

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
Monday, January 27, 2020

The City Commission met in formal session Monday, January 27, 2020 at 5:00 P.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Tracy Upchurch, and the following were present:

1. Roll Call: Tracy W. Upchurch, Mayor/City Commissioner
Leanna S. A. Freeman, Vice Mayor/City Commissioner
Roxanne Horvath, City Commissioner
John Valdes, City Commissioner
Nancy Sikes-Kline, City Commissioner

Also Present: John Regan, City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
Meredith Breidenstein, Assistant City Manager
David Birchim, Director, Planning and Building
Mike Cullum, Chief Resiliency Officer
Reuben Franklin, Director, Public Works
Mark Litzinger, Director, Financial Services
Melissa Wissel, Communications Manager
Barry Fox, Police Chief
Carlos Aviles, Fire Chief
Laura Morse, Recording Secretary

INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Andy Hirko, Good News Church, delivered the invocation, and Commissioner Freeman led the Pledge of Allegiance.

2. ADMINISTRATIVE ITEMS

2.A. Modification and Approval of Regular Agenda

Commissioner Freeman requested the addition of Resolution 2020-08 supporting the elimination of state preemption of local regulation of single use plastics.¹

MOTION

Commissioner Sikes-Kline MOVED to add Resolution 2020-08 to the Regular Agenda. The motion was SECONDED by Commissioner Horvath and APPROVED BY UNANIMOUS VOICE VOTE.

Mr. Regan, City Manager, recommended adding Resolution 2020-08 as Item 9.B.1.

Commissioner Freeman noted that Ordinance 9.A.1. was without opposition and it appeared that the meeting would be substantive and lengthy; therefore, she requested to hear Item 9.A. prior to Item 8.A.

¹ Attached to Commission Packet

MOTION

Commissioner Freeman **MOVED** to place Item 9 before Item 8 and consider both the Ordinances on First Reading and the Resolution at that time. The motion was **SECONDED** by Commissioner Horvath and **APPROVED BY UNANIMOUS VOICE VOTE.**

MOTION

Commissioner Sikes-Kline **MOVED** to approve the Agenda as amended. The motion was **SECONDED** by Commissioner Horvath and **APPROVED BY UNANIMOUS VOICE VOTE.**

3. Special Presentations, Recognitions and Proclamations

(None)

4. General Public Comments (3 minutes per individual)

Mayor Upchurch noted the separate public hearing on the short-term rental ordinance.

The Commission heard from the following members of the public:

Chris Fulmer
Michael Jagielski
BJ Kalaidi ²
Charles Pappas

Public comment was closed.

5. Consent Agenda

Mr. Regan read the Consent Agenda:

CONSENT AGENDA - JANUARY 27, 2020

CA.1. Preview of upcoming Commission meetings.

CA.2. The following Ordinances are tentatively scheduled for second reading on February 10, 2020:

- Ordinance 2020-02
- Ordinance 2020-03
- Ordinance 2020-04
- Ordinance 2020-05
- Ordinance 2020-06

CA.3. Reminder of Upcoming Meetings:

- February 10, 2020, 5pm, Regular Commission Meeting
- February 24, 2020, 5pm, Regular Commission Meeting
- March 9, 2020, 5pm, Regular Commission Meeting

CA.4. Approval of Minutes from prior Commission meetings:

- December 9, 2019, Regular Commission Meeting

CA.5. Releases of Lien for Unit Connection Fee Mortgage(s):

(None)

CA.6. Proposed Proclamations, Certificates of Appreciation and/or Recognition. (Commission approval required). (To be read at a subsequent meeting).

