

**MINUTES OF THE REGULAR COMMISSION MEETING of the City of St. Augustine Beach, Florida, held on Monday, February 2, 2009 in the Commission Chambers of City Hall, 2200 A1A South, St. Augustine Beach, Florida.**

**CALL TO ORDER**

The meeting was called to order by Mayor Charles at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**Present:** Commissioner Rich O'Brien, Vice Mayor Brud Helhoski, Mayor Frank Charles, Commissioner Edward George, Commissioner Andrea Samuels.

**Also Present:** City Manager Max Royle, Police Chief Richard Hedges, City Attorney Geoff Dobson, Public Works Director Marc Chattin, Building Official Gary Larson, Finance Director Melissa Burns, and Deputy City Clerk Sharon Widdifield.

**APPROVAL OF MINUTES OF THE REGULAR CITY COMMISSION MEETING OF JANUARY 5, 2009**

**Motion:** to approve the minutes of the January 5, 2009 meeting., **Moved by** Commissioner Andrea Samuels, **Seconded by** Vice Mayor Brud Helhoski.

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

**Yes:** Commissioner Rich O'Brien, Vice Mayor Brud Helhoski, Mayor Frank Charles, Commissioner Edward George, Commissioner Andrea Samuels.

**ADDITIONS OR DELETIONS TO THE AGENDA**

None.

**CHANGE TO ORDER OF TOPICS ON THE AGENDA**

None.

**PRESENTATIONS**

**A. Certificate to Police Sergeant Rafael (Ralph) Correa for Five Years of Employment with City and Swearing In of Two New Police Officers**

Chief Hedges read a brief biography of Sgt. Correa, who then accepted the certificate from Mayor Charles.

Chief Hedges introduced the new officers, Walter McLanahan and Russell Kelly, who were then sworn in by Mayor Charles. Each officer's wife pinned her husband's new badge on his uniform.

**B. Interview of Members of the Code Enforcement Board for Re-Appointment to the Board**

Mr. Royle explained that two members of the Board, Mr. Albert Peppe and Mr. Marshall Schneider, had requested reappointment and that they and the two alternates, Ms. Ann Palmquist and Mr. Michael Flynn had been invited to the meeting. Only Mr. Schneider was present.

**Motion:** to reappoint Mr. Albert Peppe and Mr. Marshall Schneider to the Code Enforcement Board, **Moved by** Commissioner Brud Helhoski, **Seconded by** Commissioner Rich O'Brien.

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

**Yes:** Commissioner Rich O'Brien, Vice Mayor Brud Helhoski, Mayor Frank Charles, Commissioner Edward George, Commissioner Andrea Samuels.

**C. Special Event Permit: Request for Permit for Flagler College's Beach Blast on Sunday, March 29, 2009 from 5 a.m. to 5 p.m.**

A representative of Flagler College explained the annual event, including some new activities planned, and asked that the \$300 deposit be waived. No complaints had been received for this event in previous years.

**Motion:** to approve the permit and waive the bond, **Moved by** Vice Mayor Brud Helhoski, **Seconded by** Commissioner O'Brien

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

**Yes:** Commissioner Rich O'Brien, Vice Mayor Brud Helhoski, Mayor Frank Charles, Commissioner Edward George, Commissioner Andrea Samuels.

**D. Beach Restoration Project: Update Report by Mr. Press Tompkins of the County Road and Bridge Department**

Mr. Tompkins gave a visual presentation explaining that funds had been appropriated for storm erosion repair in 2009, but these funds would be used, along with Federal, State and County funds, for the regular renourishment project scheduled for 2010. The limits of that project are still not defined, according to Mr. Tompkins.

**E. Chili Cook-Off/Fireworks Show:**

- 1) **Update Report on the 2008 Event by Ms. Jill Atwood, President, South Beaches Area Council of the Chamber of Commerce**

Ms. Atwood stated that the event had drawn 8-10,000 people and had exceeded their goal.

