

**Minutes of Regular City Council Meeting  
Held Monday, October 2, 2006 at 7:00 P.M.  
In the Council Chambers, 11 North 3<sup>rd</sup> Street,  
Jacksonville Beach, Florida.**



**Call to Order**

The meeting was called to order by Mayor Fland Sharp.

**Opening Ceremony**

Invocation was by Council member 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, City Attorney Stephen Stratford, City Clerk Heidi Reagan, and Recording Secretary Linda Wilkins.

**Approval of Minutes**

**Motion:** It was moved by Ms. Spence, seconded by Ms. Sibley, and passed, to approve the minutes of the September 18, 2006, meeting as presented:

**Communications**

**Courtesy of Floor to Visitors**

Mayor Sharp extended Courtesy of the Floor to Visitors.

Speakers: None at this time.

**Mayor "a"**

**Presentation by Paws Park**

Lance Folsom, Sandy Golding and Bennie Furlong thanked Landscape and Grounds Director Gary Meadors and presented a plaque for all the work he and his staff did to make the park a great place for pets.

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**Mayor “b”**

**Presentation by Department of Environmental Protection on the Management Plan for the Guana Tolomato Matanzas National Estuarine Research Reserve**

Andy Flajole, Acting Director of the Reserve, gave a brief presentation on the reserve and the management plan.

**City Manager “a”**

**Approval of South Beach Replat Subdivision Final Plat**

**Motion:** It was moved by Ms. Spence, seconded by Ms. Sibley, to approve the South Beach Replat subdivision final plat.

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

Motion carried unanimously.

**City Manager “b”**

**Recommendation on Awarding Bid No. 0506-28 – Wire and Cable – 12 Months Requirements**

**Motion:** It was moved by Ms. Spence, seconded by Ms. Sibley, to award Bid No. 0506-28 to the lowest bidders as described in a memo from Don Ouchley dated September 20, 2006 entitled “Annual Bid – Wire and Cable”.

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

Motion carried unanimously.

**ORDINANCES**

**ORDINANCE NO. 2006-7928 – FIRST READING – PUBLIC HEARING**

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7928, on its first reading by title only, holding a public hearing; whereupon Ms. Reagan read the following:

**“AN ORDINANCE TO AMEND PLANNED UNIT DEVELOPMENT ORDINANCE NO. 7411, AS AMENDED, SUPPLEMENTING THE COMPREHENSIVE ZONING REGULATIONS AND PLAN FOR THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS PROVIDED UNDER CHAPTER 34 OF THE CODE OF ORDINANCES OF SAID CITY.”**

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.

Mayor Sharp opened a public hearing on Ordinance No. 2006-7928.

Gary Hunter of Hopping, Green & Sams, attorney for Home Depot, introduced Doug Shepard, of Greenberg Farrow. Mr. Shepard referenced his letter to Senior Planner Bill Mann in which he requested a modification of items C and G on the list of Planning Commission conditions to the proposed amendment.

He advised that they wish to modify condition G which reads as follows: “*No loading/unloading of any type of semi-trailers from any other entrance other than the primary loading dock in the northwest corner*”. The requested modification will be to allow semi-trailer unloading of lumber at the canopy located on the eastern side of the store. The reason for this request is this loading operation cannot be performed within the truck well because it requires unloading from the side of a flat-bed semi via fork-life and an entry into the building large enough to accommodate 16’ long lumber. The sloping truck well cannot accommodate fork-life unloading and there are no doorways in this vicinity large enough to accept lumber. To mitigate the impact of this request on neighboring businesses and the community, we offer to restrict deliveries to nighttime hours.

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They also wish to modify condition C which reads as follows: *“There shall be no outdoor storage of goods or services offered or empty cartons/pallets either during or after operating hours, to include but not limited to storage in portable storage units”*. The requested modifications will be to allow outdoor storage of pallets, baled cardboard, and other recyclable items within the truck well area, adjacent to the trash compactor located at the northwest corner of the building. This area is screened from view by a series of walls, the first being an 8’ high wall located along the edge of the truck well and a second 10’ high wall proposed for the rear property line to satisfy Planning Commission’s recommended condition F.

Mike McKelvin, real estate consultant with Urban Economics, reported on the impact on the value of nearby homes. His findings were that homes that were close to a shopping center/mall were appraised at a higher value than those that were farther away.

