

MINUTES OF THE REGULAR COMMISSION MEETING of the City of St. Augustine Beach, Florida, held on Monday, April 7, 2008, in the Commission Chambers of City Hall, 2200 A1A South, St. Augustine Beach, Florida.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

Present: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, and Vice Mayor Brud Helhoski,

Also present: City Attorney Geoff Dobson, City Manager Max Royle, Police Chief Richard Hedges, Public Works Director Marc Chattin, Building and Zoning Director Gary Larson, and Recording Secretary Sharon Widdifield.

Mr. Royle reported that students from Nease High School had recently cleaned the beaches in the City and County. Mr. Chris Benjamin of St. Johns County Solid Waste Department congratulated Advanced Disposal for supporting the event

IV. APPROVAL OF MINUTES OF THE REGULAR CITY COMMISSION MEETING OF MARCH 3, 2008

Motion: Approve minutes of March 3, 2008, Action: Approve, Moved by Commissioner Frank Charles, Seconded by Vice Mayor Brud Helhoski.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

V. PRESENTATIONS:

A. Proclamations:

1. to Declare April 2008 as Alcohol Awareness Month

Mr. Dobson read the proclamation, which was accepted by a representative of Preventive Coalition of St. Johns County.

Vote: Approved without motion by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

2. to Declare April 2008 as Sexual Assault Awareness Month

Mr. Dobson read the proclamation. It was accepted by Ms. Beth Hughes of Betty Griffin House.

Vote: Approved without motion by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

3. to Designate St. Augustine Beach on April 26, 2008 as “Turtle Town USA”

Mr. Dobson read the proclamation. It was accepted by Mr. Chris Benjamin of the St. Johns County Solid Waste Department.

Vote: Approved without motion by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

4. to Declare May 18-24, 2008 as National Public Works Day

Mr. Dobson read the proclamation, which was accepted by Public Works Director Marc Chattin.

Vote: Approved without motion by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

Mayor O'Brien asked to honor public works employees with a pizza lunch during this week.

Vote: Approved without motion by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

B. New Bicycles for the Police Department: Donation by the Civic Association

Members of the St. Augustine Beach Civic Association presented a bicycle and were thanked by Assistant Police Chief Joni Mathis. Another bike is to be delivered later.

C. Special Event Permit: American Diabetes Association's "Tour de Cure" at the County Pier Pavilion Saturday, May 31st, 8 a.m. to 10 p.m.; and Sunday, June 1st, 5 a.m. to 8 a.m.

Ms. Kimberly Lewis explained that the event is an annual cycling fundraiser and that this is the event's fourth year in this area. She hoped to have participation by 500 cyclists.

Motion: to Approve, Action: Approve, Moved by Commissioner Frank Charles, Seconded by Mayor Rich O'Brien.

Vote: Motion carried by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

E. First Coast Metropolitan Planning Organization: Presentation of the Transportation Improvement Program for Fiscal Years 2008-09 through 2012-13

This item was moved ahead of item D because the presenter was here from out of town.

Ms. Wanda Forrest offered a video presentation outlining the projects in St. Johns County for funding during fiscal years 2009 to 2013.

D. Recycling Contract:

1. Introduction of Representatives from Advanced Disposal Services, the Company Assuming the Contract

Ms. Mary O'Brien explained the recent purchase of Waste Services by Advanced Disposal and the proposed transfer of the City's recycling contract. Telephone numbers for reporting any complaints were provided to be placed on the City's website.

2. Authorization for Mayor to Sign Consent of Assignment of Contract from Waste Services to Advanced Disposal Services

Motion: to Approve, Action: Approve, Moved by Commissioner Ed George, None seconded.

Vote: Motion carried by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

VI. ADDITIONS OR DELETIONS TO THE AGENDA

Mr. Royle noted that Mr. Barry Tuttle wished to discuss a possible land purchase, and that item was scheduled for Public Comments.

Mr. Royle explained a request from the Mosquito Control District to use city hall for their meetings during the months of May, June, July, August and September. The cost of televising the meetings, he said, would be paid by the District. This item was scheduled as #16 under New Business.

