COUNCIL MINUTES

REGULAR MEETING

March 8, 2011

A Regular Meeting of the City Council of the City of Jacksonville was held Tuesday, March 8, 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 7:08 PM.

PLEDGE OF ALLEGIANCE

Councilman Bittner 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 add to Presentations Item C - Resolution of Support for the Community College System and specifically Coastal Carolina Community College, and to move Public Hearing Item #1-Community Development Public Private Partnership-Downtown Target Area Residential Project, to follow Public Hearing Item #3 – Rezoning from R-7 to CU-NB – 838 Gum Branch Road, Spa Place LLC.

ADOPTION OF MINUTES

A motion was made by Councilman Bittner, seconded by Councilman Warden, and unanimously adopted to approve the minutes of a Goal Setting Workshop held February 15, 2011

as presented, the minutes of a Special Workshop Meeting held February 22, 2011 as presented, and the minutes of the Regular Meeting held February 22, 2011 as presented.

PRESENTATIONS

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 Outstanding Residential Yard of the Month to Shane Tomlinson for his residence at 2613 Northwoods Drive. The Outstanding Business Property Yard of the Month was awarded to Jerry Stevenson of Lejeune Motorsports at 955 Lejeune Boulevard.

REPORT TO COUNCIL – COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

Mr. Steve Forney, Vice Chairperson of the Community Development Advisory Committee, provided a brief report on the annual activities, accomplishments and goals of the Committee. He also thanked Lillie Gray and her staff for all their accomplishments this past year. Councilman Jerome Willingham, Council Liaison to the Committee, commended Mr. Forney and the entire Committee for their diligent efforts on behalf of the City.

RESOLUTION SUPPORTING THE COMMUNITY COLLEGE SYSTEM AND SPECIFICALLY COASTAL CAROLINA COMMUNITY COLLEGE

Mayor Pro-Tem Lazzara stated that at the Metro Mayors Coalition meeting last week, a Resolution was adopted in support of the UNC system for funding and the community college system was added for the important role it plays in local economic development re-training displaced workers. He asked Mr. Woodruff to prepare a Resolution, which was placed before Council. Mayor Pro-Tem Lazzara stated that if adopted, he would like to present a copy to Senator Harry Brown later in the week.

A motion was made by Councilman Willingham, seconded by Council Member Coleman, and unanimously approved to adopt the Resolution as presented. Mayor Pro-Tem Lazzara read the Resolution into the record and for benefit of the public.

Resolution 2011-05, Bk. 6, Pg. 378

PUBLIC HEARINGS

GROWTH MANAGEMENT ELEMENT PLAN LAND USE MAP AMENDMENT – 838 GUM BRANCH, SPA PLACE LLC

Ms. Mary Sertell, Senior Planner, stated that a request had been received to amend the Growth Management Element Plan by changing the Future Land Use (FLU) designation of one parcel from Low Density Residential (LDR) to Neighborhood Commercial (NC). The parcel was located at 838 Gum Branch Road, northwest of the Gum Branch Road and Marine Boulevard intersection.

Mayor Phillips recessed the regular meeting at 7:29 PM in order to convene the Public Hearing.

The following citizens expressed opposition to the amendment: Michael Getchel, 836 Gum Branch Rd.; Joe Lancholtz, 115 King Richard Ct.; Rick Goldman, 206 Nottingham Rd.; Harvey Lambka, 606 Little John Ave.; John Getty, 120 King Richard Ct.; Iris Foreman, 309 King Richard Ct.; Melanie Getchel, 836 Gum Branch Rd.; Howard Funck, 328 Nottingham Road Rd.; Toby Riley, 323 Nottingham Rd.; George Taylor, owns the house at 312 King Richard Ct.; Hershel Zole (No address stated); Resendo Daleone, 101 King Richard Ct.; Julius Kausake, 204 Nottingham Rd.; and Anthony Foreman, 309 King Court Ct.

