

**COUNCIL MINUTES  
SEPTEMBER 21, 2011**

Pursuant to public notice, Mayor Ferrante convened a regular meeting of the City Council at 6:00 p.m. on Wednesday, September 21, 2011, in the Council Chamber. The following were present: Mayor Joseph R. Ferrante, Vice-Mayor Mike Chase, Councilman Jeffrey Fleis, Councilman Bill Higginson, Councilman Scott Rhodes, City Manager Michael Crotty, City Attorney James Beadle, and City Clerk Barbara Montanaro.

Vice-Mayor Chase led a moment of silence and the Pledge of Allegiance.

**PRESENTATION OF A PROCLAMATION TO WANDA KAHLER, REGENT, RUFUS FAIRBANKS DAUGHTERS OF THE AMERICAN REVOLUTION, RECOGNIZING THE WEEK OF SEPTEMBER 17-23, 2011, AS CONSTITUTION WEEK**

Mayor Ferrante presented a Proclamation to Wanda Kahler, Regent, Rufus Fairbanks Daughters of the American Revolution recognizing September 17-23, 2011, as Constitution Week. He stated that the United States Constitution is the longest living constitution and encouraged everyone to read and get to know the Constitution.

Mayor Ferrante outlined procedures for the meeting and advised that, according to Council Policies, any complaints against a City employee should be filed with the City Manager, not at a Council meeting.

**FY 2011/2012 BUDGET:**

**PUBLIC HEARING FY 2011/2012 BUDGET:**

Mayor Ferrante opened the FY 2011/2012 Budget Public Hearing.

City Manager Crotty referred to the *Beachcaster* article on the FY 11/12 Budget, which was mailed to all residents of the City and was reviewed in detail at the last Budget hearing.

Council discussed disappointment in having to cut the publication of the *Beachcaster* to meet the FY 11/12 budget.

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

- Skip Bollinger, 400 Kale Street, expressed displeasure with the millage rate, stating that Washington, Tallahassee, Brevard County, Satellite Beach and the taxpayers are broke.

**ORDINANCE NO. 1044, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, DECREASING THE MILLAGE RATE 3.96% UNDER THE AGGREGATE ROLLED-BACK RATE; ESTABLISHING THE FY 2011/2012 OPERATING MILLAGE RATE; PROVIDING AN EFFECTIVE DATE (SECOND READING)**

City Attorney Beadle read Ordinance No. 1044 by title only on second reading.

To satisfy the Florida Department of Revenue Truth in Millage (TRIM) regulations, City Manager Crotty announced the name of the taxing authority (Satellite Beach), the Rolled-Back rate (8.8804), the percentage of increase/decrease over/under the Rolled-Back rate (3.96% under the Rolled-Back rate), and the millage rate to be levied (8.5285 mills).

**ACTON:** Vice-Mayor Chase MOVED, SECOND Councilman Higginson, to adopt Ordinance No. 1044 on second reading.

Council discussed how they arrived at the millage rate and the impact it will have on the City.

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

- Dania Billman, 690 Jackson Court, asked Council to pledge that the efficiency study will take place and will be conducted by people outside the City.

**VOTE:** ALL AYES. MOTION CARRIED.

**ORDINANCE NO. 1045, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, ADOPTING FY 2011/2012 BUDGET; PROVIDING AN EFFECTIVE DATE (SECOND READING)**

City Attorney Beadle read Ordinance No. 1045 by title only on second reading.

Ordinance No. 1045 would adopt all budgets as presented. Council has reviewed the budget in detail at several meetings.

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

**ACTON:** Councilman Higginson MOVED, SECOND Vice-Mayor Chase, to adopt Ordinance No. 1045 on second reading. **VOTE:** ALL AYES. MOTION CARRIED.

**INTRODUCTION OF GUESTS**

There were no introductions.

