

COUNCIL MINUTES

REGULAR MEETING

April 5, 2011

A Regular Meeting of the City Council of the City of Jacksonville was held Tuesday, April 5, 2011 beginning at 7:00 PM in the Council Chambers of City Hall. Present were: Mayor Sammy Phillips presiding; Mayor Pro-Tem Michael Lazzara and Council Members: Jerry Bittner, Fannie K. Coleman, Randy Thomas, Bob Warden and Jerome Willingham. Also present were: Richard Woodruff, City Manager; Ronald Massey, Assistant City Manager, Gayle Maides, Interim Finance Director; Glenn Hargett, Communications and Community Affairs Director; Mike Yaniero, Police Chief; Rick McIntyre, Fire Chief; Grant Sparks, Public Services Director; Reggie Goodson, Planning and Development Services Director; Carmen Miracle, City Clerk; and John Carter, City Attorney. *An audio recording of the Council Meeting is presently available for review in the City Clerk's Office.

CALL TO ORDER

Mayor Sammy Phillips called the meeting to order at 7:05 PM.

SPECIAL RECOGNITION

Mayor Phillips recognized Commissioner Lionell Midgett of the Onslow County Board of Commissioners who was in attendance.

PLEDGE OF ALLEGIANCE

Mayor Pro-Tem Michael Lazzara led the Pledge of Allegiance.

INVOCATION

Mr. John Carter pronounced the invocation.

ADOPTION OF AGENDA AND CONSENT ITEMS

A motion was made by Mayor Pro-Tem Lazzara, seconded by Councilman Thomas, and unanimously approved to adopt the agenda as amended to move Consent Agenda Item #12- Amendment to Gantt Huberman Architect Contract – Public Safety Building to Non-Consent, Add - Budget Amendment for City Hall Expansion to Consent, and revise Agenda Item #14 – Authorization for Funding Display System Replacement & Video Project.

ADOPTION OF MINUTES

A motion was made by Councilman Thomas, seconded by Mayor Pro-Tem Lazzara, and unanimously adopted to approve the minutes of a Special Workshop Meeting held March 22, 2011 as amended, and the minutes of the Regular Meeting held March 22, 2011 as presented.

PRESENTATIONS

PROCLAMATION – ADMINISTRATIVE PROFESSIONALS WEEK

Mayor Phillips read a Proclamation naming the week of April 24 through April 30, 2011 as Administrative Professionals Week in the City of Jacksonville. Following the reading of the Proclamation, Deb Forney, President of the Jacksonville-Onslow-Lejeune Chapter of the International Association of Administrative Professionals and other Chapter members, accepted the Proclamation. Ms. Forney thanked Mayor and Council for the Proclamation. She also provided information about the organization and invited employers to send their Administrative Assistants to the Administrative Professionals Luncheon on Wednesday, April 20, 2011 to be held at the Marston Pavilion.

YARD AND BUSINESS OF THE MONTH BEAUTIFICATION AWARDS

With the assistance of Councilman Bob Warden, Council Liaison to the Beautification and Appearance Commission, Mayor Phillips presented the Residential Yard of the Month to Ms. Evelyn Tallman for her residence at 209 Fenton Place. The Business Yard of the Month was awarded to Dr. Karen Armstrong and Dr. Bethany Tant of Karen J. Armstrong, D.M.D. and Bethany K. Tant, D.D.S. General Dentistry at 3160 Henderson Drive. He thanked all the winners for their efforts in keeping the City Clean and Green.

OATHS OF OFFICE – FIRE DEPARTMENT – PLATOON TRAINING OFFICER WILLIAM LEE AND FIRE CAPTAIN TERRY CRUSE

Mayor Phillips reviewed the qualifications and services in firefighting for Platoon Training Office William Lee and Fire Captain Terry Cruse. Mayor Phillips administered the Oath of Office while Platoon Training Officer Lee's wife held the Bible and then pinned on his badge and rank insignia. Mayor Phillips then administered the Oath of Office to Fire Captain Cruse. His wife then pinned on his badge and rank insignia.

