

COUNCIL MINUTES JUNE 22, 2011

Pursuant to Public Notice, Mayor Ferrante convened the regular meeting of the City Council on Wednesday, June 22, 2011, at 6:00 p.m., in the Council Chamber. Those present were Mayor Joseph Ferrante, Vice-Mayor Mike Chase, Councilman Jeffrey Fleis, Councilman Scott Rhodes, City Manager Michael P. Crotty, City Attorney James Beadle, and City Clerk Barbara Montanaro. Councilman William Higginson attended by phone.

Mayor Ferrante invited everyone to the breezeway to attend the ceremony to swear in new Police Chief Jeff M. Pearson. About 200 residents, family, friends and law enforcement officers were present for the ceremony.

After the ceremony, Council returned to the Council Chamber. Mayor Ferrante led a moment of silence and the Pledge of Allegiance.

INTRODUCTION OF GUESTS

Joyce Ott, 455 Lighthouse Landing Street, introduced herself, stating that she lives outside the City limits but loves Satellite Beach.

CITIZEN COMMENTS

- Lloyd French, 240 Colonial Court, read a statement and asked that it be included in the record. (Copy attached.)
- Ron Jurgutis, 620 Ocean Street, stated that he had a computer glitch and asked that he be allowed to submit his statements to the Clerk the next day. (Copy attached.)
- Gary Armstrong, 415 St. Georges Street, read a statement from Gregg Billman, 690 Jackson Court, and asked that it be included in the record. (Copy attached.)
- Eric Provost, 63 Emerald Court, provided information regarding his background in investigative law enforcement and stated his ardent support of dedicated, yet accountable, public servants. He noted that he will present his concerns as concerns, not accusations. He fully supports those who have asked Council to undertake an investigation of the allocation and expenditure of CRA funds. He stated that people will get to know his name, for better or for worse.

Mayor Ferrante thanked the speakers for their comments and assured them Council takes their concerns seriously. On July 20, Council will receive a history of the CRA and a proposal for a self-evaluation of the CRA and corrections, if needed. It may involve an outside agency to look at the CRA.

Mayor Ferrante recommended moving Agenda Items 5, 6, and 7 to the end of the meeting and moving directly to the action items.

DISCUSS/TAKE ACTION ON CITY SURVEY

Mayor Ferrante stated that time is short and Council needs to make a decision on the survey at this meeting if Council wants comments back in time to review data before setting the millage rate. Plain English Writing Services will compile the data, and Lloyd French has volunteered to independently review the data.

Lorraine Gott, Plain English Writing Services, stated that the purpose of the survey is to get substantive information from residents for this Council and future Councils to use in making decisions

and setting budgets. In surveys asking about cuts, factual information is presented to show the impact of cuts. The surveys will be in homes by June 30 and must be returned to City Hall or the David R. Schechter Community Center by July 15.

To help insure the validity of the survey's results, each survey contains an address. No addresses or other personal information will be used in the survey tabulation. If more than one adult member of a household who is a Satellite Beach resident wants to complete the survey, additional surveys can be obtained from City Hall by phone, email, or walk in to pick it up. The first three pages of the surveys will be scanned to a pdf file and that file will be provided to those tabulating the surveys. The original surveys will not leave City Hall. It is anticipated that tabulation will be complete by August 1.

Council discussion:

Councilman Higginson: City Council has a moral obligation for the health and welfare of the City; the survey will help Council accomplish some of the tasks before them.

Councilman Fleis: asked for confirmation that personal information will not be used in the tabulation of the surveys. (Confirmed, only the data on the first three pages will be provided to those tabulating the surveys; page 4, which contains the address, will not be scanned.) He stated the Council needs input from the residents to help make the tough decisions.

Councilman Rhodes: stated he is opposed to the survey. His comments are not intended as a personal dig at anyone. However, his opinion as a public official is that the survey is not written as it should have been written; some questions are leading, especially those with a dollar amounts attached. He said that people live in Satellite Beach because it is an incredible place to live. Regarding services, no one will respond negatively to Police, Fire, or Recreation; everyone loves them. Regarding the Community Redevelopment District, how can the average citizen understand the CRA, when he, as a Councilman, cannot totally understand it? Regarding beach preservation, it is a moot point; it is already done. Those who are writing and tabulating surveys are not experts on surveys. The survey will not provide a representative cross section of the residents if only those 50 years and younger respond. The senior residents are retired and don't have time to respond; or they may be widows who are too busy caring for one another to respond. The responses will not represent the demographics of the City. Councilman Rhodes suggested that he pair up with Councilman Fleis to take surveys from door-to-door in part of the City; and Mayor Ferrante and Vice-Mayor Chase go door-to-door in another section to reach ten percent of homes for a complete accurate demographic of the City. If Council decides to move forward with the survey, Councilman Rhodes said he would like to modify some questions.