**CITIZEN COMMENTS**

The following individuals addressed Council:

- Don McLendon, 695 Fountain Boulevard, criticized the Survey conducted by the City; presented a written document about investigations by the the FBI and IRS of the Carabetta group and Satellite Beach Partners LLC; and referred to email he had sent to City Council and the City Manager about Evergreen Solar Panels, DES, and Solendra. [A copy of the Carabetta report as submitted is available in the City Clerk's Office.]
- Police Sgt. Creatura announced the PAL/Lions Club pancake breakfast at the Civic Center on Sunday, October 2.
- Gregg Billman, 690 Jackson Court, read a statement regarding five issues from the previous Council meeting, including 1) those who spoke to retain services even if it meant more taxes; 2) rolled-back millage; 3) people who left in the middle of another's comment time; 4) survey results; 5) mention of the fallen police officers as an emotional character attack. [Note: The statement is available in its entirety in the City Clerk's Office.]

**CITY COUNCIL COMMENTS**

Councilman Higginson stated that sixteen year volunteer Tom Rowat is very ill and invited those

present to attend a tree planting ceremony to express appreciation to Tom for his years of service.

Vice-Mayor Chase reported attending the Space Coast League of Cities (SCLC) meeting, which was co-hosted by Palm Shores and Satellite Beach. The speaker from the East Coast Regional Planning Council provided statistics and ideas for building a community.

Mayor Ferrante expressed appreciation to the City Clerk and Deputy City Clerk for doing the background work for the SCLC meeting. He referred to the ideas presented by the Regional Planning Council about the desire for walkable/bikeable communities and the impact that connecting different roads has on the community. Mayor Ferrante also reported that he attended the Planning and Zoning Advisory Board where they discussed a conditional use request for an eight-bed assisted living facility on Roosevelt Avenue. He commended the Chair and Board for conducting a good meeting.

### **CITY ATTORNEY REPORT**

City Attorney Beadle had nothing to report.

### **CITY MANAGER REPORT**

City Manager Crotty reported the City has been notified by the Florida Department of Environmental Protection that the City's drainage grant application for the Lori Laine Basin has been approved for inclusion in the Environmental Protection Agency work plans for 2012. The Lori Laine Basin treatment project Phase I will (1) install 1,860 linear feet of exfiltration pipe along the rights-of-way on Temple Street (between Norwood and Ellwood) and Hamlin Avenue (between Temple and Kale); (2) regrade the park at Ellwood and Temple so that it functions as a dry retention stormwater park; (3) grout and abandon 2,150 feet of existing pipe running through residential lots; (4) conduct pre- and post-monitoring of system flow; (5) collect, measure, and characterize debris collected in skimmer baskets; and(6) conduct a stormwater public-education program.

The total project amount is \$853,000 with \$503,000 to be received in grant funds.

### **ORDINANCE NO. 1046, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, REPEALING CITY CODE SECTIONS 38-4 AIR GUNS, SLINGSHOTS, 38-5 DISCHARGE OF FIREARMS REQUIRES PERMIT, 38-6 LIABILITY OF FIREARM USER; PROVIDING FOR REPEAL OF ALL CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE (SECOND READING)**

City Attorney Beadle read Ordinance No. 1046 by title only on second reading.

Ordinance No. 1046 repeals three sections of the Satellite Beach Code relating to control of air guns, slingshots, discharge of firearms requires permit, and liability of firearm users.

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

- Don McLendon, 695 Fountain Boulevard, asked if it is legal to shoot his sling shot now.
- Tom Romanisko, 350 Roosevelt Avenue, stated that Florida has pre emptied local government gun laws for a number of years.

**ACTION:** Councilman Higginson MOVED, SECOND Vice-Mayor Chase, to adopt Ordinance No. 1046 on second reading. VOTE: ALL AYES. MOTION CARRIED.

**DISCUSS/TAKE ACTION ON AUTOMATIC AID AGREEMENT BETWEEN BREVARD COUNTY AND SATELLITE BEACH FOR FIRE/RESCUE SERVICES**

Fire Chief Don Hughes presented the Automatic Aid Agreement between Brevard County and Satellite Beach, which will replace the agreement that expires September 30, 2011. The agreement outlines joint response policies for fire/rescue services when either agency is in need of assistance, automatic aid response zones, indemnification, and the types of calls that may warrant help.