(None)

CA.7. Notification of Proclamations/Certificates of Recognition issued:

(None)

CA.8. Approval of order releasing code enforcement lien at 34 Miruela Avenue. (J. Cary, Assistant City Attorney)

CA.9. First quarter for year 2019-2020 report for the City Attorney's office. (I. Lopez, City Attorney)

² Provided documents, attached to original packet

CA.10. First quarter for year 2019-2020 report for the public works and the utilities departments. (R. Franklin, Director, Public Works and T. Grant, Director Utilities)

CA.11. Financial report through December 2019. (M. Litzinger, Director, Finance)

End of Consent Agenda

5.A. Additions, deletions or modifications to Consent Agenda

(None)

5.B. Approval of Consent Agenda

MOTION

Commissioner Horvath MOVED to approve the Consent Agenda. The motion was SECONDED by Commissioner Sikes-Kline.

VOTE ON MOTION

AYES: Horvath, Sikes-Kline, Upchurch, Freeman, Valdes

NAYES: None

MOTION APPROVED UNANIMOUSLY

6. Appeals

(None)

7. General Public Presentations, Items of Great Public Importance, and Other Items Requiring Public Hearings

7.A. General Public Presentations

(None)

7.B. Items of Great Public Importance

(None)

7.C. Other Items Requiring Public Hearing

(None)

8. Ordinances and Resolutions – Public Hearing Required.

8.A. Ordinances – Second Reading

Isabelle Lopez, City Attorney, collectively reviewed Ordinances 2019-50, 2019-51 and 2019-52.

8.A.1. Ordinance 2019-50: Provides regulation of short-term rentals including registration, annual inspection, intensity of use, ancillary use, life-safety, parking, solid waste, effects on existing contracts and violations and penalties.

Ms. Lopez advised that two versions of the ordinance were provided with the agenda materials: the first version included recommendations by the Commission and the other included recommendations by the Planning and Zoning Board (PZB). She noted the recommendations by PZB as follows:

- Intensity of use inclusion of two children
- Additional phrasing of emergency lighting consistent with NFP Life Safety Code 101, Chapter 7
- On-site and off-site parking requirements for HP district

David Birchim, Director, Planning and Building, discussed the following:

- Effective date of the three Ordinances after their approval
- Current Florida Legislation with provisions that preempted local governments from requiring vacation rental registration, which would rescind Ordinance 2019-50
- Effective date should be after the legislative session concludes
- If registration began July 1st, the City would allow an education period for short-term rental owners without imposing Code Enforcement complaint penalties

- Host Compliance would submit the complaints to the Code Enforcement division
- Code Enforcement would contact the property owner / manager to advise of the problem
- Enforcement of violations without penalties would allow time for the short-term rental owner to understand the new regulations
- October 1st was the suggested date for registration since it was the beginning of the fiscal year

Mayor Upchurch noted that the seven-day minimum rental requirement was the issue with the greatest concern, and he requested that Ms. Lopez clarify the need for an effective date since Ordinance 2020-51 and 2020-52 were existing City zoning regulations.

Ms. Lopez stated that March 1st was simply an initial deadline with the intention to simultaneously present the three Ordinances with Host Compliance; however, with Commission preference this could be effective immediately or another date selected.

The Commission discussion continued regarding:

- Host Compliance was currently under contract with the City for monitoring homestead exemption issues
- Enforcement was to begin when the City presented the Ordinance to Host Compliance, which would be used to monitor the listing agencies
- Host Compliance needed to be directed by the City and the Commission on the enforcement priorities since it was taxpayer money being spent
- Safety and registration were two priority issues
- A listing Ordinance violation was called a 'datapoint' which the Host Compliance would show in a report to the Code Enforcement division

- The Code Enforcement division was to follow up and determine how to handle
- Host Compliance had the ability to monitor the weekly rental period in zoning categories, and the monthly rental period in HP1, if the City chose to use that service

Commissioner Freeman inquired about ownership of submerged lands and Ms. Lopez clarified that should a person claim ownership, a Submerged Land Lease was not required if the City was not the Landlord.