VII. CHANGE TO ORDER OF TOPICS ON THE AGENDA

There were none.

VIII. COMMISSIONER COMMENTS

Mayor O'Brien reported on the recent Tourist Development Committee meeting . He also showed photos of new steps at the pier to the beach and said he had requested \$30,000 for infrastructure improvements at north entrance to City for holiday lighting. The A Street traffic signal, he said, should be operational this week, and the Post Office should be done within a month or two. Mayor O'Brien had asked the County for pedestrian signs on the Boulevard to show beach access points to pedestrians and showed an example of the new signs for the beach and the new trash cans there. He also said he wants to look at possible funding for sand fencing to help build dunes and mentioned a request made to the St. Augustine Record to cover more City events.

Vice Mayor Helhoski reported on several topics discussed at the Intergovernmental Committee meeting, including the Airport Authority's new hangars and the recent loss of Skybus service; the Board of Education's concerns regarding projected budget cuts of \$19 million this year; St. Augustine's planned boat show at the Castillo in May; and the Sheriff's Department's work farm, which he said should extend the life of the jail for 5-7 years.

Commissioner Charles asked about the 16th Street sidewalk extension and was told it was a County project. He also noted that police officers in a Texas city place report cards on parked cars noting the quality of security measures taken by the cars' owners. This could be a tool to deter car break-ins in our city, he said.

Commissioner George reported attending a Crime Stoppers banquet and noted that he had asked the organization to address coverage in Northeast Florida.

Commissioner Terrill asked the status of the beach interlocal agreement. Mr. Dobson said he has called the County about this and will follow them again. Commissioner Terrill also asked if the plaza near the A Street bathrooms will be beautified. Mr. Chattin said it will.

City Attorney Dobson said that one forfeiture case is pending in Circuit Court, and a hearing has been rescheduled for May. Mr. Wilson, he said, will make a proposal to Police Chief and City Attorney regarding handling of such cases.

Gary Larson: No report.

Marc Chattin said he will schedule one employee to clean public restrooms and the splash park on weekends. No overtime will be involved, he said. At the A Street restrooms, Mr. Chattin said, the south plaza will be built first, then the north plaza. The original layout has been modified to move the handicap parking to the south plaza.

Commissioner George requested public parking signs at 2nd Avenue and Mr. Chattin said he would provide sketches of the Boulevard parking plan at the next meeting.

Chief Hedges mentioned that the YMCA Kids Triathlon would require the closing of Pope Road this Saturday from 10 am – 1 pm. The 2008 Crime Report is out, he said, and he noted that the City's clearance rate is higher than the County's or the State's.

IX. PUBLIC HEARINGS

1. Conditional Use Permit: Request for Permit for Food and/or Beverage Service or Consumption Outside of an Enclosed Building at Pesky's Baja Grill, 671 A1A Beach Boulevard (Lots 1 and 3, Block 21, Chautauqua Beach Subdivision, Mr. Roland Michel Ferreol, Applicant)

No ex parte communications were reported by the Commission.

Mr. Frank O'Rourke, acting as agent for the owner, Trevor Henley, stated that the Planning and Zoning Board had unanimously recommended approval of the permit.

Mayor O'Brien noted eight conditions suggested by the Planning Board, and Mr. O'Rourke said these were agreeable.

Vice Mayor Helhoski said the conditional use permit granted in 2003 for that property had required the

owner to remove two picnic tables and to comply with the landscaping regulations.

Mr. O'Rourke said that the owner had complied with the landscaping regulations in effect in 2003.

Vice Mayor Helhoski asked that landscaping be included, as the permit is transferable.

There was no comment from the public.

Commissioner Charles asked if xeriscaping is required and was told that it is encouraged now but not required.

Motion: to approve the permit with the eight conditions listed and changing the word "shall" to "will encourage" as it applies to xeriscaping , Action: Approve, Moved by Commissioner Frank Charles, Seconded by Vice Mayor Brud Helhoski.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

X. PUBLIC COMMENTS

Robin Nadeau, 26 Mickler Blvd., suggested using tourist-friendly warnings to encourage compliance with parking regulations.

