CITY OF ST. AUGUSTINE

Regular City Commission Meeting
Monday, September 14, 2020

The City Commission met by means of Communications Media Technology (CMT) Monday, September 14, 2020 at 5:00 P.M. The meeting was called to order by Mayor Tracy Upchurch, and the following were present:

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

John Regan, City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
Meredith Breidenstein, Assistant City Manager
David Birchim, Director, Planning and Building
Reuben Franklin, Director, Public Works
Todd Grant, Director, Utilities
Mark Simpson, Director, Financial Services
Melissa Wissel, Communications Manager
Cindy Walker, Communications Specialist
Barry Fox, Police Chief
Candice Seymour, Recording Secretary
Laura Morse, Recording Secretary
Marie Lopes, Office Assistant

INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Matt McCloghry of Colonial Church delivered the invocation, and Mayor Upchurch led the Pledge of Allegiance.

2. ADMINISTRATIVE ITEMS

2.A. Modification and Approval of Regular Agenda

Commissioner Horvath requested to add Proclamation 2020-10 under Special Presentations.

MOTION

The Commissioners MOVED to amend the Agenda as re-stated and the motion was APPROVED BY UNANIMOUS VOICE VOTE.

3. Special Presentations, Recognitions and Proclamations

Commissioner Horvath read Proclamation 2020-10.[1]

[1] Attached to original minutes

MOTION

Commissioner Horvath MOVED to approve Proclamation 2020-10. The motion was SECONDED by Commissioner Sikes-Kline and APPROVED BY UNANIMOUS VOICE VOTE.

4. Public Comments for General Public Comments or for Agenda items not requiring a separate public hearing

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

- Chris Fulmer
- Carla Markel Gomez
- Jenna Bernstein
- Robert Tilson
- Shawn Morrison
- Doug Russo
- Forrest Parham
- Rhonda Brennan
- Christina Pacetti
- Hugh Washington
- BJ Kalaidi

Public comment was closed.

5. Consent Agenda

Item reviewed after 13.A.

CONSENT AGENDA – SEPTEMBER 14, 2020

CA.1. Preview of upcoming Commission meetings.

CA.2. THE FOLLOWING ORDINANCES ARE TENTATIVELY SCHEDULED FOR SECOND READING ON SEPTEMBER 28, 2020:

(None)

CA.3. Reminder of Upcoming Meetings:

- September 17, 2020, 5:05pm, Special Budget Meeting
- September 28, 2020, 5:00pm, Regular City Commission Meeting
- October 12, 2020, 5:00pm, Regular City Commission Meeting

CA.4. APPROVAL OF MINUTES FROM PRIOR COMMISSION MEETINGS:

- July 13, 2020, Regular City Commission Meeting
- July 17, 2020, Shade Meeting
- July 27, 2020, Shade Meeting
- July 27, 2020, Regular City Commission Meeting

CA.5. RELEASES OF LIEN FOR UNIT CONNECTION FEE MORTGAGE(S):

867 W. 8 Street - Ronald C. Proctor

CA.6. PROPOSED PROCLAMATIONS, CERTIFICATES OF APPRECIATION / 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 levied against 125 Washington Street as it was paid in full. *(I. Lopez, City Attorney)*

CA.9. Approval of a license agreement for the use of city right-of-way for an existing dock at 7 Inlet Place. *(D. Birchim, Director Planning and Building)*

CA.10. Approval of a grant agreement with the Florida Department of Environmental Protection which will pay 100% of the costs to the City for conducting a study to assess the vulnerability of on-site treatment and disposal systems to sea level rise and storm surge. *(R. Franklin, Director Public Works)*

CA.11. Approval of additional funding from the St. Augustine sewer set-aside fund for the West 5th Street project in West Augustine in the amount of $350,000.00. *(R. Franklin, Director Public Works)*

CA.12. Invoice approvals: Cavendish Partners, P.A. in the amount of $2,697.00 for Marlowe v. City and St. Augustine Court Reporters in the amount of $273.75 for transcription services in the same case. *(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 Sikes-Kline MOVED to approve the Consent Agenda. The motion was SECONDED by Commissioner Horvath and APPROVED BY UNANIMOUS VOICE VOTE.