- 2) **Presentation of Check for \$10,000 for the Veterans' Memorial at Lakeside Park**

The check was presented to Mayor Charles.

- 3) **Request for Approval to Apply to the Tourist Development Council for Fireworks Grant for 2009 Event**

There were no objections to applying for the grant.

**F. Veterans' Memorial, Lakeside Park:**

- 1) **Update Report by Mr. John Reardon on Plans for the Memorial**

Mr. Reardon said the funds for the memorial have now been raised. The project, he said, had originated with Capt. Robert Beskind and would include a seating area with benches and 4x8 foot black granite monument. A plan for the memorial, he said, would be presented at the next Commission meeting.

**2) Presentation of Check for \$10,000 from the Allied Veterans, Inc. for the Memorial**

Several members of the Allied Veterans were present to explain the origins of their group and the causes they have supported. The check was then presented to Mayor Charles.

**G. Water Conservation: Presentation of New Regulations by Mr. Geoffrey Sample of the St. Johns River Water Management District**

Mr. Sample, Intergovernmental Coordinator for the District, explained that increased demand due to development had caused the need for new restrictions. Among these, he said, were allowing irrigation only two days a week on specified days during daylight savings time and one day a week during standard time. Mr. Sample presented a model ordinance to adopt these restrictions so the City can enforce them. It was agreed that an ordinance be drawn up following that model for consideration to the Commission.

**H. Solar Energy: Presentation of Proposal by Mr. David Smith of Sun Works Solar**

Mr. Smith explained steps the City could take to save energy and cut costs through use of solar power. Funding assistance, he said, could be available through Federal grants and other sources. The Commission agreed to have Mr. Royle provide information to Mr. Smith so that a Request for Proposals could be developed.

**COMMISSIONER COMMENTS**

**Mayor Charles** corrected a recent newspaper article that had credited him instead of Vice Mayor Helhoski with proposing alternate energy sources.

**Vice Mayor Helhoski:** No report.

**Commissioner O'Brien** said the Tourist Development Council was setting up guidelines for distribution of its funds. He said he had spoken to Glen Hastings of the Visitors and Convention Bureau and expected an offer from him by the end of February for rental of the former post office building. Commissioner O'Brien suggested advertising for this, and it was agreed that only government and non-profit organizations would be considered. Complaints about the condition of the former Riptides property and about noise at the Oasis were noted by Commissioner O'Brien.

**Commissioner George** asked what has happened with the sewer project, and Mr. Royle said an update would be presented at the next meeting. The proposed hotel on the Boulevard was also mentioned, and Mr. Royle said the developer will present a request to the Planning Board regarding some changes to the design.

**Commissioner Samuels** reported on a recent Institute for Elected Officials she had attended and suggested that the Commission and all City board members have a workshop covering the Sunshine Laws. Mayor Charles commented that the Commission and Planning Board receive instruction annually from the City Attorney. There was also a report on the Civic Association's recent board meeting.

**City Attorney Dobson:** No report.

**Gary Larson:** No report.

**Marc Chattin** brought attention to the two photos mounted in the city hall hallway. These are aerial photos, with one taken in 1960 and one last year. He requested that the Commission authorize the Mayor to sign an agreement with FPL use light poles to mount banners advertising the City's birthday celebration. He believed there would be no cost for this, but a permit is needed, he said.

**Chief Hedges:** No report

Commissioner George asked about the gas tax agreement mentioned in Mr. Dobson's written report. Mr. Dobson explained that St. Augustine Beach and Hastings were not parties to the interlocal agreement between St. Augustine and the County for gas tax distribution. He said the County Attorney is to propose that the interlocal agreement be reviewed and the two smaller cities be included. It was also suggested that the municipalities have annual joint workshops with the County to discuss concerns.

## **PUBLIC HEARINGS**

None.

## **PUBLIC COMMENTS**

Steve Mitherz, 17 Sea Oaks Dr., asked if the loan had been secured for purchase of the Maratea property, and Mr. Royle reported that it had not. Mr. Mitherz also asked about the restriping of crosswalks and was told it was to be done in early spring.