Residents expressed many of the same concerns as follows: That the facility would negatively affect their property values; that the facility could cause traffic and safety issues; that the business would increase crime in the neighborhood, in particular - thefts; concerns that residential property should not be purchased cheaply and then expected to be allowed to have it changed to a more expensive commercial use; expressions that there were many commercial buildings sitting empty that could be used without impacting residential neighborhoods; concerns that this parcel was not large enough for the proposed parking and expansion in use; that the facility would cause ingress/egress problems due to the divided entryway on Nottingham Road, which would necessitate customers to drive into the neighborhood and make U-turns; concerns that the facility would be a safety hazard for children in the neighborhood; that the facility would cause a bottleneck of traffic at peak times at the entrance to the neighborhood; that the business would bring undesirable strangers into the area; that the location was a school bus stop and this facility could make the location more dangerous for children.

Toby Riley also submitted a citizen petition from the neighborhood opposing the business. A copy of the petition shall be retained in the March 8, 2011 Exhibit file in the City Clerk's Office.

Juliana Norris, property owner/applicant, spoke in favor of the request. She stated that the business she was proposing would be similar to the Carolina Pines Med Spa located on Henderson Drive that she also owned. The purpose of the business was to offer medical aesthetics and state-licensed massage therapy. She emphatically stated that this was not a massage parlor.

With no one else desiring to speak, Mayor Phillips closed the Public Hearing at 8:00 PM and reconvened the regular meeting.

A motion was made by Councilman Bittner, seconded by Mayor Pro-Tem Lazzara, and unanimously approved to deny the Growth Management Plan Land Use Map Amendment.

Mayor Phillips asked if the motion made the following rezoning request on the same project a moot issue. Mr. Carter said no and explained that Council could still approve the rezoning request, even if it was not in conformity with the City's Growth Management Plan.

REZONING FROM R-7 TO CU-NB – 838 GUM BRANCH ROAD, SPA PLACE LLC

This request was the specific Rezoning request for the previously held Spa Place Growth Management Plan Amendment public hearing. Mr. Carter pointed out that Rezoning required Council to state specific Finding of Facts when approving or denying the request. He reviewed the Findings of Fact worksheet contained in the agenda item.

Mayor Phillips recessed the regular meeting at 8:03 PM in order to convene the Public Hearing.

Mayor Phillips advised that all statements made in the previous public hearing were hereby incorporated into the Rezoning hearing as if fully set out.

Juliana Norris, property owner/applicant, responded to the concerns of the neighborhood. She stated that a site plan has been prepared for the property and according to the ratio of square footage to parking stalls, the property was of good enough size to accommodate the volume of traffic for this size business. Second, school bus hours ended in the morning before the business would open and the volume of traffic would not increase to an undesirable level. Third, this particular property had been an eyesore for many years and this change would enhance this

corner/entrance to Sherwood Forest. She also pointed out there were numerous adjacent businesses located directly across the street.

Lloyd Koonce, 217 Nottingham Rd., asked all those in attendance who did not want the business in or at the entrance to their neighborhood to please rise. It appeared that 95% of the people in the audience stood up.

With no one else desiring to speak, Mayor Phillips closed the Public Hearing at 8:08 PM and reconvened the regular meeting.

A motion was made by Councilman Warden, seconded by Councilman Thomas, and unanimously adopted to deny the rezoning request based on Finding of Fact C – Impact to the adjacent property owners will be an inconvenience and potential harm to the surrounding community.

RECESS/RECONVENE

Mayor Phillips recessed the meeting for those who did not want to stay for the entire meeting at 8:10 PM. Mayor Phillips reconvened the meeting at 8:17 PM.

COMMUNITY DEVELOPMENT PUBLIC PRIVATE PARTNERSHIP – DOWNTOWN TARGET AREA RESIDENTIAL PROJECT

Mr. John T. Carter, Jr., City Attorney, stated that the City of Jacksonville proposed to enter into a public/private partnership with 4 qualified builders for the development of single-family homes in the general downtown area. The single-family homes would be constructed utilizing a unified development theme. This project was part of the City of Jacksonville Clean and Green Initiative.

Mr. Carter reviewed the legal details of the builders' agreement. Ms. Lillie Gray, CD Administrator reviewed the design aesthetics of the projects and stated that the goal was to complete 22 homes in the area over the next 2-3 years. She then reviewed the builders selected for each lot as follows: Lot #19: Delphi Construction; Lot #18: Eastern Builders; Lot #9: -Hadley Construction, and Lot #10: Marlo Construction.