6. Appeals

6.A. Appeal of the denials of Certificate of Appropriateness and Certificate of Demolition by the Historic Architectural Review Board (HARB) for 67 Marine Street.

David Birchim, Director, Planning and Building, reviewed the topic and requested the Commission to proceed with affirming, overturning or remanding the case to HARB with instructions. He advised that the Commission should determine whether due process was afforded, the correct law applied, and if the decision was based on competent and substantial evidence.

Mr. Birchim stated it was important to note this project was reviewed by HARB on two separate occasions prior to their July 16, 2020 denial and he introduced the following individuals involved with the appeal:

- Paul Thompson, Property owner
- Steven Schuyler, Architect
- Jim Wilson, Attorney
- Jenny Wolfe, Historic Preservation Officer, City of St. Augustine

Mr. Wilson stated the following:

- Board failed to follow applicable rules and did not consider the correct law or the project's substantial and favorable evidence
- The Board's 2017 Opinion of Appropriateness left minor project details for consideration; however, the project's major part was placing garage beneath structure and was approved by opinion
- The Board heard discussion that the chimney would be taken down regardless, since it could not be saved while raising the house
- Mr. Thompson would incorporate old materials, if possible, to resemble the old chimney
- Should consider area streetscape, as Mr. Thompson's request substantially conformed
- Several houses on same street looked similar to the requested modifications
- During HARB discussion the streetscape was not addressed as the focus was on building the additional structure approved by HARB three years prior

Mr. Wilson asked the Commission to overturn HARB's decision based on the correct law not being followed and concluded this was the first situation seen in his years as an attorney.

Mayor Upchurch opened the forum for Commission questions and discussion.

Commissioner Sikes-Kline asked if the garage elevation was included in the 2017 presentation provided by the applicant.

Ms. Wolfe stated the following:

- Packages sent a week prior to the meeting included a different design than the one presented; however, the new design was submitted to staff in advance of meeting
- A revised verbal recommendation was made at the hearing, evident in the transcripts provided
- Written addendum to the staff report was sent as a cover sheet, and noted the submittal of revised plans and would be presented to the Board during the meeting

At the request of Commissioner Horvath, Ms. Wolfe clarified that the garage under the existing house, as shown in that meeting, was given the Opinion of Appropriateness.

Commissioner Valdes asked if HARB had ever issued an Opinion that went straight to a Certificate, and Mr. Birchim advised this had not occurred in the past.

Commissioner Freeman asked about Jon Benoit's inquiry from the 2017 meeting transcript regarding elevation comparison with neighboring properties and the difference from 2017 to 2020, since today things were more elevated.

Mr. Birchim noted the following:

- Streetscape study was requested at the June 2020 HARB meeting, prepared by Mr. Schuyler and submitted to the Board in July
- Study showed the height of the proposed building at 67 Marine was largely the same height as neighboring properties
- From 2017 to date, several bayfront Marine Street buildings backed up to these properties and had been elevated with HARB's approval

The Commission provided ex parte communication.

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

Via email:

- Jorge Gallego
- Deborah Callahan and Earl Stratton
- Margaret and Ralph Molinari

Public hearing was closed.

The Commission discussed:

- Applications should be decided on a case by case basis
- Garage elevation was presented at the 2017 hearing and HARB's decision considered that when granting the opinion with full awareness it was a flood mitigation measure and a garage
- Applicant proceeded in good faith with detailed plans, approved design and concept, then denied in July 2020 based on expansion of flood mitigation project
- The code, application, and concept were not changed during process
- Consider saving the chimney and if unable, recycle the materials
- HARB granted opinion and the subsequent request for a certificate was not a material difference
- HARB did not want to grant removal of chimney prior to the building being elevated
- Settle chimney matter without returning to HARB, as no unanswered questions or issues regarding whether to save or reconstruct existed

MOTION

Commissioner Valdes MOVED to approve or uphold the Appeal and in that Appeal ask for an undertaking from the owner and his architect that he take steps to lift the existing chimney, and if

unsuccessful, the components of the chimney be recycled into a new reproduction of said chimney. The motion was SECONDED by Commissioner Sikes-Kline.