Vice-Mayor Chase: stated the data will drive the validity. There are some excellent questions at the beginning of the survey to get demographics. More than one member of the household may want to complete the survey. How will that be handled? [Residents can request an additional survey for each adult resident in that household.] Vice-Mayor Chase stated Council has to go through the process to see what comes back.

Mayor Ferrante: stated the City has held Town Hall and State of the City meetings to ask people for their opinions and gather information. He stated that Council can spend \$50,000 for a professional survey; but he did not feel that was necessary. Having been a resident since 1987, he knows the people of Satellite Beach to be outstanding, knowledgeable, smart, well-read citizens; this is based on Census data, FCAT scores, those who volunteer, and those who speak in meetings. He believes the surveys will be completed accurately and people will tell Council what they want. Mayor Ferrante stated that he hopes to have some information available for his State of the City meeting on August 2.

Mayor Ferrante asked for public comments; the following individuals addressed Council:

- Trevor Lowing, 110 Sherwood Avenue, recommended questions 24-25 on future budgets be moved to the front. He suggested that each question show the per property impact per year for each issue.
- Lloyd French, 240 Colonial Court, recommended that the survey be scrapped, stating the questions are leading and slanted and do not ask questions that provide information Council needs to know. If Council wants the millage question answered, ask one question: "Do you want to raise the millage? Lower the millage? Keep the millage the same?" Tell them what that means: if we keep millage the same or lower it, then services will be cut; if we raise the millage, you can keep the services, but you will pay more money. Mr. French stated that he sent out an unofficial survey on "ZOOMERANG" where people could respond to him at cmsqtlloydfrench@cfl.rr.com. Of the one hundred fifty sent out, he received twenty or so back. Seventy percent of the twenty responses wanted to keep the current millage rate or lower it. He stated that the City has platinum plated services that drive up taxes. There is spending management in the City that draws into question the foundation of the tax decisions. He recommended that the survey not be sent out.
- Michelle French, 240 Colonial Court, stated the introductory information for questions about Police Officers skewed the question. These weighted questions will not get unbiased answers.
- Ron Jurgutis, 620 Ocean Street, stated that questions 7, 8, 9, and 10 are leading. If the Council proceeds with the survey, the wording has to be reviewed carefully. Regarding purchase of oceanfront land, the survey states that it was funded through grants and donations; this is misleading because the CRA funded much of this purchase. He stated the City is bleeding in future budgets. There are very hard decisions for Council this year.
- Tom Rowat, 243 Carissa Drive, stated that he does not know of anyone who would send a survey to only those who think like he does and expect representative results. Council needs to conduct the survey and get the information.
- Harry Pawlak, 748 Atlantic Drive, stated he has been involved with surveys with the Air Force for a number years. He reviewed this survey and found it to be direct, pointed, and aimed at residents of Satellite Beach. Mr. Pawlak encouraged Council to support the survey.
- Mark Brimer, 850 Loggerhead Island Drive, stated Council has focused on communication, and this survey is a good tool to receive information. The survey is well written and provides discussion points to gather data. He recommended proceeding with the survey to get the data to move forward.
- Dominick Montanaro, 465 Glenwood Avenue, stated, to correct the record, the only oceanfront property to be purchased with CRA funds was the Sunrise property; and there were close to 150 people in attendance at the meeting to support the purchase of the property. The rest of the oceanfront property was purchased before there was a CRA. Everyone is looking for information; this survey will provide information. He recommended moving forward with the survey.

ACTION: Councilman Higginson MOVED, SECOND Vice-Mayor Chase, to move forward to finalize and distribute the survey as presented.

Councilman Rhodes stated that he is opposed to the way the survey is written.

VOTE: FOUR AYES (Fleis, Chase, Higginson, and Ferrante); ONE NAY (Rhodes). MOTION CARRIED.

DISCUSS/TAKE ACTION ON LITIGATION REGARDING RIGHT-OF-WAY ABUTTING 600 CINNAMON COURT

City Attorney James Beadle stated that the packet contains the same information as provided at the previous meeting. The attorney for the Rhems has asked if the City would conceptually agree to settlement of the case by the Rhems purchasing the right of way at the east end of the canal adjacent to Cinnamon Court.