Councilman Thomas asked about the assistance in the agreement that the City would provide for water and sewer hook ups. Ms. Gray said that the $25,000 allocated was the total assistance for all of the properties.

Councilman Thomas also asked why garbage disposals were not allowed to be installed in the homes. Ms. Gray responded that this was a stipulation suggested by Public Services who indicated garbage disposals were detrimental to the waste water system.

Mayor Phillips recessed the regular meeting at 8:31 PM in order to convene the Public Hearing.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:32 PM and reconvened the regular meeting.

A motion was made by Mayor Pro-Tem Lazzara and seconded by Councilman Willingham to adopt the Resolution as presented and authorize the City Manager and City Clerk to sign the Builders' Agreement and deeds conveying these lots subject to conditions set forth in the Builders' Agreement.

Councilman Willingham commended the leadership of the City Manager and the excellent work of the staff to develop and bring this worthwhile project to fruition.

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

Resolution 2011-06, Bk. 6, Pg. 379

ZONING TEXT AMENDMENT – ARCADES – DAVE NEUMANN

Mr. Jeremy B. Smith, Senior Planner, stated that Mr. Dave Neumann was requesting modifications to the City's Zoning Ordinance in order to establish "Arcade" as a permitted use. These changes would create a unique type of recreational/entertainment use for citizens of all ages, as well as visitors to the Jacksonville area. Staff utilized the draft Unified Development Ordinance which included this permitted use while preparing this text amendment. Mr. Smith explained that in conjunction with this request, staff had defined the uses for Arcade as well as Arcade Adult. In addition, they had proposed a definition for Sweepstakes Gaming, even though it was not proposed as an allowable use due to the current legislative moratorium.

Mayor Pro-Tem Lazzara asked how these businesses would be regulated and it was ensured they were operating as allowed once they opened. Mr. Smith said it would most likely be complaint driven and regulated through Code Enforcement. Mr. Woodruff added that in terms of complaints, the Police Department may also utilize undercover operations to assist in regulating.

Councilman Bittner asked if the definition included for Sweepstakes Gaming would render facilities such as Chuck E Cheese non-conforming. Mr. Smith said yes, that their electronic games utilizing tokens to exchange for an item would fall under the definition.

Mr. Woodruff stated that he did not feel it was Council's intention to create problems for businesses where there were no problems. Mr. Carter advised that the definition for sweepstakes gaming could be removed as it was not necessary since State regulations currently prohibited such uses.

Mayor Phillips recessed the regular meeting at 8:40 PM in order to convene the Public Hearing.

Mike Rala, 613 Watkins Rd, Maryville, TN, said that he currently owned two gaming facilities (Fayetteville, NC and Newport News, VA) and his intent was to open an establishment for video gaming such as X-Box, not sweepstakes for those 18 and over.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:42 PM and reconvened the regular meeting.

A motion was made by Councilman Bittner, seconded by Councilman Thomas, and unanimously adopted to approve the Zoning Text Amendment with the elimination of the section defining Sweepstakes Gaming.

Ordinance 2011-13, Bk. 10, Pg. 304

ZONING TEXT AMENDMENT – AMENDMENTS TO SECTION 19 RESIDENITAL ZONES – GENERAL PROVISIONS

Mr. Ryan King, Planning Administrator, stated that staff had drafted a Zoning Text Amendment that would allow a 50% encroachment into the required front, side and rear yard setbacks for handicap ramps. Currently encroachments were only be allowed in the side and rear setbacks. The purpose of this change was to allow for handicapped ramps. If an applicant was unable to meet the 50% encroachment, they could apply to the Board of Adjustment for a variance.

Councilman Warden asked why the 50% limitation was necessary, as he felt that if a handicapped person needed a ramp to access their homes, they should be able to build as needed. Councilman Bittner agreed and said they should be able to build a ramp without the expense of submitting plans or having to spend time going to the Board of Adjustment for variances.

Mr. Woodruff stated that on most homes, the ramps ran parallel to the house and if more space was needed, they normally double backed.

Mayor Pro-Tem Lazzara stated that the requirement allowed for aesthetically pleasing ramps, instead of having ramps running straight from the house directly to the road or sidewalk.

Photographs of various handicapped ramps were displayed for Council information.