Ms. Florence Westfall, 1 Linda Mar Dr., was concerned that business access to Versaggi Drive had been requested again. Mr. Royle said that this request had been brought to the Planning Board and rejected, so the Commission would not hold the expected public hearing.

## **CONSENT**

1. **Conditional Use Permits for the Oasis Restaurant, 4000 A1A South: Confirmation of the Conditions**

Commissioner George asked to pull this item from the Consent Agenda for discussion.

2. **Police Station Roof Lawsuit: Request to Approve Settlement Agreement to Dismiss the Suit**
3. **Scenic Highway Projects: Approval of Interlocal Agreements with the County for:**
  - A. **Scenic Overlook at East End of Pope Road**
  - B. **Information Kiosk in County Pier Park**
4. **Budget Resolution 09-03, to Amend the FY 09 General Fund Budget to Appropriate \$6,000 for Splash Park Repair, Maintenance, and Operating Supplies**

**Motion:** to approve items 2, 3 A and B, and 4, **Action:** Moved by Mayor Frank Charles, **Seconded** by Vice Mayor Brud Helhoski.

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

**Yes:** Commissioner Rich O'Brien, Vice Mayor Brud Helhoski, Mayor Frank Charles, Commissioner Edward George, Commissioner Andrea Samuels.

Commissioner George said that several complaints have been received from neighbors about noise at the Oasis and that the windows have not been closed as required. Mr. Dobson explained the City's noise standards and past procedures for handling noise complaints. Mr. Royle and Chief Hedges were asked to look into the problems, and Vice Mayor Helhoski recommended sending a letter to the Oasis to make them aware of the problems.

**Motion:** to approve Consent Agenda Item 1. **Moved by** Mayor Frank Charles, **Seconded by** Commissioner Rich O'Brien.

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

**Yes:** Commissioner Rich O'Brien, Vice Mayor Brud Helhoski, Mayor Frank Charles, Commissioner Edward George, Commissioner Andrea Samuels.

## **OLD BUSINESS**

### **5. Maratea Beach Access Walkway: Award of Bid to C&L Landscape, Inc. of Jacksonville for \$388,310**

Commissioner O'Brien said that he had talked with several Sea Colony residents and that they had been invited to meetings with staff to discuss their concerns. He felt that since the City is the developer of this project, the Commission should do the same things private developers are asked to do. Commissioner O'Brien recommended that the contract be temporarily delayed and that a meeting be set up to discuss materials to obtain Sea Colony's approval of materials to be used. He also suggested using wood instead of Trex to build the walkway and using the savings for buffering, landscaping, and fencing and recommended that a landscape architect be hired to develop a landscape plan acceptable to the City and Sea Colony prior to building the walkway. He said that under the PUD requirements the walkway could not be opened until everything is complete.

Mayor Charles commented that while wood can require repair after a matter of months, the Trex material holds up much longer and requires less maintenance. He added that a 10% contingency had been included in the plans for buffering and fencing.

Vice Mayor Helhoski stated that no developer is required to do more than the Land Development Regulations demand.

Commissioner George noted that the contractor is also a landscaper and may be able to handle this work in conjunction with the project.

Mr. Chattin stated that there is a limited area where buffering can be put in due to the width of the property and requirements for the walkway. The wetland areas, he said, cannot be fenced. Fencing and landscaping, Mr. Chattin said, is usually done after a structure is built and suggested that would be the best way to address the project, so it could be determined exactly where such would be needed.

Commissioner Samuels stressed that natural vegetation is supposed to be used on this property.

Mr. Chattin commented that he and other staff had met with some Sea Colony residents and had offered to meet with others but had never been contacted by those individuals to set up a meeting, so he was confused regarding what further discussions were needed. The plans are complete and a bid ready to accept, he said, and he recommended starting as soon as possible on the first phase in the coastal construction area.

Vice Mayor Helhoski stated that the eight-foot fence suggested offers more security than the fencing provided by Sea Colony for its lots near the Boulevard.