Andrea Samuels of the Civic Association thanked Public Works for their help with landscaping and asked for volunteers to paint the picnic areas at the pier park on April 19th and 26th.

Steve Mitherz, 17 Sea Oaks Dr., said the A Street beach entrance had been graded by the County recently and that 34 trash cans were now on the beach. He asked when the new hotels on the Boulevard would be built, and Mr. Larson advised that a site plan should be done soon.

Barry Tuttle 137 Island Hammock Way, suggested the possible purchase of property north of Pope Road and south of Santander near the Mosquito Control District property. Mr. Royle said the asking price is \$725,000 for .7 acres.

Commissioner Charles said there had been concerns in the past that a high-rise building could be put on the property. Mayor O'Brien said he had heard that a hotel is planned there.

XI. CONSENT

2. Tree Board/Beautification Advisory Committee:

A. Appointment of Alternate Member Ms. Mary McCarthy as Regular Member

B. Resolution 08-06, to Standardize When Terms of Members End

Motion: to approve the consent agenda as written, Action: Approve, Moved by Vice Mayor Brud Helhoski, Seconded by Mayor Rich O'Brien.

Vote: Motion carried by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

XII. OLD BUSINESS

3. Regulating Transient Lodging Facilities; Review of Proposed Ordinance from the City Attorney

Mr. Dobson explained the ordinance changes proposed by Mr. Rumrell, which included deleting a reference to resort dwellings in the third line on page 3. Mr. Dobson approved of that change, but not to a provision to have those properties licensed as of certain date to be “vested.” He objected to that term, as it involves money invested and could later involve others who had not been licensed.

Rick Rumrell, 24 Cathedral Place, St. Augustine, gave a presentation on the ordinance. He said that it had been agreed that transient rental properties must be licensed per Chapter 509, a limited number of persons would be allowed on each floor, and the properties would be subject to annual inspection. He believed that these properties were already vested and that this had been agreed to at mediation. Inspections, he said, were to be handled as they are for other residential rentals. He mentioned several cases that he felt supported his position.

Commissioner Terrill questioned the number of licensed properties involved, and Mr. Dobson said he had prepared a list from the State’s licensing information.

Vice Mayor Helhoski asked if it would make a difference if December 1st or December 31st were used as the cut-off date, and Mr. Larson said it would not.

Albert Holmberg, 11 Lake Shore Dr., said he had called the State and asked why rental licenses had issued in violation of City Codes and was told that the City must enforce its own zoning codes. He asked the Commission to uphold the laws of City.

Steve Mitherz, 17 Sea Oaks Dr., asked how many transient lodgings were involved and was told there are different categories of State licenses, and some duplications in their list, etc., so the number is not exact now.

Commissioner George asked for a definition of “local contact” and noted problems with the compliance application.

Mayor O’Brien suggested regulating rentals by means of conditional use permits with a 7- year term, a minimum rental of three days, and an annual inspection in order to get a business license.

Vice Mayor Helhoski agreed with Mr. Dobson regarding vesting. If a new owner used the property as his residence, he asked if rentals would be allowed to continue after that. Mr. Dobson said that vesting would make rentals a conforming use, but the Commission could decide that if the use is abandoned, it would become non-conforming.

Mr. Dobson addressed the questions on page D and said they were all covered in the ordinance.

Commissioner George agreed with Mr. Dobson regarding vesting and said that final language and a list of properties should be available for the next meeting.

Commissioner Helhoski asked that one sleeper sofa per floor be allowed.

There was discussion between Mr. Dobson and Mr. Rumrell regarding vesting and possible challenges to the ordinance.

Mr. Dobson asked anyone claiming to be licensed by the State to bring proof to the City. He said his next report will give a synopsis relating to possibility of a lawsuit.

Motion: to continue this item to the next regular meeting , Action: Postpone Moved by Commissioner Ed George, Seconded by Mayor Rich O'Brien.

