

## **COUNCIL MINUTES JULY 20, 2011**

Pursuant to Public Notice, Mayor Ferrante convened the regular meeting of the City Council on Wednesday, July 20, 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 telephone.

Councilman Fleis led a moment of silence and the Pledge of Allegiance.

### **INTRODUCTION OF GUESTS**

The following individuals introduced themselves: Jim Bartoszak, has lived here eight years; Marcia Roberts, 25 years; and Fred and Nancy Bailey, since 1987.

### **CITIZEN COMMENTS**

- Lloyd French, 240 Colonial Court, read a written statement and requested that it be included in the minutes. It referenced the following: activities and projects of the Community Redevelopment Agency; the delay in response to certain inquiries; failure of the CRA to address non-conforming lots; and the purchase of vacant land by the CRA. (Note: The statement is available in its entirety in the City Clerk's Office.)
- Ron Jurgutis, 620 Ocean Street, read a written statement that he delivered to be included in the minutes. It referenced the following: requests for efficiency studies and/or metric analysis of projects; recommended that such studies be completed internally with citizen input, rather than costly consultants; and provided an unaudited metric of police services. (Note: The statement is available in its entirety in the City Clerk's Office.)

### **CITY COUNCIL COMMENTS**

Councilman Higginson thanked Council, staff, Police Department, Fire Department, and associates for prayers and good wishes while he was in the hospital and rehab, stating he hopes to attend the meetings in person soon.

Councilman Fleis reported that he attended the Library Board meeting and the ribbon cutting of the Navy Federal Credit Union at Atlantic Plaza, the second new credit union in the City.

Councilman Rhodes stated that he had enjoyed an eight-day vacation in the Washington, D.C., area. Councilman Rhodes met with Milo Zonka, Waste Management, to discuss recycling issues at parks and beaches. He reported that Rodney Smith and Anglers for Conservation will clean and service a recycling station at Sunrise beach access.

Vice-Mayor Chase asked that the Police and Fire activity reports be posted in a prominent place on the web. He stated that the CRA is receptive to combining lots to remedy the non-conforming lots, but the City cannot do that. He asked how staff keeps track of the questions that are not answered during the meeting. [Staff is struggling with the volume of questions to the point that response is interfering with normal work.] Vice-Mayor Chase stated that he likes receiving the written comments from the public; and asked if there are any guidelines about how many pages can/should be included in the minutes. [Council asked the City Clerk to see if there are guidelines.]

Mayor Ferrante reported that he attended Police Chief Cote's retirement party recognizing 25 ½ years service to the City and commended Police Administrative Assistant Linda Harlow and others for an outstanding event. Chief Cote is on the job until July 31; if you see him, thank him. Rebecca O'Hara, Florida League of Cities, reported to the Space Coast League of Cities meeting that the Department of

Economic Operations is replacing the Department of Community Affairs. Mayor Ferrante attended the Library Board meeting and learned that the Library is a great resource for individuals looking for employment. He requested that this information be placed on the City's website.

**CITY ATTORNEY REPORT**

City Attorney James Beadle did not have anything to report.

**CITY MANAGER REPORT**

City Manager Crotty expressed regret that former Satellite Beach Fire Marshal James Habovick, Sr., passed away. He was the father of "Fireman Jim," who had also served as a Satellite Beach Firefighter. Arrangements have not been completed.

Sgt. Darren Frost reported that the Shell Station on Highway A1A was the target of a burglary at 4:00 a.m. The suspects fled the scene but were apprehended by Officer James McGann. All five had felony records and were on felony probation or on secure home detention as juveniles. Two other cars responded (Sgt. Paul Creatura and Officer Justin Valutsky). The suspects were taken at gunpoint without injury. The individuals said they had targeted Satellite Beach because they thought it would be an easy mark with a high yield.

**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 (SECOND READING)**

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

Ordinance No. 1043 was approved on first reading on June 22. It establishes the \$1.00 filing fee for candidates for the offices of Mayor and City Council in the elections portion of the City Code. (It was formerly in the Charter.)

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

**ACTION:** Councilman Higginson MOVED, SECOND Councilman Fleis, to adopt Ordinance No. 1043 on second reading. VOTE: ALL AYES. MOTION CARRIED.