Mayor Charles suggested putting in infrared cameras to monitor the walkway at night to protect both the City's property and the Sea Colony residents.

Regarding approval of materials for the project, Mr. Chattin said he does not know what other material than wood or Trex would be appropriate.

Vice Mayor Helhoski commented that this is the only possible beach access in the City that would be ADA compliant.

Commissioner O'Brien asked if the City would be in compliance with the PUD ordinance if it moves forward now. Mr. Dobson advised that that the City is not subject to the PUD, and the ordinance requires the City only to discuss these issues with Sea Colony.

Al Hirsch, 329 S. Forest Dune Dr. in Sea Colony said that the DEP grant was dependent on the City complying with a number of conditions and felt that it could not comply with three of those conditions if the contract is awarded. The first was failure to provide full information, as he said all the documents requested by the attorney had not been given to him. He also said the bidding documents should have been submitted to the attorney. The second instance, Mr. Hirsch said, was that the permits from DEP and Water Management allow no removal of trees over a certain size. He believed that it was not possible to avoid removing such trees when building the walkway. The third instance, according to Mr. Hirsch, was that the switchback area at the end of the walkway was proposed to be 35 x 54 feet. The City must own or have an easement for the property for the walkway, he said, and only 30 feet of land is owned by the City there. Any encroachment on private property, Mr. Hirsch said, would be in violation of the City's regulations and the grant.

Mr. Chattin responded that all documents requested in the list provided by the attorney had been given to him. The contract bid documents, Mr. Chattin said, were not required for the permits asked for, but a copy was given to Mr. Hirsch and anyone who requested one. Regarding trees, Mr. Chattin explained that there are two permits. The DEP permit concerns the area seaward of the construction line, where there are no trees. The attorney, Mr. Chattin said, had alleged that the City withheld a tree survey; however, the DEP, after requesting a survey, agreed that none was necessary as there were no trees in the area covered by their permit. Mr. Chattin said that the Water Management District permit covers only trees in the wetlands area. Some trees, he said, will have to be removed outside the wetlands in order to build the walkway.

Commissioner George commented that the number of trees removed would be much fewer than for any development that would have taken place on the property.

William Griffith, 850 A1A Beach Blvd., said this project has been discussed for years, and it is time to finish it.

Dave Anderson, 236 Big Magnolia and president of the homeowners' association there, said that every neighborhood in the City stands to gain from this project. The primary threat to security and privacy near the beach, he said, is from the shortage of public access to the beach.

Patricia Gill, 218 B Street, reminded the Commission that work could not be done on this project during turtle season, which begins May 1<sup>st</sup>.

Steve Mitherz, 17 Sea Oaks Dr., said that some oppose the walkway, but the community would benefit from the walkway and purchase of the adjoining property. He urged completing the project and working on landscaping after completion. He also advocated use of the Trex material, which he had experience with.

Mr. Dipak of the Comfort Inn, 901 A1A Beach Blvd., said that he has 15,000 customers a year, and they have to walk almost two miles to beach access. Access for visitors to the area, he said, is important.

Nicholas Binder, 232 Big Magnolia Ct., said this item has been on the agenda for many years and commented that access is important for beach renourishment. Additional points for grant applications, he said, can be gained by having ADA compliant access. Mr. Binder added that without the walkway, there would be no access on the adjoining property when roadway construction is in progress.

Linda Hawver, 417 Ocean Grove Cir. in Sea Colony, said she wanted a beach walkway but not in this location. She proposed waiting until the adjoining property is obtained and said another grant could be obtained if this one cannot be modified or extended.

Vice Mayor Helhoski said the grant cannot be changed and there is little chance of getting another because of budget constraints.