Mr. Woodruff proposed amending the language to state the following: "Should a property owner find he could not meet the standards, the Director of Development Services could waive the encroachment to the degree needed to accomplish installation of the ramp with notification to Council."

Mayor Pro-Tem Lazzara expressed concern about ramps extending directly to the road or sidewalks and Mr. Woodruff said the amending language proposed would prevent that from occurring.

Mayor Phillips recessed the regular meeting at 8:50 PM in order to convene the Public Hearing.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 8:51 PM and reconvened the regular meeting.

A motion was made by Councilman Bittner, seconded by Mayor Pro-Tem Lazzara, and unanimously adopted to approve the Zoning Text Amendment with the following amendment: "Should a property owner find he could not meet the standards, the Director of Development Services could waive the encroachment to the degree needed to accomplish installation of the ramp with notification to Council."

Ordinance 2011-14, Bk. 10, Pg. 306

ZONING TEXT AMENDMENT – CREATION OF SECTION 117 ICE HOUSES – ATLANTIC ICE DISTRIBUTORS

Mr. Jeremy B. Smith, Senior Planner, stated that Atlantic Ice Distributors were requesting amendments to the City's Zoning Ordinance in order to establish "Ice House" as a permitted use. These changes would create an avenue for this use to operate within certain zoning districts provided they meet certain development standards. It had been determined that the proposal was consistent with expected provisions that would be incorporated into the proposed Unified Development Ordinance (UDO). He reviewed the standards along with photographs of various

ice house establishments. The Planning Board had also proposed adding an increase of four foot wide planting strip all the way around, three sides protected.

Councilman Warden expressed concern about the requirement that the building must be at least 100 linear feet from any lot line, which would require the owner to have at least an acre lot for a building typically no larger than 10 x 10.

Mr. King explained that the UDO Steering Committee had been concerned about vehicle stacking as typically these units were utilized by recreational boaters or construction vehicles with trailers attached.

Mayor Phillips recessed the regular meeting at 8:55 PM in order to convene the Public Hearing.

Mr. Russell Jones, 635 Richlands Loop Rd, applicant, stated that they typically leased property for these units from other businesses and located the units on the outskirts of the property, off to the side away from the businesses. He said serious stacking issues had not been a problem in the past. He requested Council consider 20 or 25 feet off the lot line and 50 or 75 feet from a main highway as the 100 foot requirement pushed them into the center of a business location.

With no one else desiring to speak, Mayor Phillips closed the Public Hearing at 8:57 PM and reconvened the regular meeting.

Mayor Pro-Tem Lazzara suggested deferring the request until Council conduct a workshop as he would like more information and discussion on where these units would be permitted as well as on setbacks and aesthetic requirements as many such units had become unsightly along main thoroughfares.

Councilman Bittner moved to defer the request to Council's second meeting in April. Mr. Carter reviewed the public hearing requirements in terms of re-advertizing, if necessary. Council briefly discussed the proposed standards on setbacks, permitted locations, and aesthetics. Councilman Bittner withdrew his motion to defer.

Mr. Woodruff reviewed Part C – Standards of the proposed ordinance and Council amended as follows: Standard #1 to allow for 100 feet from public street right of way and a minimum of 25 feet from side and rear lot lines; Standard #4 to require that parking and vehicle access areas must be paved with concrete or asphalt; Standard #8 – Exterior must be earth tones

as approved by City staff; and an additional standard that if for any reason the facility is out of business for more than 60 days, the facility/building would be removed.

A motion was made by Councilman Bittner and seconded by Councilman Willingham to approve the Zoning Text Amendment with the amended standards as modified by Council above. A vote was taken on the motion and was approved on a 5 – 1 vote, with Mayor Pro-Tem Lazzara voting "nay."

Ordinance 2011-15, Bk. 10, Pg. 308

CONDITIONAL/SPECIAL USE PERMIT, SITE PLAN, AND SEWER ALLOCATION REQUEST – HAMPTON INN (HOTEL) – 1032 HAMPTON INN WAY

Mayor Phillips recessed the regular meeting at 9:12 PM in order to convene the Public Hearing.