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

**ACTION:** Vice-Mayor Chase MOVED, SECOND Councilman Higginson, to approve the Automatic Aid Agreement with Brevard County for the provision of fire/rescue assistance and authorize said agreement to be executed by the Mayor. VOTE: ALL AYES. MOTION CARRIED.

Fire Chief Hughes stated that the Insurance Service Office has completed their rating and the City has dropped from class 5 to class 3, which will reduce insurance premiums for residents.

Mayor Ferrante noted that Building Official John Stone has completed the process and examination to become a Certified Floodplain Manager. The City has gone from a class 9 rating to a class 8 rating which will reduce the insurance premiums of individuals living in a Special Flood Hazard Area.

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

**DISCUSS/TAKE ACTION ON DATES FOR THE COMMUNITY REDEVELOPMENT AGENCY AND THE COMMUNITY REDEVELOPMENT AGENCY ADVISORY COMMITTEE TO MEET REGARDING THE FLORIDA REDEVELOPMENT AGENCY ASSOCIATION VISIT REPORT**

Community Development Director Laura Canady stated that staff has met with the review team from the Florida Redevelopment Association (FRA) and is ready to present a report to a joint meeting of the Community Redevelopment Agency and the Community Redevelopment Agency Advisory Committee.

Council recommended October 13 at 6:00 p.m. with a back up date of October 20 at 6:00 p.m. City Manager Crotty stated that he may be out of town on October 20 and asked to be excused meeting if the meeting is held on that date. Council concurred.

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

- Lloyd French, 240 Colonial Court, stated that the reference to the Florida Redevelopment Agency in the heading of this agenda item should be changed to the Florida Redevelopment Association.

**DISCUSS/TAKE ACTION AUTHORIZING MEMBERS OF THE COMMUNITY REDEVELOPMENT AGENCY TO ATTEND THE FLORIDA REDEVELOPMENT ASSOCIATION CONFERENCE, OCTOBER 18-21, 2011, IN ORLANDO**

The Florida Redevelopment Association Annual Conference will be held October 18-21 in Orlando. The FRA is conducting a training session for CRA and CRA AC members on October 19 at 2:00 p.m.

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

- Lloyd French, 240 Colonial Court, questioned how many people are going and applauded sending individuals to the 101 training to have basic tools to do their job. He spoke about the costs per person and questioned the appropriateness of spending redevelopment funds in this manner. [Note: The statement is available in its entirety in the City Clerk's Office.]
- Skip Bollinger, 400 Kale Street, (read by Michelle French, 240 Colonial Court), opposed spending taxpayers money for the CRA Advisory Committee to attend the Conference. [Note: The statement is available in its entirety in the City Clerk's Office.]
- Don McLendon, 695 Fountain Court, stated staff knows there will be a conference and the money should be in the budget process, not after the fact.

[There is a budget line item for travel and education in the amount of \$2,500 for the CRA AC. This discussion is to approve what portion of that can be spent on this conference.]

- Gregg Billman, 690 Jackson Court, stated the City should cut the boondoggle trips.
- Dominick Montanaro, 465 Glenwood Avenue, stated this is about education and how the CRA is supposed to operate. Attendees should be in classes.

Community Development Director Laura Canady stated that there are numerous concurrent classes. If more than one person attends, they coordinate their schedules to cover as many different sessions as possible.

**ACTION:** Councilman Rhodes MOVED, SECOND Councilman Higginson to allow CRA or CRA AC members to attend the FRA Conference with a maximum allowance of \$2,500. VOTE: ALL AYES. MOTION CARRIED.

