CITY OF ST. AUGUSTINE

Regular City Commission Meeting
Monday, September 28, 2020

The City Commission met by means of Communications Media Technology (CMT) Monday, September 28, 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
Melissa Wissel, Communications Manager
Barry Fox, Police Chief
Carlos Aviles, Fire Chief
Candice Seymour, Recording Secretary
Laura Morse, Recording Secretary
Marie Lopes, Office Assistant

INVOCATION AND PLEDGE OF ALLEGIANCE

Father Matt Marino, Trinity Episcopal Church, delivered the invocation, and Commissioner Freeman led the Pledge of Allegiance.

2. ADMINISTRATIVE ITEMS

2.A. Modification and Approval of Regular Agenda

MOTION

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

3. Special Presentations, Recognitions and Proclamations

3.A. Proclamation 2020-11: Proclaims October 4-10, 2020 as National Fire Prevention Week.

Mayor Upchurch reviewed the Proclamation.

Bob Growick, Fire Marshal, thanked the Commission and John Regan, City Manager, for their continued support of first responders. Chief Growick noted the following from the campaign 'Serve up Safety in the Kitchen':

- Never leave cooking unattended
- Keep items that could catch fire a minimum of three feet from the stovetop

- Do not use stove or stovetop if sleepy or have consumed alcohol

Chief Growick advised that the hearing-impaired community could obtain a free smoke alarm installation by contacting the St. Augustine Fire Department at 904-825-1098.

Mayor Upchurch expressed his sincere appreciation on behalf of the City and the citizens for the work of first responders.

4. PUBLIC COMMENTS FOR GENERAL PUBLIC COMMENTS OR FOR AGENDA ITEMS NOT REQUIRING A SEPARATE PUBLIC HEARING

The Commission heard from the following members of the public:

In person:
- Maureen Long
- Brittany Vidal
- Emily Genovar
- Jozef Vaurek
- Anthony Brown
- Blake Souder
- BJ Kalaidi
- Shawn Morrisson
- Doug Russo

Email:
- Susan Hill
- Roger & Tracy Van Dusen

Public comment was closed.

5. Consent Agenda

Mayor Upchurch read the Consent Agenda.

CONSENT AGENDA – SEPTEMBER 28, 2020

CA.1. THE FOLLOWING ORDINANCES ARE TENTATIVELY SCHEDULED FOR SECOND READING ON OCTOBER 12, 2020:

- Ordinance 2020-25
- Ordinance 2020-26

CA.2. REMINDER OF UPCOMING MEETINGS:

- October 12, 2020, Regular City Commission Meeting
- October 26, 2020, Regular City Commission Meeting
- November 9, 2020, Regular City Commission Meeting
- December 7, 2020, City Commission Reorganization Meeting
- December 14, 2020, Regular City Commission Meeting

CA.3. APPROVAL OF MINUTES FROM PRIOR COMMISSION MEETINGS:

- August 10, 2020, Regular City Commission Meeting

CA.4. RELEASES OF LIEN FOR UNIT CONNECTION FEE MORTGAGE(S):

(None)

CA.5. PROPOSED PROCLAMATIONS, CERTIFICATES OF APPRECIATION/ RECOGNITION. (COMMISSION APPROVAL REQUIRED). (TO BE READ AT A SUBSEQUENT MEETING).

(None)

CA.6. NOTIFICATION OF PROCLAMATIONS/CERTIFICATES OF RECOGNITION ISSUED:

(None)

CA.7. Approval of a 60-day extension of the Franchise Agreement between the City and Ripley Entertainment, Inc. *(M. Breidenstein, Assistant City Manager)*

CA.8. Approval of the Cost Share Agreement between the City and Ormond Land Development, LLC for the construction of facility improvements at Prawn and Heron Streets as a result of the proposed construction of the Tribute Hotel to be located at 5 Prawn Street. The City's proportionate fair share of the public facilities improvements is equal to the amount of $100,000. *(R. Franklin, Director Public Works)*

CA.9. Approval and authorization for the City Manager to execute the Interlocal Agreement between the City and the University of Florida required to conduct a grant funded study which will assess the vulnerability of on-site treatment and disposal systems to sea level rise and storm surge. *(R. Franklin, Director Public Works)*

CA.10. Approval of request to name a public park in Lighthouse Park. *(M. Wissel/, Communications Manager)*

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 Freeman and APPROVED BY UNANIMOUS VOICE VOTE.