Public hearing was opened for Ordinance 2019-50; however, Mayor Upchurch noted the option to comment on all three Ordinances, and the Commission heard from the following members of the public:

Chris Fulmer
Roberto Bello
Marianne Larsen
Michele Van Doren
Melinda Rakoncay
Guy Van Doren
Parrish Jones
Cindy Wasserbauer
Trish Dennig
David Goldstein
Michael Southerland
Mike Wieber
Nancy Pellicer
Linda Brent
Michael Gallagher
Nancy Nolofoff
Gene Griffin
Jeffrey Pepper
Pat Debosz
Debi Sauls
Barry Gowen
Lauren Giber
Paul Morris

Public hearing was closed.

Commissioner Sikes-Kline requested that Ms. Lopez review the topic of 'hosted homes' and short-term rentals.

Ms. Lopez noted the following:

- Rules in Ordinance 2019-50 could be made less onerous for owner occupied 'hosted homes' because these were new regulations
- State legislature would not allow the City to create exemptions to the other two Ordinances
- In RS-1 and RS-2, the City was preempted by State law for creating exceptions for owner occupied, it was "all or nothing"
- The City could enforce existing zoning in RS-1 and RS-2 regulations because they existed since 1975

Commissioner Horvath requested clarification of the seven-day rental requirement.

Ms. Lopez replied as follows:

- Special magistrate would make the final ruling
- Person renting would 'own' the entire week; however, they were not required to stay the full seven days
- Owner was not precluded from having a shorter-term rental, they were not permitted to rent it twice in one week
- City employees and the special magistrate needed to understand the intentions of the Ordinance

There was Commission consensus to modify the language to include that a short-term-rental could not be "re-booked" during a seven-day period.

Mayor Upchurch discussed specific language modifications in the Ordinances and requested consensus for inclusion and amending the following:

- City Commission version of Ordinance 2019-50:
 - Section 28-146, 3rd line: *'the information provided on each listing*

of a vacation rental must accurately reflect the information submitted on the registration form"

- Section 28-154 re: length of response time for short-term rental owner / manager: The Commission requested an *acknowledgement of the problem from the owner / manager within thirty minutes, not a cure*
- PZB version of Ordinance 2019-50:
 - Section 28-148: Maximum occupancy of a vacation rental was two *persons* per bedroom (the term adults was removed), and the total maximum occupancy was twelve persons, *inclusive of children*.
 - Section 28-150: Added Life-Safety code reference *NFPA Life Safety Code 101 Chapter 7*
 - Section 28-151 (iii) Modification requested that an attempt made to get off-site parking because on-site parking not feasible, regardless of options, required PZB approval

MOTION

Commissioner Horvath MOVED to accept the amendments discussed for Ordinance 2019-50. The motion was SECONDED by Mayor Upchurch and APPROVED BY UNANIMOUS VOICE VOTE.

There was further discussion regarding the following:

- How registration fee would be determined
- Preliminary staff estimate for registration was approximately \$400 per rental property
- Registration fee topic was to come back to the Commission by Resolution
- A tiered rate pricing proposal would be submitted to the Commission
- Did not want to collect registration monies to only return should the Legislature pre-empt the ordinance

- PZB noted that occupancy in County-wide Airbnb's was down 20% in December due to their explosion; but supply increased 53%
- Effective date for registration fees was to be either July 1st or October 1st, determined upon Legislative decision
- If Tallahassee did not approve the legislation, the City would begin advertising, modifying compliance provider contracts, evaluating contract with Host Compliance, training staff, educating the public

MOTION

Commissioner Freeman MOVED to make the effective date of the registration July 1, 2020. The motion was SECONDED by Commissioner Sikes-Kline.

Mayor Upchurch noted his preference for the date of October 1, 2020, since the City needed to hire a Code Enforcement Officer and a Life-Safety Enforcement officer and contract with a Special Magistrate.