**Motion:** to go ahead with the contract as is with the Trex, to add the 10% contingency, and begin as soon as C and L can start **Moved by** Vice Mayor Brud Helhoski, **Seconded by** Mayor Frank Charles

**Vote:** Motion passed (summary: Yes = 4, No = 1, Abstain = 0).

**Yes:** Vice Mayor Brud Helhoski, Mayor Frank Charles, Commissioner Edward George, Commissioner Andrea Samuels.

**No:** Commissioner Rich O'Brien.

[There was a short recess from 8:45 to 8:55 p.m.]

Mayor Charles noted that the approved Consent Agenda had included an interlocal agreement that gave ownership to the County of the scenic overlook for which the City paid \$30,000 in matching grant money. Mr. Dobson said the County would maintain the overlook and assume liability for it.

Commissioner George asked why the City could not be certified to handle such grants, and the Finance Director, Ms. Burns, said the requirements were too expensive for a small city to meet.

#### **6. Personnel Policies: Discussion of Grievance and Related Policies**

Vice Mayor Helhoski asked if racism is addressed in the City's policies and was told it was. He also asked if there are directives on the steps to be taken in the event of harassment.

Mr. Dobson said and that harassment must be based on a discrete characteristic and must be unwelcome. The steps taken in correcting a problem, he said, are on a case-by-case basis. He explained that the Police Chief is independent of the City Manager, so his decisions cannot be appealed to the City Manager. He commented that police officers have a separate avenue for presenting grievances and added that they now have a union that will handle all complaints.

Vice Mayor Helhoski said he saw no need to take any further action regarding the policies.

#### **7. Tree Planting Program: Consideration of Having Trees Planted on South Side of Pope Road**

Mr. Royle said the trees are in stock and asked for approval of the hold harmless agreement with the County to allow them to be planted.

**Motion:** to approve the agreement **Moved by** Vice Mayor Brud Helhoski, **Seconded by** Mayor Frank Charles.

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

**Yes:** Commissioner Rich O'Brien, Vice Mayor Brud Helhoski, Mayor Frank Charles, Commissioner Edward George, Commissioner Andrea Samuels.

8. **City Attorney Services: Development of Scoring System for Evaluation of Proposals**

There was discussion of the criteria for evaluating the proposals. No action was taken.

9. **Consideration of Goals for 2009**

It was agreed that each Commissioner would email a list of new goals to the City Manager, who would compile them for review.

10. **Beach Matters:**

- A. **Yearly Report on Plans Concerning the Beach**
- B. **Consideration of Locations for Portable Restrooms So County Can Do Feasibility Study**

There was agreement to approve initial restroom locations at the east end of Pope Road and the pier park

Commissioner Samuels asked if the County is required to help pay for the restrooms, and Mr. Dobson said the interlocal agreement had no such requirement. It was agreed to request that this be discussed with the County.

11. **Handling of Forfeitures: Review of Proposal from the City Attorney**

Mr. Dobson said that after this item was placed on the agenda, he was made aware that the County is dealing with the State Attorney in regard to handling forfeitures. When a new City Attorney is selected, he said, that person may be able to handle such forfeitures.

Chief Hedges said he had not yet received a proposal from the State Attorney's office.

**NEW BUSINESS**

12. **Filming in the City: Consideration of Regulations for a Permit**

Vice Mayor Helhoski noted a recent instance of a film crew filming at a restroom area, which caused inquiries about their activities. He felt it would be helpful to issue permits so the City would know in advance where such activities are planned and what they entail. It was agreed to look at St. Augustine's permit requirements at the next meeting.

13. **Finance and Budget Matters: Setting Date for Special Meeting to Discuss Revenue Shortfalls, Changes to FY 09 Budget, and Guidelines for Preparation of FY 2010 Budget**

The Commission agreed to hold a special meeting on February 23, 2009 at 7:00 p.m. That meeting, Mr. Royle said, could include approval of the purchase agreement for the Maratea property.

**BOARD AND DEPARTMENTAL REPORTS**

**ADJOURNMENT**

**Motion: Adjourn, Moved by Commissioner Rich O'Brien, None seconded.**

The meeting was adjourned without vote at 9:23 p.m.

ATTEST:

  
City Manager

  
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Mayor – Commissioner