Commissioner Freeman commended Lighthouse Neighborhood Park for working together for the name dedication.

6. Appeals

6.A. Appeal of the Planning and Zoning Board's denial of the construction of a new dock at 34 North St. Augustine Boulevard.

David Birchim, Director, Planning and Building, reviewed the topic and requested the Commission to proceed with affirming, overturning or remanding the case to Planning and Zoning Board (PZB) with instructions for reconsideration.

Mr. Birchim advised the Commission to determine whether due process was afforded, the correct law applied and if the decision was based on competent and substantial evidence. He noted that the Commission could consider modifications to what PZB reviewed on July 7, 2020.

Mr. Birchim introduced those involved with the project who were present for questions:

- Sidney Ansbacher, attorney for property owner
- Ryan Carter, Carter Environmental Services, representative for property owner

Mr. Carter reviewed the topic and suggested that the Commission remand this back to PZB to avoid an exhaustive graphical analysis presentation. He stated the new proposed dock was extended 13 feet for State compliance, and the dock contractor did not review the depth assessment on the previous layout.

Ms. Lopez noted the following options available to the Commission:

- Open a hearing to review proposed modifications
- Remand back to PZB

Ms. Lopez advised that ex parte communication should be disclosed in either decision.

There was Commission consensus to remand the issue back to PZB for review of the new proposal.

The Commission provided ex parte communication.

MOTION

Mayor Upchurch MOVED to remand the new proposal back to the Planning and

Zoning Board. The motion was SECONDED by Commissioner Horvath and approved by UNANIMOUS VOICE VOTE.

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

7.B.1. Report and discussion on flood elevations experienced during the nor'easter on September 19 - 23, 2020.[1]

Reuben Franklin, Director, Public Works, reviewed recent king tide and nor'easter events which caused City-wide flooding. He stated the City wanted a more proactive approach with providing community information on neighborhoods challenged with flooding.

The Commission and Mr. Franklin discussed:

- More neighborhood meetings for public awareness welcomed by Commissioners and community
- Questioned police reports on West King Street closure due to rain or tidal flood event
- Would methodically review and respond to the 42 flood reports received from the City's website
- Assured community the City was utilizing all resources to handle the flooding issue
- Did not expect a disaster declaration concerning this nor'easter flood event
- Rainwater permeation and flood waters were two separate issues
- Required change to building codes to address construction development that covered open ground and promoted flooding

Commissioner Sikes-Kline requested that she or Mr. Regan visit or contact Castagna Auto Sales located at 15 Ferry Place, where 85 vehicles had been recently flooded, as noted by Jozef Vaurek during public comment.

Commissioner Valdes stated his availability by phone to the community for anyone requesting clarification or information on area construction and flooding issues.

Mayor Upchurch requested that Commissioner Valdes, Mr. Regan and Mr. Birchim advance the topic of building code modification regarding construction and flooding issues and determine an expeditious way for the Commission and the community to address the topic.

7.C. Other Items Requiring Public Hearing

(None)

8. Ordinances and Resolutions – Public Hearing Required.

8.A. Ordinances – Second Reading

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

Ms. Lopez reviewed the Ordinance.

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

MOTION

Mayor Upchurch MOVED to pass Ordinance 2020-26 on second reading read by title only. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the title as follows:

[1] Attached to Commission packet

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

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

Commissioner Sikes-Kline reminded the public that November 14, 2020 was the start date for Nights of Lights.