Mayor Phillips swore in Ms. Abagail Barman, Planner. Ms. Barman stated that Jacksonville Hospitality Land Development LLC had submitted a Conditional/Special Use Permit and Site Plan application for a proposed hotel to be located near Western Boulevard and Branchwood Drive. If approved, a 69,271 square foot 110 room hotel would be permitted on 2.49 acres at 1032 Hampton Inn Way. The property was zoned Conditional Use-Business-1 (CU-B-1) and within this district any use required a Conditional Use Permit. In addition, a Special Use Permit was required as a result of the combined square footage exceeding 25,000.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 9:15 PM and reconvened the regular meeting.

Following a brief discussion, a motion was made by Councilman Thomas, seconded by Mayor Pro-Tem Lazzara, and unanimously adopted to approve the Conditional/Special Use Permit and Site Plan with Special Use Permit conditions and Site Plan conditions, based on Findings of Fact A through G being found in the affirmative and to approve the sewer allocation of 13,200 gpd. Special Use Permit Conditions – Record the final plat for the Padgett Tract Subdivision prior to any building permit being issued; Site Plan Conditions – Correct minor issues with Site Plan and site data block related to dumpster enclosure, parking, sidewalks, and number and locations of fire hydrants.

SPECIAL USE PERMIT, SITE PLAN, AND SEWER ALLOCATION REQUEST – STEVENSON TOYOTA – 3124 NEW BERN HIGHWAY

Mayor Phillips recessed the regular meeting at 9:17 PM in order to convene the Public Hearing.

Mayor Phillips swore in Mr. Jeremy Smith, Senior Planner. Mr. Smith stated that McKim and Creed had submitted a Special Use Permit and Site Plan application for a proposed automobile sales business. If approved, the 85,079 square foot automobile sales center would be permitted at 3124 New Bern Highway. 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. As proposed, the development would impact the City's Sewer Flow Allocation Policy; however the project was currently located within the City's Extraterritorial Jurisdiction. A request for voluntary annexation had been received.

Councilman Thomas asked for clarification on the statement that building permits may be withheld. Mr. Smith stated that a number of departments signed off on building permits and he knew some divisions had the requirement that water and sewer be available to the site. Mr. Woodruff stated that the condition could be modified to say no certificate of occupancy would be issued until water was available since a septic system would be in use in the beginning.

Mr. Carter questioned whether Commerce Road would be required to be developed before a certificate of occupancy was delivered for the building.

Discussion followed on sewer expansion in the area and Commerce Road development.

Mayor Phillips swore in Shelly Stevenson, 111 Shady Path, Cedar Point. As far as the Commerce Road agreement, a copy of the legal agreement that was made after the purchase of the property was provided to the City this afternoon. The cost share for that section of Commerce Road is tied in to the land.

Mr. Carter stated it did not run with the land until the agreement was recorded. After discussion, Mr. Carter stated he would like added to the condition that before the CO was issued, there be an acceptable agreement on the Commerce Road issued approved by Council.

With no one else desiring to speak, Mayor Phillips closed the Public Hearing at 9:35 PM and reconvened the regular meeting.

A motion was made by Councilman Warden, seconded by Mayor Pro-Tem Lazzara, and unanimously adopted to approve the Special 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, to approve the sewer allocation of 5,625 gpd subject to annexation, and that the developer be advised that building permits and/or certificates of occupancies will be withheld until such time

that a Commerce Road agreement be negotiated by the City Attorney and upon final approval by Council.

Conditions of Special Use Permit

1) Construct and execute all recommended improvements as noted in the final TIA;
2) A. Construct and execute the proposed collector street, named Commerce Road;
B. Provide an acceptable agreement that outlines the responsible parties for constructing this section of Commerce Road and dedicate the right-of-way to the City of Jacksonville;
3) Allowance of use of septic system until water and sewer are made available.

Conditions of Site Plan

1) Show correct parking calculations;
2) Show the proposed collector street, named Commerce Road, on the Site Plan if an acceptable agreement cannot be provided (Condition of SUP 2B above).

PUBLIC COMMENT

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

NEW BUSINESS

CONSENT ITEMS

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

On behalf of Phillip and Claudia Mai, Bailey & Associates had submitted a voluntary annexation petition for 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. The site was proposed to provide additional parking facilities for a 6,000 square foot commercial development adjacent to this parcel and fronting on US Hwy 258. The commercial parcels were already located within the City limits and were the proposed site of a future IHOP restaurant and tenant spaces. The first step in the voluntary annexation process was to pass a Resolution directing the City Clerk to investigate the sufficiency of the petition.