Council discussed the following:

- This was brought to our attention because the Rhems want to replace the seawall. Council would like to see the homeowner be able to replace the seawall.
- Years ago, the City vacated similar rights-of-way; but for the past twenty years the policy has been to hold on to them.
- Is there any value or burden to the City for this land? What can the City do with it? A public dock or canal access?
- A fence blocks off the right of way and the public cannot see the canal or the right of way.
- Is there any benefit to selling the land and using the money for future access to Samsons Island from some other location?
- The City should hold onto the land for future potential use for access.

Mayor Ferrante asked for public comments; the following individuals addressed Council:

- Michelle French, 240 Colonial Court, asked how many similar rights of way are remaining. [Four or five that are posted as public, but you cannot launch a boat from them.] She asked how big it is. [Fifty feet wide.] She recommended holding on to the property.
- Dominick Montanaro, 465 Glenwood Avenue, said that there may be future uses for that parcel. If a hurricane destroys homes in that area, it may be possible for residents to access the canal from there. The Fire Department is a difficult place to get into the water, and there is not adequate parking there.
- Trevor Lowing, 110 Sherwood Avenue, asked if a long term lease would work there.

Council concurred that they do not want to sell or vacate the property.

DISCUSS/TAKE ACTION ON DONATION TO FUND PURCHASE OF POLICE DEPARTMENT ATV

Police Chief Lionel Cote stated that the ATV which has been used in the beach patrol is no longer safe to drive. Mr. Jim Jenson has offered to donate \$6,000 and another anonymous donor has offered to donate \$4,000 toward the purchase and maintenance of an ATV to patrol the beach. The patrol has been successful in discouraging homeless nesters, alcohol and drug abuse, and perverts on the beach. Mr. Jenson will have his business logo on the vehicle, and it will be painted to indicate that it is a Satellite Beach police vehicle. All who operate it are certified through the State. It is housed at Los Olas complex.

Council discussed the following:

- How long did the current ATV last? [Seven years.]
- What is the cost of liability insurance, gas, and maintenance? [Insurance is about \$600 per year.]
- How long will the \$3,400 maintenance budget last?

Mayor Ferrante asked for public comments; the following individuals addressed Council:

- Trevor Lowing, 110 Sherwood Avenue, stated Homeland Security has developed special markings for safety vehicles to make them more noticeable on the beach.
- Sam Attard, 328 Trinidad Drive, stated he is one of the volunteers who rides the ATV. It uses about one-half gallon of gas per patrol; so the gas costs are minimal.
- Lloyd French, 240 Colonial Court, stated he has reservations about volunteers on ATVs and the potential liability to the city and placing more vehicles on a fragile beach. He asked why Indian Harbour Beach turned down this same offer. [They don't have a volunteer program.] He stated that Mr. Jensen has had a stormy relationship with the City and wondered if this is a peace offering instead of an altruistic act. He suggested that Mr. Jensen donate to a cause other than an environmental deficit.
- Michelle French, 240 Colonial Court, asked where it crosses the dunes. [The emergency access ramp at Grant Avenue.] She stated that it could be detrimental to the volunteers to be confronting pervers.
- Pat Gibbons, 469 Coach Road, in Indian Harbour Beach they asked if it is a necessity and did they have the money to maintain it. He stated it could be expensive to maintain an ATV.
- Tom Rowat, 245 Carissa Drive, stated he is one of the volunteers, and they do not apprehend anyone. Their appearance in a police vehicle is the deterrent.
- Dale Abrams, 620 Ocean Avenue, asked how often they patrol and stated she has not seen them on the beach. She asked if they can ticket people who have their dogs on the beach. She expressed concern that they may drive over sea turtle nests. [Volunteers do not write tickets; they call an officer if needed.]
- John Fergus, 135 Maple Drive, stated he has received several calls for bird rescues that have been called in to dispatch from the ATV. Of the funds donated, two-thirds will purchase the ATV and one-third will be available for maintenance. Their presence is a deterrent to inappropriate activity on the beach.
- Dominick Montanaro, 465 Glenwood Avenue, stated that there are volunteer programs throughout the City. The City was built on volunteerism. Volunteers have provided thousands of hours of support.

Council discussed the following:

- Insurance is about \$600 per year; liability is covered under the general liability policy; the volunteers are covered under Workers Comp.
- The cost of gas is minimal.
- 2.8 miles of beach is a long distance to patrol on foot.
- The cost of patrolling the beach is part of being a beach community.

ACTION: Vice-Mayor Chase MOVED, SECOND Councilman Higginson, to gratefully acknowledge and accept donation of \$10,000 (\$6,000 from Mr. Jim Jensen and a \$4,000 anonymous donation) and authorize the purchase of an ATV in the amount of \$6,543.93 and establish an ATV reserve of \$3,456.07. VOTE: ALL AYES. MOTION CARRIED.