VOTE ON MOTION

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

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

7.A. General Public Presentations

7.A.1. Approval of Nights of Lights Agreement with Old Town Trolley Tours. Additionally, Dave Chatterton, General Manager of Old Town Trolley Tours, will present their operational plan designed to keep all guests safe and socially distanced from one another during the 2020 Nights of Lights.

Jim Piggot, Director, General Services reviewed the topic. He stated the Commission would determine the Nights of Lights (NOL) start date after discussing Item 9.A.1.

MOTION

Commissioner Sikes-Kline MOVED to approve the Agreement. The motion was SECONDED by Mayor Upchurch.

VOTE ON MOTION

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

Mr. Chatterton reviewed the NOL operating plan and newly implemented safety and sanitizing measures as follows:

- Safety and sanitizing procedures were similar to those used at Disney, Universal and SeaWorld
- Installed clear plexiglass partitions between each seating row
- Prior to and after each tour, the vehicle would be cleaned using electrostatic sprayers which used chlorinated disinfecting tablets and were EPA registered with a kill time of one minute for COVID-19
- Minimal PPE required for staff to apply the solution which dried safely and odorless within minutes
- Tours were sold as reserved seating only, avoiding long lines
- Waiting area at Visitor Information Center allowed for patrons to be six to eight feet apart
- Visitors sold entire row of seats versus individual tickets and only four persons per row allowed
- Planned consistent sanitization of visitor restrooms and periodic closure for deep sanitization and cleaning, with temporary restrooms available during those times

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

8.A.1. Ordinance 2020-02: Creates Article VII of Chapter 22, Sections 22-521 through 22-533 providing terms of use for city parks, venues and facilities.

Isabelle Lopez, City Attorney, reviewed the Ordinance.

Public hearing was opened; however there was no response.

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2020-02 on second reading read by title only. The motion was SECONDED by Commissioner Valdes.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2020-02

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, CREATING ARTICLE VII OF CHAPTER 22 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING DEFINITIONS; DESIGNATING CITY PARKS, VENUES, AND FACILITIES; PROVIDING TERMS OF USE; PROVIDING PENALTIES; PROVIDING THE CITY MANAGER THE AUTHORITY TO DECLARE SPECIAL CONDITIONS AND EMERGENCIES; LISTING PROHIBITED ACTIVITIES IN CITY PARKS, VENUES, AND FACILITIES. PROVIDING REGULATIONS FOR LARGE GROUP FEEDINGS IN PARKS; REQUIRING A PERMIT FOR CERTAIN EVENTS IN THE CITY; REQUIRING AN APPLICATION FOR CERTAIN EVENTS IN THE CITY; PROVIDING REQUIREMENTS FOR THE CITY MANAGER UPON APPROVAL OR DISAPPROVAL OF A PERMIT; PROVIDING A PROCEDURE FOR APPEAL; PROVIDING DUTIES FOR A PERMITTEE; PROVIDING AUTHORITY FOR THE CITY MANAGER TO REVOKE A PERMIT UNDER CERTAIN CONDITIONS; PROVIDING PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; 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, Freeman, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

<u>8.B.</u> Ordinances – First Reading (only if required by law)

(None)

<u>8.C.</u> Resolutions – Public Hearing (only if required by law)

(None)

9. Ordinances and Resolutions - No Public Hearing Required

<u>9.A.</u> Ordinances – First Reading

<u>9.A.1.</u> Ordinance 2020-26: Amends Section 3-23 of the City Code to provide the start and end dates for the display of Nights of Lights.

