CITY OF ST. AUGUSTINE

Regular City Commission Meeting
Monday, October 14, 2019

The City Commission met in formal session Monday, October 14, 2019 at 5:06 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
Roxanne Horvath, City Commissioner
Nancy Sikes-Kline, City Commissioner
John Valdes, City Commissioner

Absent: Leanna S. A. Freeman, excused

Staff: John Regan, City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
David Birchim, Director, Planning and Building
Jim Piggott, Director, General Services
Meredith Breidenstein, Assistant City Manager
Paul K. Williamson, Director, Public Affairs
Donna Hayes, Director, Human Resources
Barry Fox, Police Chief
Carlos Aviles, Fire Chief
Candice Seymour, Recording Secretary
Laura Morse, Recording Secretary

INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Dan Ott, Anastasia Baptist Church, delivered the invocation, and the Commissioners led the Pledge of Allegiance.

Mayor Upchurch announced some technical difficulties, noting that while streaming, broadcasting, and video recording was not operational, audio recording of the entire meeting was available upon request at the City Clerk's office after the meeting. He recommended considering postponing discussion of item 7.A.1. after the presentation to allow for the broadcasting of public comment at a future meeting if the technical difficulties had not been resolved.

2. ADMINISTRATIVE ITEMS

2.A. Modification and Approval of Regular Agenda

(None)

MOTION

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

3. Special Presentations, Recognitions and Proclamations

- Proclamation 2019-22: Proclaiming October 2019 as Domestic Violence Awareness Month.

Mayor Upchurch read the proclamation and presented it to Joyce Mahr of Betty Griffin House.

4. General Public Comments (3 minutes per individual)

The Commission heard from the following members of the public:

- Karen Fluman
- Ann Matthews
- Tica Walley
- Tom Reynolds
- Ed Slavin
- Pat Dobosz
- B.J. Kalaidi

5. Consent Agenda

Mr. Regan read the Consent Agenda as follows:

CONSENT AGENDA – OCTOBER 14, 2019

CA.1. Preview of upcoming Commission meetings.

a) The following ordinances are tentatively scheduled for second reading on October 28, 2019:

- Ordinance 2019-24
- Ordinance 2019-25
- Ordinance 2019-40
- Ordinance 2019-43

b) Reminder of upcoming meetings:

- October 28, 2019, 4:00 p.m., LCRA Regular Meeting
- October 28, 2019, 5:00 p.m., Regular Meeting
- November 12, 2019, 5:00 p.m., Regular Meeting
- December 9, 2019, 5:00 p.m., Regular Meeting

CA.2. Approval of Minutes from prior commission meetings:

- June 24, 2019 Regular Meeting
- September 12, 2019 Community Redevelopment Agency Special Meeting
- September 12, 2019 Special Meeting
- September 19, 2019 Special Meeting
- September 23, 2019 Regular Meeting

CA.3. Releases of Lien for Unit Connection Fee Mortgage(s):

- Sharon L. Badger, Sherry Lynn Badger and Dawn Louann Brown – 2725 South Collins Avenue

CA.4. Proposed Proclamations, Certificates of Appreciation/Recognition. (Commission approval required). (To be read at a subsequent meeting).

- 2019-10CA - Certificate of Recognition to Charlotte Pichotta on her hundredth birthday. *(N. Sikes-Kline, Commissioner).*

CA.5. Invoice in the amount of $4,704.00 dated September 30 from Cavendish Partners, P.A. for legal services regarding the Seavin v. City of St. Augustine matter. *(I. Lopez, City Attorney).*

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 and APPROVED BY UNANIMOUS VOICE VOTE.

6. Appeals.

(None)

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

A. General Public Presentations

7.A.1. PUBLIC COMMENT: Presentation by Stanley Paris, Ph.D. and the St. Augustine Yacht Club regarding a proposal to donate property at 110 Carver Street East to the City to be used as a sailing center.

Mr. Regan introduced Dr. Paris.