***COUNCIL CONVENED AS THE COMMUNITY REDEVELOPMENT AGENCY FOR THE FOLLOWING AGENDA ITEM:***

**DISCUSS/TAKE ACTION ON STATUS OF FORMER PEG LEGS AND CORINTHIAN APARTMENT PROPERTIES (CORNER SR A1A AND DESOTO PARKWAY)**

Community Development Director Laura Canady presented an overview of her July 15, 2011, memo to the Community Redevelopment Agency (CRA) as follows:

- After discussion on the potential sale of 1604 and 1612 Highway A1A (the former Peg Legs and Corinthian Apartment properties) at the May 4 CRA meeting, the CRA Advisory Committee invited interested members of the CRA/Council, Comprehensive Planning Advisory Board, and Planning and Zoning to attend the June 23 meeting where the CRA Advisory Committee discussed the background of the purchase, the use restrictions recommended in the A1A & DeSoto Property Ad Hoc Committee Final Report, and past and current appraisals.
- The property was bought in 2006 for \$1,525,000.
- The A1A & DeSoto Property Use Citizen's Ad Hoc Committee held twelve public meetings between

February and October 2007 and delivered a final report to the CRA April 2, 2008.

- One recommendation in the Blue Ribbon Financial/Budget Committee Final Report of August 2010 was to offer the property for sale without any of the added restriction on use.
- The property is zoned Commercial.
- The annual debt service is approximately \$113,000.
- Appraisals on the property:

2006	\$1,100,000	All Commercial, including mixed use
2008	\$1,000,000	All Commercial, including mixed use
2008	\$ 858,000	Commercial, excluding uses identified in April 2, 2008, Report
2011	\$ 522,700	All Commercial, excluding mixed use
- At the June 23 meeting, the CRA Advisory Committee recommended to the CRA to begin marketing the 1.2-acre parcel at 1604 and 1612 Highway A1A as commercial property for Sale by Owner with the possibility of allowing mixed-use pending a Comprehensive Plan Amendment.

Council discussed the following:

- Restrictions on allowable uses will directly impact the value of the property.
- The appraised price does not reflect what the Agency would be willing to accept for this prime location.
- Council considered the depreciated value and determined they have to move beyond that and determine what is best for the City now.
- One consideration in purchasing the property was citizen input asking that uses at this premium location be restricted to uses compatible with the neighborhood – no gas station, drive thru, or high intensity use.
- The real estate market has declined but it will eventually come back.
- If the property is sold at the appraised value, there is still \$1,000,000 debt to be paid.
- When this property is developed, the development should be for a use that generates taxes.
- Staff could contact two or three commercial real estate brokers to see what a lump sum fee would be to place the property online and allow the City to do all negotiations and contracts.

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

- Ron Jurgutis, 620 Ocean Street, said the property should not be sold for less than \$1,000,000. He requested a financial analysis telling ramifications of a sale and how it relates to debt service and the tax benefits of various uses.
- Sheryl Denan, 606 Barcelona Court, asked if the City owns all four parcels shown on the Property Appraisers website. [No, the City tried to buy the two slivers sold at auction but were outbid.] She questioned the value of the property because those two slivers could limit ingress and egress. [The property does have ingress and egress from both DeSoto Parkway and Highway A1A.]
- Gabe Feindt, 470 Caribbean Drive, stated that he was a member of the ad hoc Committee and he concurs that the property should not be sold at the appraised price.
- Don McLendon, 695 Fountain Boulevard, stated that the purchase of the property was a bonehead decision. He asked if one of the grant writers was involved in the purchase. Mr. McLendon said the property is worth what someone is willing to pay for it.
- Jim Bartoszak, 621 Palm Drive, stated that his home abuts the Peg Legs property and asked that any new development have adequate parking so as not to overflow onto Palm Drive. He spoke in favor of a business that observed normal business hours and had a noise level consistent with the residential neighborhood. He recommended keeping the 35-foot height limit. He recommended that staff advertise a request for proposals with specific design for the property compatible with the neighborhood.