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 2020-25: Removes a requirement for certain roof pitch for structures built on non-conforming lots in single-family districts (RS-I and RS-2).

Amy Skinner, Deputy Director, Planning and Building, reviewed the Ordinance.

Mayor Upchurch requested a layman's interpretation of the reason this was implemented.

Sarah Ryan, PZB member, replied that the aggregate rule from nearly 20 years ago stated that removing a house, even with multiple lots, allowed replacement of only one house. She noted the pitch roof slope was tied to this rule to maintain the scale of the street; however, property owners were raising their homes because of flooding, and the 5/12 slope compliance made construction difficult to maintain the 30-foot height limit. She concluded that removing the 5/12 slope language would not affect other components, but allow for more creativity, since the community did not advocate three-story homes.

The Commission discussed:

- Concern for historic preservation, neighborhood character and development
- Proposed Ordinance did not change the aggregate rule, but addressed elevation requirements for higher finished floors
- Discuss in entirety recent code evolvement with flooding, lot coverage, impervious and pervious surfaces and potential changes to those zoning laws so the ordinance changes complement one another
- Piecemealing code changes encouraged towering and three-story homes
- Needed a workshop to review other proposed ordinances that required change, for ability to explain to the public what to expect 'next door'
- Change of roof pitch increased lot coverage by 29%, which was not in character of the neighborhood
- A 30-foot height limit meant a 30-foot building, whether it had a flat roof or a pitched roof
- If concerned about the architectural style and integrity of neighborhoods, then needed an architectural overview indicating the

allowed buildable styles and avoid controlling with roof pitch

- 5/12 minimum roof pitch destroyed Mediterranean revivals and contemporary homes with flat roofs
- Davis Shores would have many eventual rebuilds, since homes would become unviable due to being too low
- Permeable and impermeable surfaces important to the flooding issue and related proposals should be reviewed quickly
- Easier to name non-flood prone areas than flood prone ones
- Code change needed for construction of all buildings with a suspended floor system, unless adequate flow proven
- Eliminate buildings that continue to create less permeable surface
- Feedback needed from public on these very important issues

As the result of the discussion, Mayor Upchurch suggested that Ordinance 2020-25 be tabled, that staff develop a workshop to discuss the topic, review Commissioner Valdes' suggestions and receive public comment.

MOTION

Mayor Upchurch MOVED to table Ordinance 2020-25. The motion was SECONDED by Commissioner Horvath and approved by UNANIMOUS VOICE VOTE.

<u>9.A.2.</u> Ordinance 2020-28: Amends the boundaries of commercial sign zone 4.

Mr. Birchim reviewed the Ordinance and provided a presentation on the topic.[2]

Mr. Birchim noted that James Whitehouse, attorney for Hilton Homewood Suites' owners at 10 Prawn Street, was present to answer any questions from the Commission.

The Commission discussed:

- Concerns with sign elevation setting a precedent outside the zone
- Applicant was not committing to a specific sign but requesting to place it higher on the building for better visibility, due to the building location
- Suggestion to paint letters directly on the building with letters affixed over paint to create a billboard effect
- Maximum size for each sign was 110 square feet, whether composed of channel letters or not
- Sign presented had illuminated channel letters which was PZB's concern; however if necessary, the sign could be restricted further

Ms. Lopez advised the Commission this was a code change and not approval of a particular sign package. She stated the addition by PZB was to further restrict the illumination, and they were not bound to the design presented, as long as it complied with the proposed code change.

MOTION

Mayor Upchurch MOVED to pass Ordinance 2020-28 be read by title only and moved to second reading.

Motion FAILED for lack of a second.