Thad Crowe, an urban planner with The Wantman Group, Inc., advised that he had reviewed the Home Depot application and has determined that this amendment is in keeping with the Comprehensive Plan and the Land Development Code.

J. D. Payne, real estate agent for Home Depot, and Paul McCormick, head of public relations for the 10 Jacksonville area stores spoke briefly on the proposed amendment.

The following people spoke in favor of the amendment:

Julio Williams, 702 5<sup>th</sup> Street North  
Jud Spence, 617 5<sup>th</sup> Street North  
Francis M. Floyd, 910 24<sup>th</sup> Street North  
Sylvia Osewalt, 3 Freedom Way  
John Sharp, 3376 Zephyr Way North  
Mrs. Johnnie Fellabaum, 117 South 7<sup>th</sup> Avenue

The following people spoke in opposition to the amendment:

Ronnie Burak, 482 Jacksonville Drive  
James F. Overby, 21 Burling Way  
Matt Jackson, 76 Slavin Street, Jacksonville (Attorney representing Doctors on Jacksonville Drive)  
Michael Freed, 76 Laura Street, Jacksonville (Attorney representing Doctors on Jacksonville Drive)  
William Simpson, 1110 North 18<sup>th</sup> Avenue  
Sheila Page, 3332 Anhinga Court  
Stephen Kuti, 1132 Linkside, Atlantic Beach  
Darrell Shields, 315 18<sup>th</sup> Street North  
Yana Kiely, 195 St. George Court  
Frank Cervone, 474 Jacksonville Drive  
Jennifer Derycker, 1748 Horn Street  
Frank Spataro, 112 Deer Lake Drive, Ponte Vedra

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Dean Thompson, 2067 Green Heron Point  
Debbie Young, 5009 Dixie Landing Drive, Jacksonville  
Edward Young, 410 Jacksonville Drive  
Jeff Buckholz, 3585 Kori Road, Jacksonville  
Lance Folsom, 1022 N. 23<sup>rd</sup> Street  
Gretchen, Alter, 3915 Ponte Vedra Boulevard  
Karen Ostergren, 530 Jacksonville Drive  
Jamie Fletcher, 482 Jacksonville Drive  
Bill Love, 552 Jacksonville Drive

Mayor Sharp closed the public hearing.

**Motion:** It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7928, on its first reading, as read by title only.

There followed a lengthy discussion during which the Council members expressed their concern about the mature trees and landscaping in the parking lot, whether the buffer between the rear of the store and the rear of the doctor's offices should remain as landscaping or should include the ten foot wall suggested by the Planning Commission, and the nighttime deliveries of supplies.

Following this discussion, it was decided that, before the second reading of the ordinance, the Council along with the City Manager and the staff would draft a list of conditions to be added to the ordinance.

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

Motion carried unanimously.

**ORDINANCE NO. 2006-7929 – FIRST READING**

Mayor Sharp requested that the City Clerk read Ordinance No. 2006-7929, on its first reading by title only; whereupon Ms. Reagan read the following:

**“AN ORDINANCE TO AMEND CHAPTER 18 NOISE, SECTION 18-3, PARAGRAPH (f) *BUILDING OPERATIONS* REGULATING ALLOWABLE DAYS AND TIMES FOR CERTAIN BUILDING AND CONSTRUCTION ACTIVITIES, AND FOR OTHER PURPOSES.”**

**Motion:** It was moved by Ms. Spence, seconded by Ms. Sibley, to adopt Ordinance No. 2006-7929, on its first reading, as read by title only.

**Speaker:** Cheryl Komarek, 533 11<sup>th</sup> Avenue South, spoke in favor of the ordinance.

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**Discussion:** A discussion followed where the question was asked whether this prohibits homeowners from doing work on their own homes. Mr. Forbes explained that this is a noise ordinance and it applies to everyone, not just contractors.

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

Motion carried by a vote of 5 to 2.

**Adjournment**

There being no further business coming before the Council, Mayor Sharp adjourned the meeting at 11:34 pm.

Submitted by: Linda M. Wilkins, Recording Secretary

Approval:

/s/Fland O. Sharp  
Mayor

October 16, 2006  
Date