OATHS OF OFFICE – POLICE DEPARTMENT – LIEUTENANT JASON BETTIS AND SERGEANT NORMAN DAVIS

Mayor Phillips reviewed the qualifications and past law enforcement service for Lieutenant Jason Bettis and Sergeant Norman Davis. Mayor Phillips administered the Oath of

Office while Lieutenant Bettis' son held the Bible, his wife pinned on the Lieutenant Badge and both wife and son pinned on the rank insignia. Mayor Phillips then administered the Oath of Office to Sergeant Davis. His mother-in-law held the Bible, his wife pinned on the Sergeant Badge and Retired Lieutenant Deborah Matthews pinned on the rank insignia. Chief Yaniero thanked both officers for the commitment they made to the City.

REPORT TO COUNCIL – FIRE SAFETY ADVISORY BOARD

Mr. John Worrell, Chairperson of the Fire Safety Advisory Board, provided a brief report on the annual activities, accomplishments and goals of the Committee. Councilman Jerry Bittner is the Council Liaison to the Board.

SPECIAL PRESENTATION

Mayor Pro-Tem Lazzara stated that Mayor Phillips was unable to attend the Employee Longevity Recognition Ceremony on March 22 and it was his honor to present to the Mayor his certificate for 35 years of service. Mayor Phillips has made great contributions to this City and everything about him was service. It has been Mayor Pro-Tem Lazzara privilege to work with the Mayor for the past five years.

RECESS/RECONVENE

Mayor Phillips recessed the meeting for a short break at 7:45 PM. Mayor Phillips reconvened the meeting at 7:47 PM.

PROGRESS REPORT – HIGHWAY 17 ASSOCIATION

Mr. Marc Finlayson, Executive Director of the Highway 17 Association, provided Council a copy of the goals, strategies and tactics for the Association through September 30, 2010 and reviewed their accomplishments and progress status of the roads along the corridor. He recognized Commissioner Lionell Midgett and thanked him for his leadership as President of the Highway 17 Association.

Mr. Finlayson reviewed his concerns over the reduction of funding from the federal and state government for transportation and what the Association was doing to look out for funding in our area.

PUBLIC HEARINGS

2011-2012 ANNUAL ACTION PLAN

Using the PowerPoint presentation attached to the official minutes as Exhibit A, Ms. Lillie Gray, Community Development Administrator, stated that the Annual Action Plan was a

strategic planning guide which specifically outlined the budget and activities for the use of Community Development Block Grant funds (CDBG) for FY 2011-2012. HUD mandated adoption and submission of the Action Plan prior to releasing CDBG funds which were used to benefit low-to-moderate-income persons and households. The purpose of the Public Hearing was to receive public comments prior to submission of the Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD). The plan would serve as the City's application for federal funds and must be submitted by May 15, 2011.

Mayor Phillips asked why eminent domain would be used in the downtown target area for acquisition of properties. Mr. Woodruff stated it was for rehabilitation and was allowable under current law. The only properties where it may be needed were properties where title was not clear and demolition was needed. Imminent domain would be used very sparingly and not without Council's approval.

Mayor Pro-Tem Lazzara commended Ms. Gray for her leadership and vision. He felt we were headed down the right path to improving the redevelopment of blighted areas. CGBD funds were important to the local economy and their economic impact through public/private partnerships.

Councilman Thomas asked if Ms. Gray was concerned about pledging to repay the Section 108 Loan with CGBD funds when that funding was threatened every year. Ms. Gray stated the program has been around since 1976 and she had spoken with the HUD representative who felt the government would be funding it at some level. The impact would be our ability to do other projects over the next 20 years. We have a strong portfolio which would provide other opportunities to pay the funds back as well. Mr. Woodruff stated it was only our program income of that we would be pledging over the next 20 years and not new HUD money.

Mayor Phillips recessed the regular meeting at 8:11 PM in order convene the Public Hearing.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:12 PM and reconvened the regular meeting.

A motion was made by Councilman Willingham, seconded by Councilman Bittner, and unanimously adopted to approve the submission of the FY 2011-2012 Annual Action Plan to the U.S. Department of Housing and Urban Development.

ZONING TEXT AMENDMENT – SECTION 108 FLIGHT PATH OVERLAY
DISTRICT – HEIGHT RESTRICTION EXCEPTIONS

Ms. Abigail Barman, Senior Planner, stated that as directed by City Council, staff had prepared an amendment to the recently adopted Section 108 Flight Path Overlay District (FPOD) of the Zoning Ordinance. This amendment would allow six (6) existing nonconforming structures to continue existence and be replaced at current height. If approved, Section 108 FPOD of the Zoning Ordinance would be amended to allow exceptions to the restriction on heights within the district.