Mr. Birchim noted the following:

- The City had no one to enforce this with only two full-time Code Enforcement officers
- Registration fees would fund a third full time Code Enforcement Officer
- After the legislative session, registration fees would be collected after July, then a Code Enforcement Officer could be hired and trained
- Fees would not be enforced until October 1st when the Code Enforcement Officer started enforcing the law
- Needed effective date of July 1st to collect fees, but may not have Code Enforcement Officers until October
- A July 1st date, but October 1st enforcement required clear language, so homeowners did not

think the City was not enforcing own laws

MOTION

Mayor Upchurch MOVED to make the effective date of the registration July 1, 2020. The motion was SECONDED by Commissioner Sikes-Kline.

Mayor Upchurch stated that the City's ability to regulate short-term rentals was largely restricted by State of Florida legislation that preempted and tied the City's hands; therefore, the City was not able to create an ideal community ordinance. He noted that the only tool that the Commission had to protect residential neighborhoods was the seven-day rental restriction. He continued that the issue was studied for months, and it was incumbent upon the Commission to look at issues, discussion, people involved, and this was not about putting people out of business; however, it was about trying to create a calming effect in the residential neighborhoods.

MOTION

Mayor Upchurch MOVED to pass Ordinance 2019-50 on second reading and read by title only. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2019-50

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA CREATING SECTION 28-145 THOUGH SECTION 28-154 REGULATING VACATION RENTALS; PROVIDING FOR REGISTRATION; PROVIDING FOR ANNUAL INSPECTIONS; PROVIDING FOR MAXIMUM INTENSITY OF USE; PROVIDING FOR LIMITATIONS ON ANCILLARY USE; PROVIDING FOR LIFE-SAFETY REQUIREMENTS; PROVIDING FOR PARKING REQUIREMENTS; PROVIDING FOR SOLID WASTE

REMOVAL; PROVIDING FOR VALIDITY OF CONTRACTS PREDATING THIS ORDINANCE; PROVIDING FOR PRELIMINARY COMPLIANCE COMPLAINT SYSTEM; PROVIDING FOR VIOLATIONS AND PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Upchurch, Horvath, Valdes,
Freeman, Sikes-Kline

NAYES: None

MOTION APPROVED UNANIMOUSLY³

8.A.2. Ordinance 2019-51: Codifies the findings, intent, purpose and interpretation found in Ordinance 2010-24 that established regulations for registration and permissible activities for short-term rentals in RS-1 and RS-2 categories.

Ms. Lopez reviewed the Ordinance after Item 8.A.1.

Public comment was opened and the Commission heard from the following:

Melinda Rakoncay
Barry Gowen
Parrish Jones
Lauren Giber
Michael Southerland
Robert Stewart
Karen Andes

Public hearing was closed.

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2019-51 on second reading and read by title only. The

motion was SECONDED by Commissioner Valdes.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2019-51

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA CREATING SECTION 28-155 WHICH CODIFIES THE FINDINGS, INTENT, PURPOSE, AND INTERPRETATION FOUND IN ORDINANCE 2010-24 THAT ESTABLISHED REGULATIONS FOR REGISTRATION AND PERMISSIBLE ACTIVITIES FOR SHORT-TERM RENTALS IN RS-1 AND RS-2 CATEGORIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Freeman stated that it was her goal to exempt on-site hosts from the seven-day rule and requested the Commission's effort with Tallahassee to specifically define the difference between on-site hosts and out of town investors. She added that the State was setting a rule which was not good for every community and she would continue to fight and expressed her commitment to protect neighborhoods.

MOTION

Mayor Upchurch MOVED to amend Ordinance 2019-51 and make it effective upon passage. The motion was SECONDED by Commissioner Horvath.

VOTE ON MOTION

AYES: Sikes-Kline, Valdes, Horvath,
Freeman, Upchurch

NAYES: None

MOTION APPROVED UNANIMOUSLY

³ Brief recess from 7:18p.m. to 7:27p.m.