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

**DISCUSS/TAKE ACTION ON REVISIONS TO GRANT WRITERS AGREEMENT**

Based on discussion at previous Council meetings regarding the agreement between the City and the grant writers Lorraine Gott (dba Plain English Writing Services) and John Fergus (dba John Fergus Services), the agreement has been modified to recognize the additional services provided by the grant writers, including codification services, writing a variety of City documents, developing data, GIS data and mapping services, assistance with environmental issues, etc. Section 1 Scope of Services, Paragraph 2,

includes language requested by Council, stating that grant writers (consultants) "shall provide the City with other services as mutually agreed between the consultant and city manager at no additional compensation." The grant writers have offered to provide necessary support to prepare a modified newsletter to replace the *Beachcaster*.

Mayor Ferrante requested that Section 1 requiring a semi-annual reports on grants also include a report on other work done.

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

- Lloyd French, 240 Colonial Court, read a prepared statement about the flaws in the contract and asked that Council sign a contract, not a blank check. [Note: The statement is available in its

entirety in the City Clerk's Office.]

- Dominick Montanaro, 465 Glenwood Avenue, stated the grant writers have provided good service over the years and have honored the commitment they made to the City.
- Michelle French, 240 Colonial Court, stated that any past record of the grant writers is irrelevant, as we don't know what will be needed next year. To sign a blank and open check is ludicrous.
- Gregg Billman, 690 Jackson Court, agreed the grant writers have done an outstanding job. However, this contract needs to be bid and perhaps get some new juices coming in. He recommended eliminating open-ended items.

In response to questions from Council, City Attorney Beadle stated as follows:

He has reviewed the agreement and it tracts the agreement the city currently has with the consultants.

The open-ended items are similar to contracts with many suppliers with a thirty-day termination.

Council could enter into two agreements instead of one; but they work as a team with Ms. Gott doing the writing and Mr. Fergus doing the technical work. In most grant services, staff would have to provide the technical and field work.

**ACTION:** Councilman Higginson MOVED, SECOND Vice-Mayor Chase to approve the updated agreement between the City and consultants to provide grant writing and other services. VOTE: ALL AYES. MOTION CARRIED.

**RESOLUTION NO. 910, A RESOLUTION OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, SUPPORTING RENAMING THE BARRIER ISLAND FOR PONCE DE LEON; PROVIDING FOR ADOPTION (7:30 P.M. TIME CERTAIN)**

City Attorney Beadle read Resolution No. 910 by title.

In August, the Board of County Commissioners approved a resolution renaming our barrier island after Juan Ponce de Leon.

At that meeting, the vote was 4-1 with District 4 County Commissioner Mary Bolin voting no. Commissioner Bolin stated that she could not support the resolution due to lack of support from her District, namely Satellite Beach. In April, the City Council took no action on a proposed resolution which would have recommended the naming of the barrier island after Ponce de Leon.

Mr. Samuel Lopez, a member of the Brevard County Historical Commission and Chairman of the Board of the Florida Puerto Rican/Hispanic Chamber of Commerce, provided numerous studies and references establishing that Juan Ponce de Leon's first landing took place at or near Melbourne Beach, not St. Augustine. Ponce de Leon was the first governor of Florida.

The King and Queen of Spain have been invited to attend the celebration in 2013 of the 500<sup>th</sup> anniversary of the discovery of Florida. This is important to attract tourist trade from Spain, Latin America, and South America. This is not a name change because the island does not have a name now.