ORDINANCE NO. 1043, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING SECTION 2, ARTICLE VII, ELECTIONS, OF THE CITY CODE BY CREATING SECTION 2.278, ESTABLISHING A FILING FEE; PROVIDING AN EFFECTIVE DATE (FIRST READING)

City Attorney Beadle read Ordinance No. 1043 by title on first reading.

City Clerk Barbara Montanaro presented Section 2.02(2) of the old City Charter regarding election filing fees, which stated in part, "Until otherwise provided by city ordinance, the filing fee shall be \$1.00." The Charter Review Committee recommended that this provision be moved from the Charter to the City Code. Ordinance No. 1043 provides for the \$1.00 filing fee to continue.

Mayor Ferrante asked for public comments; there were no comments.

ACTION: Councilman Fleis MOVE, SECOND Councilman Rhodes, to approve Ordinance No. 1043 on first reading. VOTE: ALL AYES. MOTION CARRIED.

BUDGET ISSUES

City Manager Michael Crotty asked that Council set a special meeting of the Council on Wednesday, July 13, at 6:00 p.m., for budget review. Council concurred.

Mayor Ferrante asked for public comments; there were no comments.

CITY COUNCIL COMMENTS

Councilman Fleis stated that he attended the Liberty Bell Museum Flag Day put on by Honor America; however the threat of lightening kept them from flying the thirteen flags.

Councilman Rhodes stated he had read the article about Melbourne Beach and alcohol on the beach and asked if Satellite Beach allows it. [Deputy Chief Pearson will report back on the issue.]

Councilman Rhodes stated he has a problem with the appointment of Ms. Paige to the Community Redevelopment Agency Advisory Committee. At the last meeting he questioned whether she was qualified to sit on that board and the City Clerk said she is qualified. Councilman Rhodes read Section 31-5(d) of the City Code regarding qualifications and said that in his opinion she is not qualified. He asked that Council or the City Attorney make a determination. [The City Attorney will report at the next meeting.]

Councilman Rhodes stated he and others have done research regarding the Community Redevelopment Agency. He said it is disturbing that everyone got a copy of an email on June 14 from Sheryl Denan linking the Daytona Beach CRA audit for improper funding with Satellite Beach; and there has not been a response to this email. There are audits in six other Florida cities and many things citizens have brought up here are the same things being audited in other areas. He recommended an entire meeting to educate Council about the CRA. Is the Plan as it should be? Does it need to be updated? Councilman Rhodes expressed frustration that it appears that no one is taking this seriously and asked for immediate response.

Mayor Ferrante stated that he had personally spoken with Ms. Denan and advised her that the CRA will be an agenda item at the July 20 meeting where Council can consider a proposal for an evaluation and self-correction, if needed.

Councilman Rhodes stated that July 20 is too late because the millage has to be set by August 3 and there may be CRA issues that have to be considered before setting the millage. He asked if this could be discussed on July 13 because it is part of the budget process.

Council agreed to add the CRA issues to the special meeting established to consider budget issues on July 13. Mayor Ferrante suggested that there may be an additional special meeting the last week of July.

Vice-Mayor Chase showed the front page of the June 15 Florida Today newspaper with Scotty Culp and her volunteers raising the flags between Flag Day and the Fourth of July as they have done for the past twenty-four years. We believe in volunteerism; there were sixteen volunteers on Tuesday alone. He expressed kudos to Scotty and the volunteers.

Mayor Ferrante stated he went with Scotty to raise the flags. He reported that Brevard County has banned fireworks in the incorporated and unincorporated areas. He asked that staff put up signs and post notice on the website advising the public of the ban.

CITY ATTORNEY REPORT

City Attorney Beadle did not have anything to report.

CITY MANAGER REPORT

City Manager Crotty did not have a report.

APPOINTMENTS TO BOARDS

No action necessary.

AGENDA ITEMS FOR NEXT REGULAR COUNCIL MEETING

City Manager Crotty presented a list of items for the next regular Council meeting on July 20, including items identified at this meeting.

There will be a special Council meeting on July 13 for Budget/CRA issues.

ADOPTION OF MINUTES:

**JUNE 8, 2011, WORKSHOP MEETING
JUNE 8, 2011, REGULAR MEETING**

ACTION: Vice-Mayor Chase MOVED, SECOND Councilman Fleis, to approve the above minutes as presented. VOTE: ALL AYES. MOTION CARRIED.

Mayor Ferrante adjourned the meeting at 8:20 p.m.

Barbara Montanaro
City Clerk