8.A.3. Ordinance 2019-52: Confirms regulations requiring monthly rentals for HP-1 zoned properties and submerged land leases for commercial use of docks that effect short-term rentals as previously enacted in Ordinance 1995-35 and Ordinance 1989-51.

Ms. Lopez reviewed the Ordinance after Item 8.A.2.

Commissioner Valdes recused himself from the item⁴

Public hearing was opened and the Commission heard from the following:

Barry Gowen

Public hearing was closed.

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2019-52 on second reading and read by title only as amended with the effective date being upon passage. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2019-52

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA CREATING SECTION 28-156 CONFIRMING REGULATIONS THAT AFFECT SHORT-TERM RENTALS AS PREVIOUSLY ENACTED IN ORDINANCE 1995-35, REQUIRING SUBMERGED LAND LEASES FOR COMMERCIAL DOCKS, AND ORDINANCE 1989-51 LIMITING RENTAL PERIODS TO MONTHLY OR LONGER RENTALS IN HP-1 ZONING; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS;

⁴ Form attached to original

AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Sikes-Kline, Horvath, Freeman, Upchurch

NAYES: None

MOTION APPROVED UNANIMOUSLY

8.B. Ordinances – First Reading (only if required by law)

(None)

8.C. Resolutions – Public Hearing (only if required by law)

(None)

9. Ordinances and Resolutions - No Public Hearing Required

9.A. Ordinances – First Reading

Item 9.A.1. heard after Item 7.C.

9.A.1. Ordinance 2020-07: Amends the Planned Unit Development for the Columbia Restaurant to allow for a maximum of 27% lot coverage to install an outdoor walk-in cooler.

Mr. Birchim reviewed the Ordinance.

MOTION

Commissioner Horvath MOVED to place Ordinance 2020-07 on second reading, read by title only and passed. The motion was SECONDED by Mayor Upchurch.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2020-07

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, MODIFYING ORDINANCE 2011-03, THE COLUMBIA RESTAURANT OF ST. AUGUSTINE PLANNED UNIT DEVELOPMENT,

PURSUANT TO SECTION 28-289 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR TERMS AND CONDITIONS OF THE PUD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

VOTE ON MOTION

AYES: Horvath, Upchurch,
Sikes-Kline, Valdes, Freeman

NAYES: None

MOTION APPROVED UNANIMOUSLY

9.B. Resolutions

9.B.1. Resolution 2020-08 was added and heard after Item 7.C.⁵

Commissioner Freeman reviewed the Resolution.

MOTION

Commissioner Freeman MOVED to pass Resolution 2020-08. The motion was SECONDED by Commissioner Sikes-Kline.

VOTE ON MOTION

AYES: Freeman, Sikes-Kline, Horvath, Valdes, Upchurch

NAYES: None

MOTION APPROVED UNANIMOUSLY

10. Staff Reports and Presentations

11. ITEMS BY CITY ATTORNEY

11.A. 2020 Legislative Bill Tracking Information. No presentation.

No presentation made, provided by the City Attorney's Office for information purposes.

Commissioner Sikes-Kline stated that she was happy to work through a resolution that supported a distinction in legislative

bills, and if necessary, would contact the bill sponsor in the House to request an amendment.

Mayor Upchurch requested that the consensus of the Commission be represented on City stationery, and that time was of the essence.

Commissioner Sikes-Kline noted that the bills were not moving in that week's Committee meetings and that she would work with Mayor Upchurch and Mr. Regan on a letter that showed the Commission's position and support.

Mr. Regan requested that the record reflect there was consensus of the five Commissioners.

12. ITEMS BY CITY CLERK

12.A. Request for appointments to the Code Enforcement Adjustment and Appeals Board due to term expiration of two positions in December 2019.

Darlene Galambos, City Clerk, presented the information and ballots were distributed to the Commission.⁶

The Commission appointed:

- Charles Pappas
- Dr. Lindsey Smith

13. ITEMS BY CITY MANAGER

13.A. Discussion regarding the scheduling of Workshop dates.