Mr. Regan reviewed the Ordinance and noted the three policy issues that required a decision by the Commission:

- City lighting start date which required passing an Ordinance on first reading with a Resolution brought to a subsequent meeting that set the formal dates and times
- Refrain from having formal lighting ceremony since it was contrary to the COVID goals
- Suspend satellite parking system

Mr. Regan discussed the following:

- Change request to start NOL earlier from two weeks to one week based on setup ability of installation crews
- Businesses needed an economic boost, and earlier start would uplift community's emotional spirit
- Master mobility plan use of satellite parking originally intended for Francis Field; however, since

publication of agenda, wanted to honor original land intent and refrain from use of Francis Field for the holiday season

Mayor Upchurch noted the Commission's awareness of the significant hit taken by the business community. He was in favor of Mr. Regan's NOL recommendations and requested that the City Manager be given authority to use the public events field for parking, if necessary, without returning to the Commission.

Commissioner Freeman stated she did not currently support using the events field and noted the circumstances and intended use when the property was acquired. She suggested the Ordinance language keep the finite dates but state that under exceptional circumstances the date could be moved and the Commission would determine the exceptional circumstances.

Ms. Lopez clarified the section of the City Code being modified was an illumination standard which applied to private business owners with parameters of holiday display lights during NOL.

Commissioner Sikes-Kline was not amiable to modifying the Ordinance as she believed it provided flexibility for the Commission to annually establish actual dates based on the circumstance.

MOTION

Commissioner Freeman MOVED to amend Ordinance 2020-26 to under exceptional circumstances expand the commencement date by a period of one week but without special circumstances the dates remaining what they are currently.

Motion FAILED for lack of a second.

Mayor Upchurch requested clarification of the restrictions to maintain Francis Field as an open space.

There was discussion on the topic:

- Francis Field was donated land and deed stated public recreation use
- A resolution or a proclamation existed from the then City Commission to set Francis Field aside for public recreational use
- An evolving perspective existed on what public use, public recreation and public open space may be
- Shuttling system parked an average of 400 cars a night and based on turnover, represented about a 150 to 200 space lot to accommodate the need
- Unsure if field was needed, but open holiday season, watch numbers, and only use as last resort
- Looked at open-air trolley systems to run from Barry Broudy property across from US1 into town; however property not yet developed

MOTION

Mayor Upchurch MOVED that Ordinance 2020-26 be read by title only, passed and moved to second reading to public hearing. The motion was SECONDED by Commissioner Sikes-Kline.

Ms. Lopez requested clarification whether the Nights of Lights would begin the first or second Saturday of November.

Mayor Upchurch AMENDED his motion to start Nights of Lights the second Saturday in November. The amended motion was SECONDED by Commissioner Sikes-Kline.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2020-26

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 3-23 OF THE CODE OF THE CITY OF ST. AUGUSTINE PROVIDING FOR THE START AND END DATES FOR

DISPLAY OF THE NIGHTS OF LIGHTS; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION[2]

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

At the request of Mr. Regan, there was Commission consensus on the following:

- Suspension of lighting ceremony for this year
- Suspension of shuttling system for this holiday season and would work with private sector, parking garage, opening up more public parking, and would only bring event field in as last resort

9.B. Resolutions

9.B.1. Resolution 2020-11: Formally adopts the Terms of Use for Public Property Manual.

Ms. Lopez reviewed the Resolution.

MOTION

Commissioner Horvath MOVED to pass Resolution 2020-11. The motion was SECONDED by Mayor Upchurch.

VOTE ON MOTION

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

[2] Commissioner Freeman left the meeting

9.B.2. Resolution 2020-29: Approval of request to St. Johns River Water Management District and the State of Florida, Department of Environmental Protection to reduce permit and application fees pursuant to Florida Statutes.

Reuben Franklin, Director, Public Works, reviewed the Resolution.

MOTION

Mayor Upchurch MOVED to pass Resolution 2020-29. The motion was SECONDED by Commissioner Horvath.

VOTE ON MOTION[3]

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

10. Staff Reports and Presentations

(None)

11. ITEMS BY CITY ATTORNEY

11.A. 2020 post legislative session update.