Mr. Paris gave his presentation along with Barbara Dolan and Bradford Preston.[1]

Public comment was opened, and the Commissioners heard from the following members in favor of the proposal:

- Colonel Henry Erkelen
- Roy Jaeger
- Elyse Bernthal
- Tyson Bernthal
- Marissa Burrier
- Stephanie Robinson
- Matthew Keysers
- Pat Miller
- David Gay
- Ethan Paul Wissel
- John Grannis

The Commissioners heard from the following in opposition to the proposal, citing concerns for intensification of the property's use, rezoning issues, traffic impacts, and safety:

- Jeremiah Mulligan
- Andrea DePreter
- Jon Hodgin
- Debbie Wicker
- Susan Hill
- Roger Bansemer
- Jeff Black
- Ed Slavin
- B.J. Kalaidi

The Commissioners discussed the following:

- Commissioners' task to consider accepting the deed from the Paris Family
- A rezoning and Comprehensive Plan amendment would go before the Planning and Zoning Board to include a public hearing
- If property was not rezoned and utilized as a sailing center, or passive park ownership would revert back to the Paris family
- Possibility of text amendments to the agreement and ordinances during the rezoning process
- Overnight deep slips were not proposed which would be clarified in the lease
- Size of school expansions and possible cap based on parking

[1] Attached to original minutes

requirements or other limitations of the property

- Boats stored in existing yacht club back lot may be moved to subject property or screened with fencing
- Archeological concerns would be addressed
- Access to be only through existing parking lot and not through Carver Street
- Deed restricting the subject property could result in lessor impact than a residential lot that could be turned into short-term rentals
- PZB review could clarify and further restrict the concept
- Proposed use benefitted residents of the City and fit in with the City's maritime culture
- Impacts to Carver Street public right-of-way
- Consistency of the proposal with the City's Vision Plan
- Sailing to promote environmental conservation

MOTION

Mayor Upchurch MOVED to accept the deed to the property at 110 Carver Street East. The motion was SECONDED by Commissioner Horvath.

Mr. Regan clarified some items within the Yacht Club agreement including:

- Existing Carver Street right-of-way access would not be closed
- Request included integrating most adjacent six mooring balls near the Yacht Club who would be responsible for the costs of maintenance of the mooring balls conducted by the City
- Lease term was 99 years for $1.00 per year
- Rezoning would be a joint effort between City and Yacht Club with primary responsibility falling to the City
- Yacht Club would hold all maintenance responsibilities and utility costs of the property

There was Commission consensus that the lease come back before the Commission for approval.

There was discussion regarding striking interpretive center language within the agreement which was in place to maintain the existing historic structure.

Mayor Upchurch AMENDED his MOTION to strike language citing an interpretive center as an option in place of the sailing center or school, maintaining potential use as a passive park. The amendment was SECONDED by Commissioner Valdes.

Dr. Paris was amendable to the language change.

MOTION WAS APPROVED BY UNANIMOUS VOICE VOTE[2]

<u>7.A.2. PUBLIC COMMENT</u>: Request for Vesting Determination regarding the Santa Maria Restaurant for the owner, White's Wharf, LLC. by attorney, Robert McLeod II.

Mr. Regan gave a brief introduction of the subject.

Mac McLeod gave a presentation regarding the request.

Public comment was opened, and the Commissioners heard from the following members:

- Michael Wieber
- Bruce McGuire
- Pat Dobosz
- Anthony Sexton
- Ed Slavin
- Susan O'Toole

[2] Brief recess from 7:18p.m. to 7:31p.m.

Public comment was closed.

The Commission discussed:

- Concern regarding the vertical expansion of the structure since HARB approval included a one and a half story building, not a two-story building
- Proposed structure would have same square footage and volume of existing building
- Request for 198 permanent seats with possibility of requesting additional seating in the open deck spaces
- Seating configuration could potentially allow for up-to 300 seats
- Use-by-Exception for off-site parking to allow for additional seating
- Shelf-life of vested-rights not defined
- Existing restaurant closed in 2015
- Submerged land issues remained unresolved regarding the proposed dock

MOTION

Commissioner Sikes-Kline MOVED to accept the request with the following language changes:

1. **"continued use-by-exception of the property"**
2. **"HARB approvals, existing boardwalks, and walkways"**
3. **"Continued Vertical expansion to equal existing conditioned cubic content" with the modification of height to reflect "one and a half stories"**
4. **"Vesting of current intensification of use"**
5. **"Continued allowance of seating" with modification of "156 interior seats and 42 outdoor fixed seats"**

And the remaining items as presented.

The motion was SECONDED by Commissioner Valdes.

VOTE ON MOTION

AYES: Sikes-Kline, Valdes, Horvath, Upchurch
NAYES: NONE
MOTION APPROVED UNANIMOUSLY

B. Items of Great Public Importance

7.B.1. PUBLIC COMMENT: Charter Amendments: Discussion and direction regarding amending Sec. 2.03 of the City Charter to provide for a residency requirement for City Commissioners of a period of one (1) year prior to the date of qualification for election and amending Sec. 2.01 and Sec. 4.09 to provide for a four (4) year term for the candidate elected to City Commission Seat Three and to allow the mayor and vice-mayor to be elected by the members of the City Commission.