After a brief discussion, the Commission determined the following dates between 2:00 P.M. and 4:00 P.M.:

- February 19, 2020
- March 12, 2020
- April 30, 2020

⁵ Resolution attached to Commission Packet

⁶ Ballots attached to original minutes

Mr. Regan memorialized the workshop idea and that they were to bring the Commission together in a more collaborative setting to look deeper at topics and work together to formulate policy. He noted some topics to be discussed at the workshops:

- Sustainability Master Plan
- Mobility topics and big-ticket decisions and future of urban design and vision of the community
- Community Re-development Agency adjustments and downtown parking and traffic light, primary financing mechanisms
- Direction on parking ideas

Mayor Upchurch noted three major infill development topics for discussion at the workshops:

- San Sebastian
- Shipyards
- Apartments on north side of town

Mayor Upchurch stated the importance for the City to understand the surrounding County development, as it had a dramatic impact on the City.

14. Items by Mayor and Commissioners

Mayor Upchurch suggested that City staff craft a detailed statement that indicated the City's actions on the homelessness and sea level rise issues to be posted on the City's website. He noted that the ability to refer the public to the website would be incredibly useful and concluded other topics may be addressed in the future such as sustainability, restraints of law, and regulation.

Ms. Lopez noted that the City's website had an 'FAQ' page with multiple questions and answers, which could be 're-packaged' to address the issues and with more user-friendly information. She would

seek insight from Mike Cullum, Chief Resiliency Officer.

Mayor Upchurch commented that the City was restrained by many Federal regulations on the homelessness issue, which was not understood by the general public, and that the public should know what the City spends as a community on both issues.

Commissioner Horvath requested an update on the progress of a meeting with the County and St. Augustine Beach.

Mayor Upchurch responded that he and Mr. Regan met with Max Royle, City Manager, and Mayor England of St. Augustine Beach and had reached out to the County, including the new Administrator. The consensus was they were all pleased to meet with the City; however hesitant that the meeting would be substantive.

The Commission discussed that the homelessness and resiliency issues would be a great topic for the meeting and Mr. Regan noted that the major issues for the County were homelessness and the role of the County with the issue of resiliency and sustainability.

Mayor Upchurch acknowledged his direction to have these meetings at the first opportunity.

Commissioner Sikes-Kline discussed the inquiry from the Tourist Development Council for the City's participation in the bicentennial celebration of 1821, which was the date that the territory was formed. She noted that 1821 was the dividing line in the City codes, Historic Preservation districts and how architecture was defined.

Mr. Regan suggested that this topic be reviewed during a February meeting.

Mr. Valdes noted the issue of trying to fill the Board vacancies for the Entry Corridor

Board and PZB and wanted to suggest allowing the seats to be occupied by City property owners or City business owners who live outside the City. He noted that the Historical Architecture Review Board (HARB) was allowed to go outside City to populate their Board. It would expand the availability of people to serve.

Commissioner Freeman noted her appreciation on the Commission's consensus to move forward on neighborhood presentation.

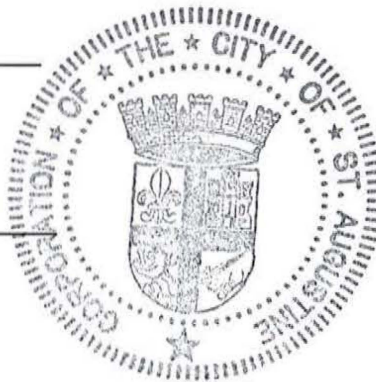
Commissioner Valdes noted his fear that several years from now, if the City was not allowed to control it's destiny, that we would live in a major metropolitan's entertainment district and residential neighborhoods would be motels.

15. Adjournment

There being no further business, the meeting was adjourned at 8:14 P.M.⁷


Tracy W. Upchurch, MAYOR


Darlene Galambos, CITY CLERK



⁷ Transcribed by Laura Morse