The Commission discussed:

- Based on conversations with Mr. Whitehouse, PZB wanted to move forward with a recommendation
- August 2020 packet did not show individual sign letters and since it was done at Flagler College, it made sense for this property
- Language stated illuminated channel letters, but discussion with PZB reflected on how they were illuminated

[2] Attached to Commission packet

- Clarification requested on illuminated channel letters being top or bottom, and not backlit

Based on the discussion, Ms. Lopez suggested modifying Section 3-66(i) by adding:

- "....this is further restricted to '*individual channel letters*' externally illuminated back lit, externally illuminated up lit........

MOTION

Commissioner Freeman MOVED that Ordinance 2020-28 incorporate the words 'individual channel letters' as noted, read by title only, passed and moved to second reading. The motion was SECONDED by Commissioner Valdes.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2020-28

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 3, ARTICLE II, DIVISION 1 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO ADVERTISING AND SIGNS; AMENDING SECTION 3-22, DEFINITIONS; AMENDING THE DEFINITION OF COMMERCIAL ZONE 4; 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: Freeman, Valdes, Sikes-Kline, Horvath, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

9.B. Resolutions

9.B.1. Resolution 2020-27: Adopts a fee schedule for the registration fees, annual renewal fees, late fees and re-inspection fees for short term (vacation) rentals.

Mr. Birchim reviewed the Resolution.

Commissioner Horvath stated the tiered rate based on bedrooms was well reviewed; however, she suggested a rate reduction tied to the number of rentals based on COVID-19 related business issues.

Commissioner Sikes-Kline noted the following:

- Tourist Development Council (TDC) data showed tax collections down 14% from previous year
- A recent Visitor and Convention Bureau (VCB) industry meeting showed hotels, motels and bed and breakfasts (bnbs) not doing well
- Although Airbnbs, short-term and apartment rentals were hindered, they held up more than their share of the bed tax collections
- Short-term rentals were booming in her neighborhood

Commissioner Freeman echoed the information presented by Commissioner Sikes-Kline and added that neighborhood meetings had expressed sentiment to move forward with short-term rental fees.

Mayor Upchurch noted the proposal was excellent and what he envisioned; however, with the difficulties experienced over past six months and with several months ahead, he preferred to temporarily postpone the program.

MOTION

Commissioner Sikes-Kline MOVED to pass Resolution 2020-27. The motion was SECONDED by Commissioner Freeman.

Mayor Upchurch inquired from the Commissioners whether he could get three votes to table the Resolution, otherwise he would vote to pass it. He noted this was good work product and he wanted to support it and the will of the Commission.

VOTE ON MOTION

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

9.B.2. Resolution 2020-34: Sets the dates for the traditional Nights of Lights celebration and the specific dates for Nights of Lights 2020.

Mr. Regan reviewed the Resolution which set the Nights of Lights dates to November 14, 2020 through January 31, 2021.

Ms. Lopez advised the Ordinance's default position was the traditional third Saturday of November through January 31.

MOTION

Commissioner Sikes-Kline MOVED to pass Resolution 2020-34 establishing the specific dates for the Nights of Lights for 2020. The motion was SECONDED by Commissioner Valdes.

VOTE ON MOTION

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

10. Staff Reports and Presentations

10.A. Discussion and requested approval of the lease agreement between the Florida Department of Environmental Protection and the City for the management of Fish Island; providing an update on the status of the work done on Fish Island, discussion regarding the opening, public workshop and management plan, results from the website questionnaire and recommendation of name for the property.

Mr. Franklin reviewed the topic.

J.B. Miller, Land Management Coordinator, provided a presentation on the topic.

Mayor Upchurch advised that a motion to approve the Lease Agreement and a motion to name the property were required.

MOTION

Commissioner Freeman MOVED to approve the Lease Agreement. The motion was SECONDED by Mayor Upchurch.

VOTE ON MOTION

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

MOTION

Commissioner Horvath MOVED to name the property Fish Island Preserve. The motion was SECONDED by Commissioner Valdes.

VOTE ON MOTION

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

Mayor Upchurch thanked Mr. Miller and Mr. Franklin for their continued work and leadership with the project and noted it was a positive community asset and a great success story.