Council adopted the Resolution as presented.

Resolution 2011-07, Bk. 6, Pg. 380

VOLUNTARY ANNEXATION PETITION – STEVENSON PROPERTY – 16.72-ACRE TRACT

John O. Stevenson had submitted a voluntary annexation petition for a 16.72-acre tract located in the Extraterritorial Jurisdiction and 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. The first step in the voluntary annexation process was to pass a Resolution directing the City Clerk to investigate the sufficiency of the petition.

Council adopted the Resolution as presented.

Resolution 2011-08, Bk. 6, Pg. 381

AGREEMENT FOR TRANSPORTATION IMPROVEMENTS PLAN (TIP) PROJECT – W-5147, INSTALLATION OF TWO CROSSWALKS ALONG WESTERN BLVD.

The N.C. Department of Transportation (NCDOT) had plans to install crosswalks at two intersections: NC 53 (Western) and SR 1403 (Country Club) and US 17 (Marine Blvd) and NC 53 (Western). The contract to construct this project was advertised in February 2011 with the expectation that a contract would be awarded within the coming months. As such, NCDOT had submitted an agreement that required the City to pay for their portion of the cost of such improvements at the start of the project rather than as a reimbursement. The City had set aside funds for this project in the FY 11 Capital Improvement Plan (CIP) in the amount of $271,000. The scope of work had been reduced from three intersections to two due to environmental concerns at Gum Branch and Marine Blvd. and the cost estimate for this project had increased. Therefore, staff requested that the CIP be amended to reflect the reduction in the scope of work as well as the revised estimate required by NCDOT.

Council authorized the City Manager or his representative to sign the agreement and approved the budget and CIP amendments as presented.

Ordinance 2011-16, Bk. 10, Pg. 310
Ordinance 2011-17, Bk. 10, Pg. 311

PRELIMINARY AND GENERAL PLAN – EMERSON PARK, SECTION II AT WILLIAMSBURG PLANTATION

Mr. Jeremy Smith, Senior Planner, stated that John L. Pierce and Associates had submitted a Preliminary and General Plan request for the subdivision of 54.48 acres being divided into 85 lots (single family). City staff had reviewed the Preliminary and General Plan and had determined that in order to meet all applicable City standards, a second form of access would be required before some houses could be constructed. As proposed, this project would impact the City's Sewer Allocation Policy. Sewer allocation requests would be processed in accordance with the adopted policy.

Council approved the Preliminary and General Plan conditioned upon: 1) the plans were modified to include a second form of ingress for emergency vehicles, and 2) that until this access was installed, permits would be withheld for all homes beyond 750 feet from two forms of access.

LEGISLATIVE BUDGET AMENDMENT – UTILITY MAINTENANCE

The requested budget amendment was due to factors that had occurred during Fiscal Year 2011. Tropical Storm Nicole impacted Jacksonville with more than 20" of rain on September 30 & October 1, 2010. Damage caused by the tropical storm rain required more than 17 manholes to be rebuilt, including lifting manholes, new access cover standards to be implemented and the strapping of the manhole covers to prevent future blow-outs. Additionally, right-of-ways had to be cleared which added over 40 hours of overtime for each line maintenance crew member. Lines Maintenance also was involved in the cleanup of the equalization tank spill. The severe winter weather caused a number of line breaks which resulted in overtime pipe repair, contracted work, and road repair. An example was the line blow-out which occurred on Gum Branch Road where a leaking pipe washed out a portion of the road. This budget item would increase the level of funding in Utility Maintenance to cover these unanticipated events.

Council approved the budget amendment.

Ordinance 2011-18, Bk. 10, Pg. 312

RENEWAL OF GEORGETOWN TRAINING GROUNDS LEASE AGREEMENT

On April 8, 1980, the City of Jacksonville and the Onslow County Fireman's Association jointly leased from the County of Onslow, the old Georgetown High School Football Field, for the purpose of establishing a Fire Training Center. This lease had been renewed every 10 years with the last renewal occurring in 2001. Consequently, this Fire Training Center had been in continuous use for area fire and rescue agencies for the past 30 years.