Mayor Pro-Tem Lazzara asked Mr. Woodruff if everything was covered regarding any existing potential rebuild of any structure owned by the City. Mr. Woodruff stated yes.

Councilman Bittner stated this was first brought before Council by MCAS New River personnel and asked Mr. Woodruff if they saw the changes and were in accord with them. Mr. Woodruff stated they were.

Mayor Phillips recessed the regular meeting at 8:14 PM in order convene the Public Hearing.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:15 PM and reconvened the regular meeting.

A motion was made by Mayor Pro-Tem Lazzara, seconded by Council Member Coleman, and unanimously approved the Zoning Text Amendment as presented.

Ordinance 2011-20, Bk.10, Pg. 322

REZONING FROM RM-6 TO NB – 1900 GUM BRANCH ROAD

Ms. Mary Sertell, Senior Planner, stated that Charles Riggs & Associates, on behalf of Reba Gentry, had submitted a request to rezone one parcel totaling 1.193 acres from Multi-family 6 (RM-6) to Neighborhood Business (NB). The subject site is located at 1900 Gum Branch Road. There is a HVAC and a landscaping business on the front portion of the property.

Mayor Pro-Tem asked if the business just went in, why was the business allowed to go in if it was non-conforming. Ryan King, Planning Administrator, stated that the two buildings housed commercial uses in the past. The nonconforming section of Ordinance allows businesses to stay as long as the business use isn't intensified. The signage for the business brought up the issue and it was decided to rezone to take care of the nonconforming issue.

Mayor Phillips recessed the regular meeting at 8:18 PM in order convene the Public Hearing.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:19 PM and reconvened the regular meeting.

A motion was made by Mayor Pro-Tem Lazzara, seconded by Councilman Thomas, and unanimously approved the rezoning request based on the Findings of Fact A, B, C, and D being found in the affirmative and that the rezoning advances the public interest.

Ordinance 2011-21, Bk. 10, Pg. 324

VOLUNTARY ANNEXATION PETITION – JOHN STEVENSON – TOYOTA –
3124 NEW BERN HIGHWAY – 16.72-ACRES

Mr. Ron Massey, Assistant City Manager, stated that John O. Stevenson had submitted a voluntary annexation petition for a 16.72-acre tract located in the Extraterritorial Jurisdiction and was contiguous to the current City limit boundaries. The parcel was located at 3124 New Bern Hwy and was the site for future development of an 85,079 square foot automobile sales center.

Mayor Phillips recessed the regular meeting at 8:20 PM in order convene the Public Hearing.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:21 PM and reconvened the regular meeting.

A motion was made by Councilman Thomas, seconded by Mayor Pro-Tem Lazzara, and unanimously approved to adopt the Annexation Ordinance as presented.

Ordinance 2011-22, Bk. 10, Pg. 325

VOLUNTARY ANNEXATION PETITION – MAI PROPERTY (BAILEY &
ASSOCIATES) – HICKORY ROAD - .44-ACRE TRACT

Mr. Massey stated that this voluntary annexation petition was received from Bailey & Associates on behalf of Phillip and Claudia Mai. This was a .44-acre tract that was contiguous to the current City limit boundaries. The site was located along Hickory Road adjacent to the Tractor Supply Store property. The site was to provide additional parking facilities for a 6,000 square foot commercial development adjacent to and fronting on US Hwy 258. The commercial parcels were already located within City limits and were the proposed site of a future IHOP restaurant and tenant spaces.

Councilman Bittner asked if US Hwy 258 was interpreted as creating a contiguous area of the City limits. Mr. Massey said yes and this property was directly across US Hwy 258 from Freedom Village, which was inside the City limits.

Mayor Pro-Tem Lazzara asked if the Tractor Supply property was already annexed. Mr. Massey stated it was, but not the adjacent property.

Mayor Phillips recessed the regular meeting at 8:23 PM in order convene the Public Hearing.

James A. Browning, 305 Hickory Rd., stated he was concerned about the 24 hour use of the parking lot especially late at night with arguments and brawls. He would hold the City of Jacksonville responsible for future problems that might arise.

With no one else desiring to speak, Mayor Phillips closed the Public Hearing at 8:25 PM and reconvened the regular meeting.