Vote: Motion carried by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

[There was a short recess at 9:00 p.m.]

4. Ordinance 08-04, First Reading, to Regulate the Parking of Tractor Trailers, Other Large Trucks, and Recreational Vehicles

Mr. Dobson read the amended ordinance by title only.

Commissioner Charles said that by deleting section 3, parking could be allowed anywhere.

Vice Mayor Helhoski said that the Commission will later address boats, and he felt boats should not be allowed if RVs are not. The large vehicles, he said, would not be allowed on the street or right-of-way.

John Evans, 17 Sandpiper Dr., said that covenants are more difficult to enforce if they do not agree with the City's rules. He felt the present ordinance is reasonable.

Gene Reineke, 32 Sandpiper Dr, agreed with Mr. Evans and said that present ordinances protect property values, which are already falling.

Mr. Dobson said that homeowners' associations' rules may be more restrictive than City ordinances and often have restrictions on RVs and commercial vehicles. An ordinance, he said, could say that the more restrictive of City ordinances or covenants would control, but policy has been that covenants are enforced by associations and ordinances by the City.

Commissioner George suggested that 48- hour parking for RVs might be allowed instead of 24, but not full-time parking.

Gary Weging, 304 B Street, said he doesn't want to park his travel trailer full time but would like more parking time for repairs, etc.

Ed McGowan, 9 Sandpiper Dr., noted having seen neighborhoods where boats, appliances, etc. were left in front yards but that none of that was here when he moved to the City.

Ed Roberts, 37 Sandpiper Dr., did not want to see a neighbor's RV just outside his window.

Homeowners' associations, he said, would have to go to court to enforce covenants if the if City allows

Mick Orlando, 311 B Street, said that it may take a long time to get an RV ready for a trip. While some may want to live in restricted communities, he said, others may not want the same rules for their neighborhoods.

James Gessells, 118 Mickler Blvd., said the time allotted to get ready is not enough. He asked to relax the restrictions but not allow full-time parking.

Patricia Gill, 218 B Street, represented the Planning and Zoning Board and said the Board had worked to not have a community with a lot of RVs permanently parked. They had decided to address boats and trailers separately and that this ordinance addresses the size of vehicles. She asked to put back in what was deleted from originally proposed ordinance.

Vice Mayor Helhoski felt that boats would not be regulated, so he did not want to restrict RVs.

Ms. Gill said that if a boat is over the dimensions in the ordinance, it could be treated the same as an RV, and code enforcement could enforce this rather than the police.

Mike Hennesey 215 B Street, felt that boats would be restricted also.

Larry Brug, 24 Sabor de Sal, did not want to look at RVs in his area and did not want people sleeping in RVs in neighborhoods.

Motion: to amend old Section 3 that if vehicles were parked continuously for more than 7 days they would be subject to the paragraphs a, b and c and that vehicles should not be inhabited., Action: Amend, Moved by Mayor O'Brien, Seconded by Frank Charles.

Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).

Yes: Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien.

No: Commissioner Don Terrill, Vice Mayor Brud Helhoski.

Mr. Dobson stated that since a major change has been made, an amended ordinance would be brought back for a new first reading.

5. Maratea Property:

A. Update Report on Application by the City to the Florida Communities Trust for Grants to Acquire the Property

Mr. Royle said that the appraisal should be done soon and that the purchase could be divided into phases over several years. He requested that the Mayor be authorized to send letter to Rep. Proctor and Speaker Marco Rubio requesting that the House fund the Florida Forever program for purchase of such property.

Vote: Approved without motion by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

B. Consideration of an Ordinance to Amend the Future Land Use Map to Designate Two Areas of the Subdivision as Parks and Recreation

Mr. Royle said this would help with the grant application. The land use, he said, would remain as conservation but would be designated as parks and recreation.

Mr. Dobson read Ordinance 08-08 by title only .

Motion: Approve ordinance 08-08 on first reading, Action: Approve, Moved by Commissioner Frank Charles, Seconded by Vice Mayor Brud Helhoski.