Council authorized the City Manager to sign the Georgetown Lease Agreement, and any future revisions to said agreement.

NON-CONSENT ITEMS

DISCHARGE OF STORMWATER FROM LOT 8 ONTO CITY STREET AT 52 OFFICE PARK DRIVE

Mr. John T. Carter, Jr., City Attorney, stated that the City of Jacksonville's Public Services Director had received a written request to discharge stormwater runoff from Lot 8 onto

Office Park Drive, Jacksonville, NC from Mitchell Brydge at 1210 Broad Creek Road, New Bern, NC 28560 on behalf of Owner Dr. George Thomas with Southeastern Nephrology at 200 Doctors Drive. The Northeast Office Park was permitted by the State, DWQ, in August of 1990 without any piping for the collection system to the pond on the northeast side or opposite side of the street. Based on City Ordinance 23-23 this request was denied by the Public Services Director. Mr. Brydge requested that Council review and reverse the Public Services Director's decision.

Mr. Carter stated there were several important reasons other than calculations for Council to consider in support of Mr. Sparks denial. With stormwater coming off this lot or any lot onto City streets, there was the possibility of future degradation of street asphalt and street flooding. There was also the liability issue, which may be the most important issue, when allowing City streets to be used as a mean of conveyance to divert water from the lots to stormwater ponds. Mr. Carter pointed out that there were at least seven other lots yet to be developed, so you had to question the precedential effect of allowing this request. Additionally, it's unknown how many other subdivisions where permitted by the State back in the 1990s to use City streets as a means of conveyance to direct water to stormwater ponds.

Mr. Carter stated that along with Mr. Woodruff, City staff met with Mr. Brydge to discuss possible resolutions to the problem.

Councilman Thomas asked about lots 9 and 10 since they were not addressed. Mr. Carter stated that the water flow from those lots did not flow onto City streets, but into Heritage Square.

Mr. Brydge stated he was a builder/developer from New Bern and had built numerous medical offices in Jacksonville as well as several offices on this street. He then introduced Sue Sager, the consulting engineer from KSMC on this project. The lot was originally permitted in 1990 on a whole subdivision stormwater pond. It was common at the time to use the roads as a collection system. They were only asking to use it as it was permitted, but were denied by the City. The reason given for the denial was because the water discharge may create a dangerous condition on this particular street. Ms. Sager was asked to review the guidelines that applied to this street and her calculations found that they were in compliance with the NCDOT guidelines and the discharge was not creating a public safety risk. Mr. Brydge also commented on points that Mr. Carter presented.

Mr. Woodruff clarified what the City offered including helping with developing a cost recovery program, but stated it wasn't about numbers; it was a question of liability. A Building Permit was issued to the developer so that he would not be held up while the stormwater issue was worked out.

Considerable discussion followed on the issues. Mr. Carter pointed out from an email received from DENR that they would have to allow the water to be discharged into the street, but would caveat that by saying whatever method was used to get the runoff to the pond would have to meet local requirements. The pond hasn't been maintained and the City has reported that problem to DENR.

A motion was made by Councilman Willingham and seconded by Councilman Bittner to deny applicant's request to discharge stormwater runoff from Lot 8 at 52 Doctor's Drive in Northeast Office Park onto Office Park Drive.

A vote was taken on the motion to deny the applicant's request and was approved on a 4-2 vote as follows:

Voting "Aye" – Mayor Pro-Tem Lazzara, and Council Members Bittner, Coleman and Willingham.

Voting "Nay" – Council Members Thomas and Warden.

PURCHASE AND OPTION AGREEMENT FOR SALE OF CITY OWNED PROPERTY AND AUTHORIZATION FOR UPSET BID PROCESS – JACKSONVILLE BUSINESS PARK

Mr. John T. Carter, Jr., City Attorney, stated that Mr. Cliff Ray, Ray Development and Consulting, LLC, had submitted an offer and proposed agreement to purchase +- 2.50 acres of City owned property located in the Jacksonville Business Park, along with a proposed Purchase and Option Agreement. The proposed Agreement included a provision for an option to purchase the additional and adjacent tract that consisted of approximately 3.95 acres, within two years of closing on the original purchase. An appraisal of the adjacent "Noland" property in 2005 resulted in a market value estimate of $80,000 per acre. Ray Development and Consulting, LLC had offered $75,000 per acre. If Council approved the Purchase and Option Agreement, the upset bid process as provided in GS 160A-29, would be utilized, with a requirement that additional parties wishing to bid on the property would be required to comply with all provisions of the Purchase and Option Agreement. The City reserved the right to reject any and all offers at anytime.