Councilman Bittner was concerned about the Mr. Browning's comments since this matter was for annexation and not rezoning. Mr. Carter stated that he would ask Council to dub the comments into the public hearing on rezoning.

A motion was made by Councilman Thomas and seconded by Council Member Coleman to adopt the Annexation Ordinance as presented.

Mayor Pro-Tem Lazzara stated that in regard to the gentleman's concern about the parking lot, the City of Jacksonville does not have control of the parking lot. Mr. Woodruff stated that the parking lot did not currently exist. There was a proposal to annex it, then rezone it, and then develop it (Item #7 in the Agenda).

A vote was taken on the motion and was unanimously approved.

Ordinance 2011-23, Bk. 10, Pg. 331

REZONING FROM RM-5 TO CU-B-1 – 201 & 203 HICKORY ROAD

Ms. Sertell stated that Bailey & Associates and Phillip Mai had submitted a request to rezone two parcels totaling 0.44 acres from Residential Multi-family (RM-5) to Conditional Use Business 1 (CU-B-1). The subject sites were located at 201 & 203 Hickory Road, north of Richlands Highway.

Mayor Phillips recessed the regular meeting at 8:30 PM in order convene the Public Hearing.

Mayor Phillips advised that Mr. Browning's statement from the previous public hearing was hereby incorporated into the rezoning hearing as if fully set out.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:31 PM and reconvened the regular meeting.

A motion was made by Councilman Bittner, seconded by Councilman Warden, and unanimously approved to adopt the rezoning request based on the Findings of Fact A, C, and D being found in the affirmative. Finding of Fact B was in the negative; however, the rezoning did advance the public interest because it was applicable to several of the goals and policies established in the Growth Management Plan including Growth Management Element Goals 1, 2 and 6.

Ordinance 2011-24, Bk. 10, Pg. 337

CONDITIONAL USE PERMIT AND SITE PLAN – INTERNATIONAL HOUSE OF
PANCAKES – 2720 RICHLANDS HIGHWAY

Mayor Phillips recessed the regular meeting at 8:32 PM in order to convene the Public Hearing.

Mayor Phillips swore in Mr. Jeremy B. Smith, Senior Planner. Mr. Smith stated Bailey and Associates had submitted a Conditional Use Permit and Site Plan application for a 6,000 square foot multi-tenant building. If approved, the development would be constructed at 2720 Richlands Highway where any of the uses listed in Exhibit B (Proposed uses for IHOP and Retail Shops at Tractor Supply Center) would be authorized. The property was zoned Conditional Use-Business-1(B-1) and within this zoning district any use required a Conditional Use Permit. A portion of the proposed development was located within the City limits and the other portion was annexed into the City during a previous public hearing tonight. As proposed, the project would impact the City's Sewer Allocation Policy. Sewer Allocation requests would be processed in accordance with the adopted policy.

Mr. Smith stated the parking lot would be accessed from the existing driveway into the Tractor Supply facility and any new driveways would be internal helping to protect the neighborhood from traffic.

Councilman Warden asked if there would be a buffer between the parking lot and residential because of the earlier discussion. Mr. Smith stated no because the adjacent property was undeveloped. Councilman Bittner asked if that was correct as he thought as long as it was

residential, a buffer was required. Mr. Smith stated because the adjacent property was currently undeveloped, a buffer was not required. Mr. Woodruff stated because this was a Special Use, Council could require a buffer if they so chose. Mr. Smith stated because of site constraints, they may want to confer with the developer first.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:37 PM and reconvened the regular meeting.

A motion was made by Councilman Warden, seconded by Councilman Thomas, and unanimously approved the Conditional Use Permit and Site Plan based on findings of fact A through G being found in the affirmative and conditions identified within the Staff Report.

Conditions on the Conditional Use Permit

- 1) Submit a Site Plan for the Tractor Supply Center that adjusts the landscaping area being impacted by this proposed development, prior to any building permit being issued.

Conditions on the Site Plan

- 1) Revise the Site Plan per TRC comments in the Zoning and Land Use Map prior to the issuance of a building permit.

**SPECIAL USE PERMIT AND SITE PLAN – THE DOOR CHURCH – 433 UNIT 1
WESTERN BLVD.**

Mayor Phillips recessed the regular meeting at 8:38 PM in order to convene the Public Hearing.