- Mark Johnson, 616 Poinsetta Drive, stated the property was purchased to steer development consistent with the redevelopment goals and in harmony with the neighborhood. The target uses identified in the ad hoc Committee's report were adequate and excluded the high intensity uses, such as a gas station with noise and light pollution. Selling the property now would be a \$1,000,000 loss; so do not sell now. Do not sell at wide-open Commercial zoning. (Note: The written comments are available in their entirety in the City Clerk's Office.)
- Dominick Montanaro, 465 Glenwood Avenue, concurred this is a choice piece of property that is worth more than \$522,000. He provided some background on the purchase of the property, stating that there were numerous meetings to discuss the purchase and the room was full of residents supporting the purchase. During the time that the Committee was meeting to determine the best use for the property, values spiraled down, just as they did on other businesses and homes.
- Elaine Fee, 615 Poinsetta Drive, stated that the property could have been used for something – garden, parking for beach access, farmers market, mobile vending – all this time to have raised a little money. She spoke against selling the property at a low price and recommended developing in line with the recommendations of the ad hoc Committee.
- Marcia Roberts, 457 East Amherst Circle, said that a City should not be in the business of owning property. The value is going down more and more and will continue to go down.
- Tara Bartoszak, 621 Palm Drive, recommended doing something to add curb appeal to the property. It is unattractive; the wall needs to be painted; the sidewalk is cracked and broken. She said she liked the idea of a public pool.
- Lloyd French, 240 Colonial Court, recommended selling the property for \$900,000 to get it back on the tax roll. Selling the property is a windfall back into the CRA, not the City, to help with CRA debt. There are two issues: quality of life and financial issues. Sell to a developer who wants to join the community and integrate into the neighborhood.

Staff and Council discussion:

It would be helpful to have a ledger sheet showing debt service on the property and how different zoning restrictions could impact the sale price.

Selling for one-third the purchase price is unacceptable; the property is worth at least \$1,000,000. Some restrictions may need to be reviewed to attract a developer.

The property could use some paint and plants to increase curb appeal.

Regarding a citizen's question about the contract to purchase the property, at the February 2006 meeting of the CRA Advisory Committee, John Fergus presented a contract for the Peg Legs property that was assignable to the City without additional costs. The CRA Advisory Committee recommended 7-1 to purchase the property.

There have been over 45 meetings addressing the property and what can be developed there. Until that is determined, it will be a challenge to set a selling price.

City Attorney Beadle stated there are two ways to set out uses: 1. Include it in the Commercial Zoning District and impose additional requirements on development; 2. Impose deed restrictions. Also the City could replat the lots as one lot and not allow it to be subdivided.

No formal action has been taken to finalize the uses and restrictions recommended by the ad hoc

Committee. City Attorney Beadle said as long as the City owns the property they do not have to sell it to anyone for a use they do not like; but once it is sold, someone else can sell it to be used for anything allowed in the zoning district.

In response to questions from Council, City Attorney Beadle stated that a property owner has to comply with only the regulations that are in place. Zoning laws are interpreted in favor of the landowner and against the City. You can't market a property without potential owners knowing what is allowed. If you put deed restrictions in place and the property does not sell, you can amend or remove the deed restrictions.

**ACTION:** Councilman Fleis MOVED, SECOND Vice-Mayor Chase, to 1) have the Agency act on deed restrictions within thirty days; 2) direct the City Manager to present price recommendations to the CRA within thirty days for the sale of the property after consulting with three commercial real estate brokers; 3) present the brokers' fee to list the property as a listing only, with all interested parties directed to the City for negotiations; 4) present brokers' anticipated time in days a parcel like this would sell in this market; 5) use this time to establish the high price range; 6) after a period of marketing "X days" put the property up for auction with a minimum price as established by the high range during the marketing period; 7) leave the auction open for 30-60 days. VOTE: ALL AYES. MOTION CARRIED.

***COUNCIL RECONVENED FOR THE FOLLOWING AGENDA ITEMS:***

**REPORT ON EMERGENCY MANAGEMENT PLAN/Tsunami READY**

Fire Chief Hughes presented a draft of the Tsunami Action Plan, which will become part of the Comprehensive Emergency Management Plan (CEMP) in the "Special Subjects" section of the Plan. Brevard County Emergency Management has not completed a draft document, as there is little official information or guidance for a Tsunami event in Florida.

Current risk assessment indicates that a tidal wave in Brevard County will have a maximum impact within 100 yards of the dune line (east of Highway A1A). One component of the Plan will be public education for local residents who reside on the east side of Highway A1A on mitigation, evacuation, and post disaster actions. Establishing a reliable warning system along the Atlantic Seaboard is a challenge.

If there is a short-term evacuation, the David R. Schechter Community Center will be open for relocation until the all clear. Longer evacuations will locate to a shelter in Melbourne, the same as for a hurricane.

Mayor Ferrante recessed the meeting at 7:40 p.m. and reconvened at 7:50 p.m.