Mr. Carter pointed out that Mr. Ray ha agreed that in addition to the restrictive covenants that were already on the property, additional restrictions indicated in Section 11 of the Agreement would also be included to run with the land.

The purpose of the land was questioned by Council. Mayor Pro-Tem stated that he thought it was for a business park to create jobs and if the City was trying to sell it, then a for-sale sign should be put up.

Mr. Ray stated he was not securing the land as an investment, but from his prior marketing of the property, a tenant had been located for the front portion of the property. He felt with the development of this building, it would create interest for the remaining land.

Mr. Woodruff stated the proposal before Council was a direct sale and if the interested developer did not continue, Mr. Ray would end up the purchaser of the land. There weren't any incentives being provided by the City. Council could state that the 3.95 acre option could not be closed upon until building permits had been issued on the 2.50 acres. Mr. Ray stated he wouldn't be proceeding with the 3.95 acres if the 2.50 acres did not close.

A motion was made by Councilman Thomas, seconded by Councilman Warden and unanimously approved to adopt the Resolution with the stipulation that the 3.95 acre option could not be exercised until a building permit had been issued on the 2.50 acres.

Resolution 2011-09, Bk. 6, Pg. 382

PUBLIC COMMENT

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

REPORTS

Councilman Bittner reported that at an ONWASA Special Meeting, the expiration of the agreement between ONWASA and its previous executive director was recognized. They were now in the recruitment process for a new executive director.

Mayor Pro-Tem Lazzara stated that he attended the Metro Mayors Coalition Meeting in Greensboro, NC with Ron Massey, Assistant City Manager. They stayed at the Proximity Hotel which was a platinum LEADS hotel. The meeting began with a presentation by Governor Beverly Perdue, followed by Senator Kay Hagan. Budget was the primary discussion topic. Speaker Tom Tillis joined them for dinner to also discuss the budget and annexation.

Mayor Pro-Tem Lazzara congratulated Dr. Ron Lingle for his re-appointment by Governor Perdue to the North Carolina Advisory Commission on Military Affairs.

Mayor Pro-Tem Lazzara stated that the Jacksonville Tourism Development Authority met this month and had an excellent presentation from the Vietnam Veteran Memorial Foundation. The Authority was in the process of adopting their annual budget. Public comment would be heard at their next session and then the budget would be adopted.

Mayor Pro-Tem Lazzara stated Anthony Prinz, MPO Administrator, just launched a new re-designed website and he encouraged everyone to visit it. The website is www.jump-nc.org.

Mr. Woodruff encouraged everyone to go by the old water plant on West Railroad street to view the improvements made by Public Works.

Mr. Woodruff stated that within the next 10 days, the Land Application Site would have its first control burn.

Mr. Carter stated that in regard to an email Council received in reference to the intersection at Western Blvd. and Gum Branch Rd., a meeting had been scheduled with NCDOT on this concern. Additionally, the Williamsburg Apartments Certificate of Occupancy would not be issued until the stop light was installed at Gum Branch and Williamsburg. Indications were NCDOT would install the light this Spring.

Mr. Carter reported on the ONWASA – City Piney Green trunk sewer. A draft was being worked on, but he was still waiting for the rate structure from ONWASA. Dialog has been continuing, but with the changeover at ONWASA, things have been set back somewhat. Mr. Carter would be sending a partial draft to ONWASA attorney Chuck Kitchen.

.ADJOURNMENT

A motion was made by Councilman Willingham, seconded by Councilman Bittner, and unanimously adopted to adjourn the meeting at 10:40 PM.

Adopted by the Jacksonville City Council in regular session this 22nd day of March, 2011.

_____
Sammy Phillips, Mayor

ATTEST:

_____
Carmen K. Miracle, City Clerk