Mayor Phillips swore in Mr. Jeremy B. Smith, Senior Planner. Mr. Smith stated that The Door Church had submitted a Special Use Permit and Site Plan application for a proposed church. If approved, the church would occupy an existing 31,500 square foot building located at 433 Unit 1 Western Blvd. The property was zoned Business-1 (B-1) and within this zoning district a church was a permitted use, however the structure was over 25,000 square feet; therefore, a Special Use Permit was required. The proposed development was located within the City limits and as proposed would impact the City's Sewer Allocation Policy. Sewer allocation requests would be processed in accordance with the adopted policy.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:41 PM and reconvened the regular meeting.

A motion was made by Councilman Thomas, seconded by Councilman Warden, and unanimously approved the Special Use Permit and Site Plan based on findings of fact A through G being found in the affirmative.

PUBLIC COMMENT

There was no one present desiring to speak at this public comment section.

NEW BUSINESSCONSENT ITEMS

VOLUNTARY ANNEXATION PETITION – KENNITH WHICHARD – 1.39 ACRES –
GATEWAY PLAZA

At the March 22, 2011 meeting, Council adopted a Resolution directing staff to investigate the sufficiency of a voluntary annexation petition received from John Pierce and Associates on behalf of Kenneth P. Whichard, Jr. for a 1.39-acre tract that was contiguous to the current City limit boundaries. The site was located adjacent to Gateway Plaza (Target) and future Western Parkway. The site was a portion of a larger property proposed for a future Kohl's Department Store. In accordance with the statutory guidelines, the dedicated right of way for Western Parkway that abutted the annexation area would automatically be included in this annexation process. The City Clerk had conducted the required investigation and found as a fact that said petition was signed by all owners of real property lying in the area. As provided in North Carolina General Statute 160A-31, a Resolution had been prepared scheduling a Public Hearing on this annexation for the April 19, 2011 Meeting.

Council adopted the Resolution as presented.

Resolution 2011-14, Bk. 6, Pg. 390

SITE PLAN WITH APPROVED SPECIAL USE PERMIT – LEJEUNE HONDA –
2221 N. MARINE BLVD.

John L. Pierce and Associates had submitted an application for a Site Plan with an approved Special Use Permit for a 2,240 square foot addition (detail shop) to the existing 28,850 square foot automobile sales lot, the combined total was 31,090. The property was zoned Business-1 (B-1) and within this district automobile sales lots were permitted; however, the combined square footage was over 25,000, therefore a Special Use Permit was required. A Special Use Permit was approved by City Council on May 22, 2007.

Council approved the Site Plan with approved Special Use Permit and one Site Plan condition - 1) Revise the Site Plan per TRC comments in Exhibit B prior to the issuance of a building permit.

UTILITY AGREEMENT FOR TRANSPORTATION IMPROVEMENTS PLAN (TIP)
PROJECT – TIP PROJECT U-4007, WHITE STREET EXTENSION

The N.C. Department of Transportation (NCDOT) had plans to extend White Street from Bell Fork Road to Western Blvd. This project, known as White Street Extension, was expected to be advertised within the coming months and construction anticipated to begin October 2011. In January 2010, staff requested that the utility adjustments and relocations be included as part of NCDOT's scope of work. NCDOT had now submitted a Utility Agreement to seek payment for the relocation of municipal water lines. At the City's request, NCDOT had prepared a cost estimate to relocate these utilities in the amount of \$175,631.73. These utility lines had been designed by NCDOT and would be relocated by NCDOT's contractor during the construction of this project.

Council approved the Utility Agreement as presented.

SUBMISSION OF NPDES PHASE II FOURTH ANNUAL REPORT

As required by Federal and State laws, the City had a National Pollutant Discharge Elimination System (NPDES) Phase II Permit to Discharge Stormwater. This permit became effective on March 1, 2007. As a continuing requirement of the permit, the City must report annually on its progress in fulfilling the permit's requirements. The City's Fourth Annual Report was due to N.C. Division of Water Quality on May 1, 2011. City staff had prepared the NPDES Phase II Fourth Annual Report (311 pages), a copy of which was available upon request in the City Clerks Office or could be reviewed electronically upon request. An Executive Summary was included in the Staff Report. The City was in full compliance with its Phase II NPDES Permit at this time, and the Fourth Annual Report reflected the City's compliance with the permit terms.