Ms. Lopez gave an overview of the subject.

Public comment was opened, and the Commissioners heard from the following members:

- Judith Fox-Fleisser
- Ed Slavin
- B.J. Kalaidi

Public Comment was closed.

There was Commission consensus to require a year of residency prior to being eligible for election to the Commission with direction to have Ms. Lopez develop more specific language.

Commissioner Valdes explained that he had brought up the subject of changing the mayoral election process since he felt the current process to be inefficient and misleading. He explained that the existing City Manager form of government in St. Augustine left five Commissioners of equal power, with Mayoral duties being to chair the meetings and represent the Commission at public events, unlike other cities wherein the elected mayor's duties included city operations. He did not feel that changing the process took away any citizen rights since elections would still be held for each commission seat.

Discussion continued regarding the following:

- Hardship of running every two years
- Letting the public decide how the mayor should be elected through the referendum process
- Referendum proposition had nothing to do with personalities, and much to do with the title of Mayor which many perceived as more than just a ceremonial position
- Elected mayor as a possible counterbalance to powers of the City Manager
- Sixty-eight percent of Florida cities had a similar form of government, many with elected mayors

Mayor Upchurch felt that the issue did not warrant alteration and did not support changing the mayoral election process.

There was Commission consensus to continue discussion at a subsequent meeting to allow for input from Commissioner Freeman and gather more information on the subject.

The Commission expressed a preference to place the approved Charter amendments on the August 18, 2020 primary election ballot.

Mayor Upchurch noted the late hour and asked the Commission and Staff which items should be prioritized and which could be placed on a subsequent agenda.

Mr. Regan and Ms. Lopez advised that the items on second reading and items 9.A.3. and 9.A.5 should be heard, and other items, including the short-term rental discussion, could be deferred to a subsequent meeting.

MOTION

Commissioner Sikes-Kline MOVED to allow for extension of the meeting to address the five items recommended by staff. The motion was SECONDED by Commissioner Horvath and APPROVED BY UNANIMOUS VOICE VOTE.

C. Other Items Requiring Public Hearing

(None)

8. Ordinances and Resolutions – Public Hearing Required.

8.A. Ordinances – Second Reading

8.A.1. Ordinance 2019-15: Amends all sections necessary to use gender neutral terminology.

Public comment was opened; however, there was no response.

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2019-15 on second reading read by title only. The motion was SECONDED by Mayor Upchurch.

Ms. Lopez read the Title as follows:

ORDINANCE NO. 2019-15

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CHARTER OF THE CITY OF ST. AUGUSTINE TO AMEND ALL SECTIONS NECESSARY TO PROVIDE GENDER NEUTRAL LANGUAGE THROUGHOUT; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Sikes-Kline, Upchurch, Valdes, Horvath
NAYES: NONE
MOTION APPROVED UNANIMOUSLY

8.A.2. Ordinance 2019-23: Charter update to Article III, Sections 3.02, 3.04 and 3.05 updating reference to state and federal regulations, removing reference to municipal courts and conforming language to current usage.

Public comment was opened; however, there was no response.

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2019-23 on second reading read by title only. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the Title as follows:

ORDINANCE NO. 2019-23

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE III OF THE CHARTER OF THE CITY OF ST. AUGUSTINE; AMENDING SECTION 3.02, TO PROVIDE FOR STATE OR FEDERAL PREEMPTION AND PROVIDE FOR PROPERTY OWNERSHIP FOR A PUBLIC PURPOSE AND ZONING REGULATIONS; AMENDING SECTIONS 3.04 AND 3.05 TO REMOVE OUTDATED LANGUAGE AND TO PROVIDE FOR REGULATION OF TRANSIT; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Sikes-Kline, Horvath, Valdes, Upchurch
NAYES: NONE
MOTION APPROVED UNANIMOUSLY

8.A.3. Ordinance 2019-38: Creates Section 28-355, providing regulations for the cultivation, distribution, and retail sale of hemp and hemp extract.

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

- B.J. Kalaidi

Public hearing was closed.

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2019-38 on second reading read by title only. The motion was SECONDED by Commissioner Valdes.