**INITIAL REPORT ON SURVEY RESULTS**

Lorraine Gott, Plain English Writing Services, stated that more than 200 hours had been spent on preparing, tabulating, and reporting the survey; there is still more work to compile the final report. There were 52,000 data entries. Nine hundred twenty-five valid surveys were returned – 18% of those distributed.

Ms. Gott gave a PowerPoint presentation showing each question, the number of responders, and the response to each question. Ms. Gott provided a copy of the presentation to those present and the report has been posted on the City's website. (Note: The presentation is available in its entirety in the City Clerk's Office.)

This presentation shows the preliminary results. The final presentation will include the completed survey form; a list of all comments for Questions 5, 22, 23, 25, and 26; a copy of the PowerPoint

presentation; a CD with all surveys submitted, valid and invalid; and spreadsheets showing data entered in all questions. Questions about demographics, etc., will be addressed in the final report

Council expressed appreciation to Ms. Gott and Mr. Fergus for the hours of work and detailed, professional report.

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

- Elaine Fee, 615 Palm Drive, asked about surveys where individuals blacked out their address. [When someone blacked out his or her address but you could still tell that it was sent from the printer; that survey was counted. When someone cut out the address and there was no way to identify it as one that had been mailed, that survey was considered invalid.]
- Sheryl Denan, 606 Barcelona Court, asked if the individuals preparing the survey are City employees. [The City's grant writers Plain English Writing Service prepared and tabulated the survey.] Ms. Denan asked if the City had gone out for bids for this service per Chapter 197, Florida Statutes. [The grant writers are not being compensated for this; they volunteered at a public meeting to provide this service at no charge to the City.]
- Don McLendon, 695 Fountain Boulevard, stated the results of the survey do not represent what the citizens want; it is what those who responded want. It is pathetic that only one-fifth of the residents were interested enough to respond. He stated that his war-hardened, Doctor of Psychology son-in-law's interpretation of the survey is that the questions are biased, use scare tactics, and default to answers the writers are seeking.
- Pat Utecht, 235 Hedgecock Court, stated this survey nearly duplicates surveys taken over the past years. He commended this Council and previous Councils and staff for making Satellite Beach a nice place to live.
- David Ryan, 410 Wilson Avenue, asked how many people voted in the last City election. About half of those people responded to the survey.
- Dominick Montanaro, 465 Glenwood Avenue, stated that more people responded to this survey than any other one done in the City. One-fifth of the City took time to answer 26 questions. People want Council and staff to figure out how to continue to provide the services they want.
- Mark Brimer, 850 Loggerhead Island Drive, said people are waiting to hear the results of the survey and asked how that information will be conveyed to the residents. [Website and future Beachcaster.]
- Lloyd French, 240 Colonial Court, thanked Lorraine and John for their hard work. They allowed me to quality check and it was extremely difficult work. One of the great things about the survey is that there is some excellent data; for example, 25% said they do not want *Beachcaster*. So for efficiency, it might be good to send the Beachcaster to only those who want it. He questioned why the ones with the address cut out were considered invalid. He questioned the impact that an 18% response should have. He recommended posting it for citizens to see.
- Gabe Feindt, 470 Caribbean Drive, said he read in the Beachcaster that the old timers do not like change; he is a military man and does not mind change. This survey reflects the quality of life that residents desire.

Mayor Ferrante commended the citizens for their responses to the survey; it provides an excellent tool for planning. He suggested that it might be good to conduct a survey every five years.

Action will be taken on the survey when Council receives the final tabulation report.

### **BUDGET ISSUES**

City Manager Crotty asked for direction on two issues:

1. Schedule a special meeting before the August 3 regular meeting to discuss budget issues and possibly establish the proposed/tentative millage. The proposed/tentative millage has to be reported to Brevard County no later than August 4. [Established a meeting for July 27 at 6:00 p.m.]
2. Asked if there are any special items Council wants the City Manager to include in the budget preparation. [How much reserve money do we have? How much should we have? List of expenditures from reserves; Final projection of all revenue sources; impact of CRA funds on budget; (If the City receives more than projected shared revenue, the overage goes into reserves); Efficiency study; Funds into CRA to review, update, and rewrite the Redevelopment Plan; Increase revenue from ball fields to get out of the 0% return on investment; look at alternatives to the *Beachcaster* for corresponding with citizens.]

