole-mounted. However, the City has Deed Restrictions on City-owned property that sets development standards in the Downtown area. Monument type signs are already required in that area, but the deed restrictions allow signs to be 10 feet tall and up to 100 square feet. As a result of the deed restrictions, Mr. Forbes suggested that Council consider amending the ordinance to be consistent with the deed restrictions already in place.

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7920, on its first reading, as read by title only.

Mayor Sharp read the following:

“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

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specific findings of fact stating the basis upon which such fact were determined and the decision was made.”

Mayor Sharp opened the floor for discussion by Council members.

Ms. Spence stated that she is opposed to the ordinance as ground signs make it difficult for travelers to find specific locations. She added, in her opinion, monument signs will have a negative impact on traffic flow and that signage is a valuable marketing tool for businesses.

Mr. Knight acknowledged that monument style signs are safer in a storm, but advised that he is also opposed to the ordinance. He remarked that monument signs are difficult to read and stated he felt that the \$5,000 renovation requirement was too low and that it would place a financial burden on many businesses.

There being no further discussion, Mayor Sharp closed the discussion.

Motion to Amend: It was moved by Mr. Knight, seconded by Ms. Sibley, to amend Ordinance No. 2006-7920 on its first reading by changing the maximum size for center monument signs other than for shopping centers, to 100 square feet, and changing the maximum height to 10 feet, and by changing Section 34-449(g) to require non-conforming signs to be removed prior to any building permit being issued for work valued at more than 50% of the fair market value of the structure.

Roll call vote on Motion to Amend: Ayes - Knight, Matthews, Sibley, Spence, Christian and Mayor Sharp.

Motion carried unanimously.

Motion to Adopt Ordinance as Amended: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7920, on its first reading as read by title, as amended.

Roll call vote: Matthews, yes; Sibley, yes; Spence, no; Christian, yes; Knight, yes; and Mayor Sharp, yes.

Motion carried by a vote of 5-1.

Ordinance No. 2006-7921 – First Reading – Public Hearing

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7921, on its first reading by title, holding a public hearing; whereupon Assistant City Clerk Judy Bullock read the following:

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Mayor Sharp 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.

Public Hearing: Mayor Sharp opened the public hearing on Ordinance No. 2005-7921.

There being no one wishing to address the Council, 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

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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 Sharp – none
Council member Knight – none
Council member Sibley - none
Council member Spence – none
Council member Matthews – none
Council member Christian – none

Motion: It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7921, on its first reading, as read by title only.

Mayor Sharp read the following:

“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 fact were determined and the decision was made.”

Mayor Sharp opened the floor for discussion. As no member of the Council wished to comment on the ordinance, the discussion was closed.

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

Motion carried unanimously.

Ordinance No. 2006-7922 – First Reading

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7922, on its first reading by title; whereupon Ms. Reagan read the following:

“AN ORDINANCE AMENDING CHAPTER 2 – DIVISION 5, ‘GENERAL EMPLOYEES’ RETIREMENT SYSTEM’; DIVISION 6, ‘POLICE OFFICERS’ RETIREMENT SYSTEM’; AND DIVISION 7, ‘FIREFIGHTERS’ RETIREMENT SYSTEM’ OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH; CHANGING THE MAXIMUM DISABILITY BENEFIT PERIOD TO END

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AFTER 60 MONTHS OR AT NORMAL RETIREMENT AGE, WHICHEVER OCCURS LAST; PROVIDING EMPLOYEES WHO OPTED OUT OF THE GENERAL EMPLOYEES' RETIREMENT SYSTEM A ONE-TIME OPPORTUNITY TO RE-ENTER THE SYSTEM; CLARIFYING ELIGIBILITY IN THE POLICE OFFICERS' RETIREMENT SYSTEM BY DELETING THE REQUIREMENT OF ONE THOUSAND (1,000) OR MORE HOURS OF WORK IN A YEAR; PROVIDING A SAVINGS CLAUSE; 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. 2006-7922, on its first reading, as read by title only; which modifies the disability period tables, provides a one-time option to employees that opted out of the plan to re-enter the General Employees' plan and clarifies the eligibility requirements for the Police Plan.

Speakers: Deborah White, 11 North 3rd Street, and Nelson Luna, 920 South 15th Avenue, Jacksonville Beach, spoke in opposition to the ordinance. As trustees on the General Employees' Pension Board, Ms. White and Mr. Luna cited concerns that the Board was not provided with an opportunity to review the ordinance to ensure that it would not have a negative financial impact on the retirement system. They requested that Council defer action on the ordinance until the Pension Board reviews the ordinance.

Willie McLaurin, 102 South 11th Street, Jacksonville Beach, spoke in opposition to the ordinance.

Under Council discussion, Ms. Christian read an Impact Statement (*copy on file*) prepared by the Retirement Systems' Actuary, indicating that the impact to the system is de minimus.

Ms. Sibley commented that the ordinance would only affect two employees.

Mr. Forbes confirmed that the ordinance would affect two employees at the current time, as only department directors are given the choice to opt-out of the retirement system. He advised that the duties of the Pension Trustees are not to set benefits. The retirement plans are adopted by the Council. Mr. Forbes added that the proposed ordinance requires an employee wishing to opt back in, to pay into the system, all contributions plus 8% interest.

Ms. Reagan commented that there seems to be some misconceptions concerning the proposed ordinance. She explained that the retirement systems are Defined Benefit Plans, and that there is a set formula that determines how much an individual's benefit will be. She added that the

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Actuarial Impact Study on the proposed amendment has been completed and that the cost to the plan is de minimus; which means it will cost the plan nothing.

Ms. Spence remarked that pension buy-backs are not common in the private sector.

Ms. Reagan responded, that buy-backs are fairly common. She explained, under the current provisions, if an employee terminates city employment and then returns to city employment within five-years, they can buy-back their prior service by repaying all contributions, plus interest. She advised that the ordinance is actually mirroring the state plan and reiterated that there is no impact to the plan. Ms. Reagan stated that the proposed amendment will allow senior level employees who opt out of the plan when hired, a one-time 90 day time frame to decide if they wish to buy-back their service, by paying all contributions, plus interest to the plan.

Ms. Sibley recommended that Council defer action on the ordinance to the next meeting to allow the staff and trustees an opportunity to review the ordinance.

Mr. Forbes suggested that Council vote on the ordinance tonight; then consider adoption of the ordinance at the next meeting.

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

Motion carried unanimously.

Adjournment

There being no further business coming before the Council, Mayor Sharp adjourned the meeting at 9:50 pm.

Submitted by: Judy L. Bullock, Assistant City Clerk

Approval:

/s/Fland Sharp
Mayor

April 3, 2006
Date