Ms. Lopez provided an update on the topic and highlighted the bills that were closely followed issues:

- Electric bicycles
- Fireworks
- De-regulation of professions and occupations, specifically mobile food trucks
- Growth management act
- Vacation rentals, or short-term rentals

Commissioner Sikes-Kline noted the hard work of the Commissioners who attended the Tallahassee hearings.

[3] Commissioner Valdes was absent for the vote

Mr. Regan updated the Commission on the response from St. Johns County on the agenda items the City submitted for the legislative agenda, which had standing positions from prior Resolutions. He noted the County included five of the items, but not the following:

- Limiting the spoiler candidates' ability to close primary elections
- Position on oil drilling in Florida waters
- Opposition to seismic testing in the Atlantic Ocean

12. ITEMS BY CITY CLERK

12.A. Notification of two term expirations on the St. Augustine Police Officers Retirement System.

Darlene Galambos reviewed the item.

12.B. Notification of two term expirations on the Lincolnville Community Redevelopment Area Steering Committee.

Item reviewed with 12.A.

13. ITEMS BY CITY MANAGER

13.A. Recommendation by the appointed committee of a name for the property located at 91 Coquina Avenue.

Melissa Wissel, Communications Manager, discussed the property's history and design. She reviewed input taken from a public survey for name selection of the park and concluded that the majority requested 'Coquina Park' as the name.

MOTION

Commissioner Sikes-Kline MOVED to name the property at 91 Coquina Avenue as 'Coquina Park'. The motion was SECONDED by Commissioner Horvath.

VOTE ON MOTION

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

Mayor Upchurch noted Coquina Park was a tremendous community asset and commended City staff on the project.

Ms. Wissel noted the intent to have a ribbon cutting ceremony at Coquina Park once COVID-19 was no longer a threat.

Mr. Regan provided an update on the monument relocation costs in response to Commissioner Valdes' request during a budget meeting. He noted the following:

- All payroll runs were not available, but a close and modest estimate of time was completed
- Direct costs were $318,689.86, broken down as follows:
  - $236,000 for contractor costs
  - $42,500 for unforeseen conditions which forced contracting a barge and moving monument by water
  - $40,189 spent in overtime, fencing security modifications, and security
  - Over the past three years, and more particularly the past three months, management put a tremendous amount of time and energy into the monuments and indirect costs were not tracked; therefore true costs were much larger

Commissioner Sikes-Kline expressed her appreciation for the time, effort and problem-solving skills for those involved in the monument relocation. She stated that Trout Creek was a beautiful place for the monument to be preserved and appreciated by all.

Mayor Upchurch noted the issue represented the community tensions when

looking at the Strategic plan, core values and balancing issues of diversity and inclusion while respecting historic preservation. He stated many communities would have opted to remove a monument and store it, or perhaps destroy it. He said that contrary to public comment, City staff was always transparent, and whether the Commission's decision was agreed with or not, the motion was acted upon with high ethical and professional standards. He expressed appreciation for Randy Ringhaver for his willingness to assume some expense for the monument's move, as this was an enormous gift to the community.

Item '5. Consent Agenda' was read by Mr. Regan.

14. Items by Mayor and Commissioners

Commissioner Valdes noted his unfortunate inability to attend the Visitors and Convention Bureau (VCB) meetings due to his schedule and workload and asked other Commissioners or Ms. Wissel if they could attend.

Discussion ensued as to who would attend the VCB meetings.

There was Commission consensus for Ms. Wissel to represent the City at the VCB meetings and convey the content to the Commission and staff.

Commissioner Sikes-Kline noted the following:

- Appreciated the incredible service the Tourist Development Council (TDC) provided
- The 'traveler's sentiment' update looked good for prospective travelers and tourism readiness
- VCB accurately projected a 14% decline July 2020 over July 2019 for TDC tax collections
- Encouraged getting a flu shot

15. Adjournment

There being no further business, the meeting was adjourned at 7:14 P.M.[4]

Tracy Upchurch, MAYOR

Darlene Galambos, CITY CLERK

THE CITY OF ST. AUGUSTINE CORPORATION

[4] Transcribed by Laura Morse