Council directed staff to submit the Fourth Annual Report, describing activities performed by the City to maintain compliance with the City's NPDES Phase II Permit to discharge stormwater.

BUDGET AMENDMENT FOR CITY HALL EXPANSION

The City was in litigation over construction defects for the City Hall Building. As Council was aware, the City was defending a lawsuit brought by EDA, architects and C Construction for additional fees, and the City was pursuing a counterclaim for damages for negligence on the part of EDA and C Construction in reference to City Hall expansion. By

previous Council action, the City had hired outside counsel to defend and represent the City in these matters. To cover the projected expenditures to process this matter through pre-trial preparation, management projected a need for an additional \$100,000 to be authorized. This was needed to pay incurred, as well as, expected future attorney fees through the mandatory mediation phase of the lawsuit. Additionally, to proceed to address the construction defects of the building, management believed it was important to proceed with repairs. Our outside counsel agreed that this would also strengthen the City's legal position in the lawsuit. In recent weeks, the City had conducted interviews for an architectural firm to assist in completing needed repairs to City Hall as outlined in Engineer Alex Wood's report as to water infiltration, etc. \$60,000 was anticipated for those services.

Council approved the Budget Amendment as presented.

Ordinance 2011-25, Bk. 10, Pg. 339

NON-CONSENT ITEMS

AUTHORIZATION FOR FUNDING DISPLAY SYSTEM REPLACEMENT &
VIDEO PROJECT

Glenn Hargett, Director of Communications and Community Affairs, reported that the devices that provided the informational programming for the Jacksonville-Onslow Government Television were now about six years old. One of the player units of the Scala system that provided the principal support to the on-air service had failed, and a second was showing signs of distress. The Scala system was highly regarded when it was selected, but advances in the technology required an evaluation of staying with the same system or to elect a different, more scalable system that could provide other benefits to the citizens. The FY11 Budget included funding for improvements dealing with the Scala system. Staff recommended acquisition of a Cisco system as the replacement for the Scala system. It allowed standardization with existing City owned Cisco equipment and provided additional digital displays, including utilities billing office where there were frequently Citizens in line to pay their bills and other locations. The Cisco system would also allow for playback of training videos so City staff members could be trained at their worksites and would not have to attend some required training away from their worksite, thus saving funds for gas and keeping City staff available to serve Citizens.

Earl Bunting, ITS Director, stated that Mr. Hargett prepared an extensive requirements document which was submitted to several vendors. Eventually, it became clear that the Cisco

solution was the most appropriate for the City. It allowed standardization with the existing Cisco products used by the City of Jacksonville and would ride on the Cisco network operated by the City. Therefore, the City negotiated directly with Cisco for the design of the solution. Cisco in turn suggested an integrator to install, train and maintain the system. Under the guidelines of N.C.G.S 143-129(e)(6), the staff asked for an exemption from competition for the purpose of “standardization or compatibility” as the overriding consideration. The purpose of the system was to eliminate multiple types of equipment, increase efficiencies in Media Services and the ITS Department through standardization and make the media equipment compatible with the City’s network equipment.

Councilman Bittner asked if the cost and amortization schedule became part of the cost sharing basis with the County and other participants. Mr. Hargett stated that was correct and as shown in the Agenda, they were considering an increase to the County and ONWASA.

A motion was made by Councilman Bittner, seconded by Mayor Pro-Tem Lazzara, and unanimously approved to authorize the purchase of the equipment as an exemption and adopt the budget amendment as presented.

Ordinance 2011-26, Bk. 10, Pg. 340

**AMENDMENT OF GANTT HUBERMAN ARCHITECT CONTRACT – PUBLIC
SAFETY BUILDING**

City Management had been authorized by City Council to proceed with the construction of the new Center for Public Safety. As part of that effort, management had reviewed the current contract with Gantt Huberman and had determined that certain changes were needed due to the extended time taken in the schematic design phase of the project. Staff proposed to amend the contract. Some of the major modifications included: (1) Timeline: Express in the amended contract a new timeline; (2) Project Cost: Change in the budget amount and modification of contract timeline without a change in the architectural fee; (3) Demolition: Removal of Bojangles demolition from the contract; (4) City Project Observer: Added Project Observer; and (5) Pre-Qualification of Contractors: Better define architect’s role as to prequalifying of bids.