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

- Lupa Bone, Micco, Florida, spoke in support of naming the island for Ponce de Leon.
- Rafael Picon, who has a studio in Rockledge, stated that the story of Ponce de Leon is the story of Florida and he will make a ten-foot tall sculpture of Ponce de Leon to be placed in Melbourne Beach.
- Lorraine Gott, 325 Trinidad Court, stated she has no disrespect for the Spanish heritage, but she opposed naming the barrier island because it would be rewriting history without sufficient proof.
- Gabe Feindt, 470 Caribbean Drive, stated that the tradition belongs to the Indians.
- Dania Billman, 690 Jackson Court, stated that nothing changes whether Council adopts the resolution, or not. The ceremony will go forward. She was not in favor of spending City money or staff time on this.
- Lloyd French, 240 Colonial Court, asked if speakers addressing Council have to be residents of Satellite Beach. [It is up to Council at its discretion to hear non-residents as time allows.] Mr. French spoke in opposition, stating there is nothing honorable in the genesis in the elimination of the Ais Indians.
- Theresa Lopez, Melbourne, spoke in favor of naming the island for Ponce de Leon and stated this recommendation is going forward to the Federal government with or without the City's endorsement. Lt. Col. Peck had this history registered in Oxford.
- Tom Romanisko, 350 Roosevelt Avenue, stated this is a political issue with no correct answer. Can Council abstain? [No.]
- Joe Morgan, Cocoa Beach, Chair of Brevard County Historical Commission, showed the seal of Brevard County with a picture of Ponce de Leon and read about the Ais Indians and their fierce lifestyle.
- Gregg Billman, 690 Jackson Court, stated there valid points on both sides and 500 years of history cannot be resolved in this meeting.
- Michelle French, 240 Colonial Court, stated rewriting history is not something Council should be involved in.

Council discussed the merits of both sides of the issue.

**ACTION:** Vice-Mayor Chase MOVED, SECOND Councilman Higginson, to adopt Resolution No. 910. VOTE: TWO EYES (Chase and Higginson); TWO NAYS (Ferrante and Rhodes). MOTION FAILED.

**RESOLUTION NO. 913, A RESOLUTION OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, ESTABLISHING A FUND BALANCE POLICY FOR THE CITY OF SATELLITE BEACH; PROVIDING SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE**

City Attorney Beadle read Resolution No. 913 by title.

Finance Director Brenda Raver stated Resolution No. 913 will establish a Fund Balance Policy in

accordance with Statement No. 54 of the Governmental Accounting Standards Board (GASB #54). There are now five new fund balance classifications: 1) Non-spendable (inventory, long-term receivables, pre-paid items – legally or contractually required to remain intact); 2) Restricted (net assets or amounts constrained to being used for a specific purpose); 3) Committed (constraint imposed by City Council and can be removed or changed only by taking the same action, e.g. resolution or ordinance); 4) Assigned (amounts intended to be used for specific purposes); and 5) Unassigned (excess of total fund balance over Non-spendable + Restricted + Committed + Assigned components).

The Fund Balance Policy will establish minimum levels at which fund balance is maintained to ensure that there will be adequate liquid resources to serve as a financial “cushion” against unanticipated circumstances and events.

Ms. Raver presented an overview of the GASB #54 Fund Balances for the five categories as of September 30, 2010.

Council discussed the 20% goal over a ten-year period, asking if it is realistic. It is a common sense approach that will be easily achieved if the economy turns around and the existing land is developed.

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

- Ron Jurgutis, 620 Ocean Street, compared the funds in governmental accounting to private enterprise. He said the policy will provide more transparency as to what is available for the following year.

**ACTION:** Councilman Higginson MOVED, SECOND Vice-Mayor Chase, to adopt Resolution No. 913. VOTE: ALL AYES. MOTION CARRIED.

#### **APPOINTMENTS TO BOARDS**

The City Clerk reported that no action was necessary at this meeting.

#### **AGENDA ITEMS FOR NEXT MEETING**

The City Manager presented a list of items for the October 5, 2011, regular meeting. Councilman Higginson asked that consideration of hiring a consultant to provide advice about moving to the Florida Retirement System be included on the agenda. (This will be discussed at an October meeting.)

#### **APPROVAL OF MINUTES: SEPTEMBER 7, 2011, REGULAR MEETING**

**ACTION:** Vice-Mayor Chase MOVED, SECOND Councilman Rhodes to accept the minutes as presented. VOTE: ALL AYES. MOTION CARRIED.

Mayor Ferrante adjourned the meeting at 9:00 p.m.

Barbara Montanaro  
City Clerk