Vote: Motion carried by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

6. Ordinance 08-06, First Reading, to Allow Massage Therapy Services at Farmers' Market

Mr. Dobson read the ordinance by title only.

Motion: Approve Ordinance 08-06 on first reading, Action: Approve, Moved by Commissioner Frank Charles, None seconded.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

7. Ordinance 08-07, First Reading, to Change the City's Tree Regulations

Mr. Dobson read the ordinance by title only.

Mr. Royle noted that Mr. Lippi had suggested doubling the fines on page 3. Mr. Dobson advised that the City can only levy the fines allowed by the State Legislature. After discussion of the various fines, it was agreed not to change them.

Mr. Dobson noted that the tree manual will also have to be adopted by ordinance.

Motion: Approve Ordinance 08-07, Action: Approve, Moved by Commissioner Ed George, Seconded by Mayor Rich O'Brien.

Vote: Motion carried by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

8. Wedding Permit Fee: Consideration of Not Requiring \$100 Fee for Weddings at the County Pier Pavilion

Motion: to amend Ordinance 07-21 so the City does not charge a fee for weddings being held at the pavilion at pier park , Action: Amend, Moved by Commissioner Ed George, Seconded by Vice Mayor Brud Helhoski.

Vote: Motion carried by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

9. Ordinance 07-13 Concerning Mixed Use Zoning Requirements: Review of Proposed Changes

Mr. Larson explained the changes that would allow the Planning and Zoning Board some flexibility in cases of economic hardship by use of a variance. If approved, he said, the ordinance would go to Planning and Zoning for their recommendation.

It was agreed to postpone this item to the special meeting in April.

XIII. NEW BUSINESS

10. Ocean Trace Subdivision: Request by Homeowners Association that City Take Over Ownership of Entrance/Exit Road

Mr. Jerry Minnicks, President of Ocean Trace Homeowners' Association, asked the City to assume responsibility for the entrance road due to the number of businesses recently permitted there and the resulting increase in traffic.

Mr. Dobson said the City cannot go past the entrance gate and would except out the median where the sign is located.

Mr. Chattin said this is a very short road in reasonably good condition but could not estimate the cost of maintenance.

Motion: to authorize necessary documents to be prepared for consideration, Action: Approve, Moved by Commissioner Don Terrill, Seconded by Mayor Rich O'Brien.

Vote: Motion carried by unanimous voice vote. (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

It was agreed that items 11 through 14 be postponed until the special meeting.

11. Citizen Participation at Public Meetings: Consideration of Resolution to Oppose State-Mandated Uniform Requirements

12. Ordinance 08-05, First Reading, to Amend Section 8-4 of the City Code to Conform with Section 99.061, Florida Statutes, Concerning the Establishment of the Period of Time for Qualifying as a Candidate for the City Commission

13. Collection of Yard Trash/Special Wastes: Consideration of Deleting Prohibition Against Placing Such at the Curb More Than 24 Hours Before Day of Collection

14. Building C, City Hall Complex: Consideration of Uses for It After Post Office is Moved

15. Budget and Finance: Request to Set Date for Special Meeting to Discuss

It was agreed to schedule a special meeting for April 21, 2008.

16. Request by Mosquito Control District to Hold Meetings in City Hall and Televisе Them

The proposal was for Mosquito Control to use the room at no charge but to pay the televising costs.

Motion: to accept the proposal, Action: Approve, Moved by Mayor Rich O'Brien, Seconded by Commissioner Don Terrill.

Vote: Motion carried by unanimous voice vote (summary: Yes = 5).

Yes: Commissioner Don Terrill, Commissioner Ed George, Commissioner Frank Charles, Mayor Rich O'Brien, Vice Mayor Brud Helhoski.

XIV. BOARD AND DEPARTMENTAL REPORTS

XV. ADJOURNMENT

The meeting was adjourned without vote at 10:25 p.m.

MINUTES APPROVED AT REGULAR COMMISSION MEETING MAY 5, 2008

Mayor – Commissioner

ATTEST:

City Manager