Mayor Pro-Tem Lazzara stated he was not comfortable with moving forward to extend the contract with Gantt Huberman. It had been two years since the first contract was engaged and the process had not proceeded as explained to Council during the initial presentation. Mr. Huberman stated he would bring back a different design than originally presented and he hasn’t.

A motion was made by Mayor Pro-Tem Lazzara and seconded by Councilman Willingham to terminate the contract for Gantt Huberman Architects.

Councilman Warden stated he shared Mayor Pro-Tem Lazzara's concerns, but would like Mr. Huberman to meet with Council to debate his side before Council decided to terminate.

Councilman Willingham stated he was sympathetic to Mayor Pro-Tem Lazzara's concerns. He understood an interest in hearing from Mr. Huberman; however, Council had seen a certain performance and responsiveness, or lack thereof, to concerns that were raised. Council never received the renderings asked for from the beginning and he has voiced his dissatisfaction with some of the presentations received. It was now time for Council to take charge and tell the architects what Council wanted. He supported Mr. Woodruff's last correspondence with Mr. Huberman wherein Council asked for renderings and the response was that the City should pay more for those renderings.

Council Member Coleman expressed concerns both ways. She asked Mr. Woodruff to explain the correspondence for the benefit of the public. Mr. Woodruff stated that correspondence was sent to Mr. Huberman stating the City did not concur with his request for additional monies and that if he did not proceed under his current obligations and contract, the City would proceed to terminate his contract. The current contract with the City stated the architect was to do certain things within certain dollar values and it was Mr. Woodruff's opinion that they were still in the conceptual design phase. The document that had been asked for was asked for at least two times previously and not supplied. Correspondence had now been received from the architect stating he would comply with the City's request.

Councilman Thomas stated that Council charged the City Manager with researching references, checking with past clients, and carrying on the discussions. It was his opinion that Dr. Woodruff was their point man. Council's question was did Dr. Woodruff feel he could be happy with this architect.

Councilman Bittner agreed with Councilman Warden that a decision of this magnitude should not be made without a full discussion of all the elements, even those that may not surface this evening. Council gave the Manager the authority to do reference checks and they came back favorably. He felt Mr. Woodruff had the wherewithal and expertise to demand and receive a good job. Councilman Bittner stated that if terminated, we would get the design documents, but he was not sure the City would recapture the \$487,000 spent.

Mayor Phillips stated he wanted whatever the will of Council was; however, there were a few comments he wanted to make. He asked when the contract first went into effect and was told June 29, 2009. He asked when construction was suppose to begin and was told July 2011. Mayor Phillips felt a time limit needed to be placed on the contract. His concerns were similar to Mayor Pro-Tem Lazzara. He wasn't in favor of pulling the contract, but he wanted to put coals on the fire.

Mr. Carter stated it was important to point out what was in the contract. In Item II B, the following wording was deleted: "Services shall be performed as expeditiously as is consistent with professional skill and care and with the orderly process of the Project. The Architect agrees to complete the performance of its services under the Scope of Work not later than thirty-six (36) months from the Owner's Notice to Proceed." It was substituted with "Services shall be performed as expeditiously as is consistent with professional skill and care and with the orderly process of the Project. Owner will issue a new Notice to Proceed and the Architect agrees to complete the performance of its services necessary to produce bid documents within nine (9) months of said notice."

Mr. Woodruff stated that in his professional career he has built a number of government buildings and he has never encountered an architect that was as difficult to deal with as this firm. Through all of his reference checks, this was a company that built a good building. At the end of the day it was not whether the architect pleased him, but whether the architect could deliver a building that Council and the citizens could be proud of. Mr. Woodruff suggested they give Gantt Huberman six months to get to the bidding process and if Mr. Huberman did not feel comfortable with that contract, Mr. Woodruff would come back to Council to cancel the contract.

Mayor Pro-Tem Lazzara respected everyone's opinion, and would go along with what Council decided, but if he took as long as Gantt Huberman has taken, he would be fired. We were pledging \$26 million of the public's money to a firm that has taken two years and constantly pushed back the desires of the Council. If that was a reflection of what they were going to continue to do, Mayor Pro-Tem Lazzara was not interested.