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

- Lloyd French, 240 Colonial Court, cited his experience while working at AFTAC when Congress required them to recommend 15% cuts; their tactic was to offer up a program that Congress would not take, so they were left alone. In 1992, Congress called their bluff and took their offer. He stated that department heads should provide realistic cuts, look at cuts from an efficiency perspective with a number of small changes with no pain to the public. Mr. French recommended nickel and dime cuts, not eliminating positions causing people to lose their jobs.

### **APPOINTMENTS TO BOARDS**

City Clerk Barbara Montanaro announced that the qualifying period for candidates for City Council will be August 11-24, 2011. Candidate/Campaign Treasurer Handbooks will be available in her office on Monday, July 25.

The City Clerk presented a list of board vacancies and applications as outlined in the July 13, 2011, memorandum.

Mayor Ferrante asked for public comments before each appointment; there were no comments.

**ACTION:** Vice-Mayor Chase MOVED, SECOND Councilman Fleis, to reappoint Richard Ralph to a three-year term on the Code Enforcement Board, said term to end August 1, 2014. VOTE: ALL AYES. MOTION CARRIED.

**ACTION:** Vice-Mayor Chase MOVED, SECOND Councilman Higginson, to reappoint Mark Johnson to a three-year term on the Comprehensive Planning Advisory Board, said term to end July 20, 2014. VOTE: ALL AYES. MOTION CARRIED.

**ACTION:** Vice-Mayor Chase MOVED, SECOND Councilman Higginson, to reappoint Carol Late to a two-year term on the Library Board, said term to end August 1, 2013. VOTE: ALL AYES. MOTION CARRIED.

**ACTION:** Councilman Higginson MOVED, SECOND Councilman Fleis, to ministerially approve the Police Officers and Firefighters Retirement Plan Board of Trustees' reappointment of David Ryan a two-year term on the Board of Trustees, said term to end July 24, 2013. VOTE: ALL AYES. MOTION CARRIED.

City Attorney Beadle gave an overview of his July 15, 2011, letter regarding the inquiry into the qualifications of a recent appointee to the Community Redevelopment Agency Advisory Committee. The issue arose whether or not Ms. Paige was engaged in business as defined in City Code. He provided the applicable portion of Chapter 83-231, Florida Statutes. Council is the judge of board applicant qualifications and has the discretion to make appointments. Council interviewed the applicant prior to the appointment and discussed her qualifications. If Council wants to tighten requirements for board members, they can do so for all boards except the Code Enforcement Board, which is governed by Florida Statutes. Persons owning property in the District and being on the Advisory Committee have the normal obligations for disclosure if an issue before the Committee inures to personal benefit.

Councilman Rhodes stated that he disagreed across the board with findings. The City Code clearly means businesses that are actively engaged, not someone who owns a piece of dirt and has no vested interest in the City.

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

- Dominick Montanaro, 465 Glenwood Avenue, stated that he sits on the CRA Advisory Committee and Ms. Paige participated in the last meeting. She is intelligent and has a lot of experience/ideas to share. She has a vested interest in the City; she pays taxes like everyone else on the Committee.
- Lloyd French, 240 Colonial Court, stated that he wants to ensure that motivations and qualifications for individuals making recommendations regarding CRA funds are based on the best interest of our City, not based on someone who drives by for a tax deduction. He recommended having people ingrained in the community to sit on boards to make well-informed decisions based on long-term health and welfare of the community.

City Attorney Beadle advised that if Council wants to change the appointment someone who voted in the affirmative for the appointment would have to move to reconsider the appointment.

Mayor Ferrante asked if there was a motion to reconsider the appointment of Linda Paige to the Community Redevelopment Agency Advisory Committee. There was no motion; Ms. Paige will remain a member of the Board. Council may review qualifications for board/committee members at a future time.

#### **AGENDA ITEMS FOR NEXT REGULAR COUNCIL MEETING**

The City Clerk read a list of items that may be considered at the August 3, 2011, Council meeting.

Councilman Higginson asked for a status on the ownership of Pelican Beach Park and Hightower Beach Park at the next meeting.

#### **ADOPTION OF MINUTES: JUNE 22, 2011, REGULAR MEETING**

Councilman Higginson MOVED, SECOND Councilman Fleis, to approve the Minutes as presented. VOTE: ALL AYES. MOTION CARRIED.

Mayor Ferrante adjourned the meeting at 9:20 p.m.