10.B. Presentation of a perpetual easement at the intersection of Zorayda Avenue and Anastasia Boulevard to the

Florida Department of Transportation for the construction and maintenance of a crosswalk.

Mr. Franklin reviewed the topic and advised this would be an on-demand pedestrian crossing.

MOTION

Commissioner Sikes-Kline MOVED to pass the perpetual easement presented by the FDOT. The motion was SECONDED by Commissioner Horvath and APPROVED BY UNANIMOUS VOICE VOTE.

Commissioner Sikes-Kline stated her appreciation for staff's tenacity with the project and the amazing improvement to the boulevard. She indicated concern for pedestrians blocking the intersection.

Mr. Franklin noted that signage would be put in place requesting pedestrians to avoid blocking the intersection.

11. ITEMS BY CITY ATTORNEY

<u>11.A.</u> Sunshine, Public Records and Ethics Minute.

Ms. Lopez advised she was required to bring awareness and announce a public hearing for a proposed brownfield designation. She stated the following:

- Developer for Old Flagler Crossing PUD area requested the process for brownfield designation for West San Sebastian brownfield area, as required in section 376.80, Florida Statutes
- Proposal was for area referenced as West San Sebastian brownfield
- Applicant and Public Works would provide a full presentation
- Commission would receive a memo explaining the procedure and statutory authority
- Designated as Resolution 2020-35 with a public hearing at the October 12, 2020 City Commission meeting

12. ITEMS BY CITY CLERK

<u>12.A.</u> Request for two appointments to the Planning and Zoning Board.

Darlene Galambos, City Clerk, reviewed the topic and the applicant names.

The Commission unanimously voted for the following appointees:

- Jon DePreter
- William Masson

<u>12.B.</u> Request for one appointment to the Civil Service Board.

Ms. Galambos reviewed the topic and the applicant names:

MOTION

Mayor Upchurch MOVED to reappoint Mr. Les Stern to the Civil Service Board. The motion was SECONDED by Commissioner Sikes-Kline and APPROVED BY UNANIMOUS VOICE VOTE.

13. ITEMS BY CITY MANAGER

(None)

14. Items by Mayor and Commissioners

<u>14.A.</u> Discussion regarding the creation of a Resolution concerning the management and stewardship of Fish Island.

Commissioner Freeman reviewed the Resolution and noted it was an extension of the City's vision plan and represented core values. She requested Commission consensus to pass the proposal or place on the next Commission meeting agenda.

Commissioner Sikes-Kline indicated her enthusiasm for the webpage.

There was Commission consensus for the item to return as a formal Resolution at the October 12, 2020 meeting.

Commissioner Sikes-Kline reviewed the topic of Bartram Trail conference fees and her hope for a future presentation on the topic.

Mayor Upchurch requested an update on Governor DeSantis' recent Executive Order and the implications to the City.

Ms. Lopez noted the following:

- Executive Order 20-244 placed the State into expansive Phase Three which removed all prior restrictions on restaurants and other facilities
- The City had not adopted a restrictive local order; therefore, it did not affect City operations
- The section of Executive Order suspending fine collections and penalties did not affect the City's mask mandate which was structured as a civil infraction, and civil citations would be issued
- If Governor DeSantis did not extend previous Order, October 1, 2020 the City would return to in person meetings
- Businesses maintained the right to require patrons to wear masks

Mr. Regan noted that an air handling system for the Alcazar room was being researched and the room was set up to accommodate social distancing.

The Commission discussed other venue locations for future meetings and the County Commission room, National Guard Armory and Fullerwood School were suggested.

Ms. Lopez noted the challenge with having meetings outside of City limits based on statute requirements; however, she was reviewing the topic.

15. Adjournment

There being no further business, the meeting was adjourned at 7:55 P.M.[3]

Tracy Upchurch, MAYOR

Darlene Galambos, CITY CLERK

[3] Transcribed by Laura Morse