Mayor Phillips asked Mr. Woodruff if he was going to approach Mr. Huberman with an ultimatum and time limit. Mr. Woodruff stated that the options were: 1) give Mr. Huberman a new timeline that he had to meet, or 2) Council to say that they didn't think they were going to

get anything more in the future than what they have been given in the past. If the second option was taken, Council still had a valid process where three architects were ranked. He never met the other two, but Council could proceed with architect number two. He did not believe they would lose any time if they went to the second architect because of the nine months Mr. Huberman gave to get to bid documents. Mr. Woodruff asked Council to let him know the direction they wanted to go and he would get the building built.

Councilman Warden stated it would be helpful for Mr. Huberman to hear all the comments tonight to understand what he was up against.

Councilman Bittner asked if we were asking for five months, why did we settle on nine months from the Notice to Proceed. Mr. Carter stated the actual schedule was on page 233 and from the new notice to proceed to the completion of construction was now 998 days instead of the original 668 days.

Discussions were held about tabling the issue and inviting Mr. Huberman to the next meeting.

A motion was made by Councilman Willingham, seconded by Councilman Warden and unanimously approved to defer taking action on the motion until the April 19, 2011 Regular Council Meeting and to direct the Manager to invite Gantt Huberman Architects to attend the meeting to address Council concerns.

PUBLIC COMMENT

There was no present desiring to speak at this public comment section.

REPORTS

No reports were given by Council, City Attorney or City Manager.

ADJOURNMENT

A motion was made by Mayor Pro-Tem Lazzara, seconded by Councilman Bittner, and unanimously adopted to adjourn the meeting at 9:36 PM.

Adopted by the Jacksonville City Council in regular session this 19th day of April, 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk

Exhibit "A"

Jacksonville City Council



April 5, 2011

Legislative Public Hearing
**Community Development
Annual Action Plan**

Agenda Item #1



Purpose: Annual Action Plan

- Gives "Action" to the Five-Year plan
- Provides specific actions
- Measurable outcomes
- Annual budget



Primary Objectives

- Provide decent housing;
- Provide a suitable living environment; and
- Expand economic opportunities



National Objectives

- Benefit low - and moderate - income persons
 - Households earning 80% or less than the area median income
- Prevent or eliminate slums or blight, or
- Address community development needs having a particular urgency



Citizen Participation

- Community Input Meeting
- Funding Opportunity Workshop
- City Council Workshop
- Review Committee
- Public Comment
 - February 28, 2011 to April 5, 2011

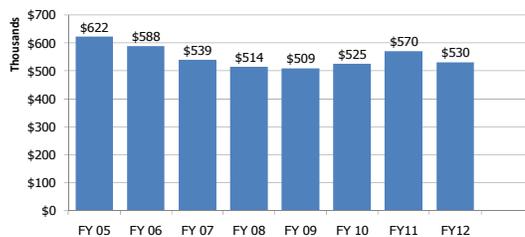


Five Year Plan Priorities

- Three primary categories
- Seven subcategories
- Activities rated on a scale of 1-4
- Top three ratings in each category designated as "priority."
- Bases for annual funding recommendations



Annual Funding



Funding reflects a 7% decrease; pending approval of the Federal budget and notice of award from the US Department of Housing and Urban Development



Budget Resources

FY 10-11	\$570,114
FY 11-12	\$530,206
Program Income	\$333,954
Total	\$1,434,274



Budget Resources

- The needs of the community continue to exceed available resources
- Funding recommendations are consistent with priority issues and concerns of the community



Proposed Activities

- Administration*
- Project Delivery
- Clearance and Demolition
- Economic Development
- Non-Profit Funding - Public Service Agencies**

*Subject to 20% Cap
 **Subject to 15% Cap



Proposed Activities

- Residential Rehabilitation
- Affordable Housing - Infrastructure



Section 108 Loan Downtown Target Area

- Loan Amount - \$1,865,000
- 20 Years – 10 Year Treasury Yield plus 2 Basis Points (3.625%)
- Pledge of Future CDBG Entitlement
- Additional Collateral – Annual Program Income



Section 108 Loan Downtown Target Area

- Acquisition, Relocation & Demolition
- Thirty-Five (35 Parcels)
- Public/Private Partnership
- Use of Imminent Domain



Recommendation

Recommend Council adopt and approve the submission of the Annual Action Plan to the US Department of Housing and Urban Development