Isabelle Lopez read the title as follows:

ORDINANCE NO. 2019-38

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, CREATING SECTION 28-355 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING REGULATIONS FOR THE CULTIVATION, DISTRIBUTION, AND RETAIL SALE OF HEMP PRODUCTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Sikes-Kline, Valdes, Horvath, 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

9.A.1. Ordinance 2019-24: Charter update to Article IV, Sections 4.01, 4.07, 4.09, 4.10, 4.12, 4.13, 4.14, 4.16, 4.19, 4.21 and 4.44 updating the powers and authority of executive and administrative officers, removing reference to municipal judges and the department of public safety and welfare and conforming language to current usage and policies of the City.

Item was tabled to a subsequent meeting. See end of item 7.B. for motion to table.

9.A.2. Ordinance 2019-25: Charter update to Article V, Sections 5.21 and 5.28 clarifying the city attorney's responsibility to approve resident petition driven ordinances as to form only prior to consideration before the City Commission and requiring that ordinances passed as emergency measures are subject to federal and state requirements, not referendum type procedures.

Item was tabled to a subsequent meeting. See end of item 7.B. for motion to table.

9.A.3. Ordinance 2019-40: Amendment to Sec. 28-37 to modify the defined development permits to conform to state statute and to provide for review and resolution of conflicts between development permit applications and other legal documents.

Ms. Lopez reviewed the ordinance.

MOTION

Commissioner Sikes-Kline MOVED to place Ordinance 2019-40 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2019-40

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 28, ARTICLE II, DIVISION 1 OF THE CODE OF THE CITY OF ST. AUGUSTINE; AMENDING SECTION 28-37 TO AMEND THE DEFINED DEVELOPMENT PERMITS TO CONFORM TO STATE STATUTE; PROVIDING FOR REVIEW AND RESOLUTION OF CONFLICTS BETWEEN DEVELOPMENT PERMIT APPLICATIONS AND OTHER LEGAL DOCUMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Sikes-Kline, Horvath, Valdes, Upchurch
NAYES: NONE
MOTION APPROVED UNANIMOUSLY

9.A.4. Ordinance 2019-43: Updates Section 28-29 of the Zoning code to provide lot coverage variances for handicapped accessibility in zoning districts HP-1, HP-2 and HP-3.

Item was tabled to a subsequent meeting. See end of item 7.B. for motion to table.

9.A.5. Ordinance 2019-46: Vacates the street rights-of-way in the Antigua Phase One residential subdivision.

Commissioner Sikes-Kline recused herself from the item.[3]
Ms. Lopez reviewed the ordinance.

The Commission discussed:

MOTION

Mayor Upchurch MOVED to place Ordinance 2019-46 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2019-46
AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, VACATING, DISCONTINUING AND ABANDONING THAT CERTAIN PORTION OF LEEWARD ISLAND DRIVE, ANCIENT ISLAND DRIVE, SAINT BARTS AVENUE, AND BIRD ISLAND DRIVE LOCATED WITHIN THE CITY LIMITS OF ST. AUGUSTINE AND MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Upchurch, Horvath, Valdes
NAYES: NONE
MOTION APPROVED UNANIMOUSLY

9.B. Resolutions

9.B.1. Resolution 2019-41: Establishes the City Manager's authority to close city streets for certain events.

Item was tabled to a subsequent meeting. See end of item 7.B. for motion to table.

9.B.2. Resolution 2019-42: Allows for the extension of the 2019-2020 Nights of Lights program.

Item was tabled to a subsequent meeting. See end of item 7.B. for motion to table.

10. Staff Reports and Presentations

(None)

11. ITEMS BY CITY ATTORNEY

11.A. Sunshine, Public Records and Ethics Minute.

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

11.B. Short-Term Rental Committee Memo: Discussion and direction regarding possible codification of short-term (vacation) rental regulations based on the STR Committee recommendations.

Item was tabled to a subsequent meeting. See end of item 7.B. for motion to table.

12. ITEMS BY CITY CLERK

(None)

13. ITEMS BY CITY MANAGER

(None)

14. Items by Mayor and Commissioners

Mayor Upchurch thanked the Police Chief, Officers, and City Staff for facilitating the meeting. He announced that he was attending a meeting of Florida Mayors in Washington D.C., at the cost of the coalition. He also thanked City Staff and Commissioners for supporting events during the Hispanic film festival and

[3] Form attached to original

welcoming the Mayor of Aviles and delegates from Spain.

15. Adjournment

There being no further business, the meeting was adjourned at 9:03 P.M.[4]

Tracy W. Upchurch, MAYOR

Darlene Galambos, CITY CLERK

[4] Transcribed by Candice Seymour