

COUNCIL MINUTES

REGULAR MEETING

May 3, 2011

A Regular Meeting of the City Council of the City of Jacksonville was held Tuesday, May 3, 2011 beginning at 7:00 PM in the Council Chambers of City Hall. Present were: Mayor Sammy Phillips presiding; and Council Members: Jerry Bittner, Fannie K. Coleman, Randy Thomas, Bob Warden and Jerome Willingham. Mayor Pro-Tem Michael Lazzara was unable to attend. 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 7:00 PM.

PLEDGE OF ALLEGIANCE

Councilman Randy Thomas led the Pledge of Allegiance.

INVOCATION

Mr. John Carter pronounced the invocation.

ADOPTION OF AGENDA AND CONSENT ITEMS

A motion was made by Councilman Bittner, seconded by Councilman Willingham, and unanimously approved to adopt the agenda as amended to add Presentation A – Jacksonville Onslow Economic Development and the Committee of 100 and Item #5 – Parade, Picket or Demonstration Permit – Appeal to Picket in Public Right of Way.

ADOPTION OF MINUTES

A motion was made by Councilman Bittner, seconded by Council Member Coleman, and unanimously adopted to approve the minutes of a Special Workshop Meeting held April 19, 2011 as presented, and the minutes of the Regular Meeting held April 19, 2011 as presented.

PRESENTATIONS

PROCLAMATION – BETTER HEARING AND SPEECH MONTH

Mayor Phillips read a Proclamation naming May as Better Hearing and Speech Month in the City of Jacksonville. Following the reading of the Proclamation, Cynthia Mitchell, Hard of Hearing Services Specialist, and Pamela Poretti, Regional Center Manager, from the North Carolina Division of Services for the Deaf and the Hard of Hearing, Wilmington Regional Center, accepted the Proclamation. Ms. Mitchell thanked the Mayor for this important recognition.

PROCLAMATION – LETTER CARRIER’S FOOD DRIVE DAY

Mayor Phillips read a Proclamation naming May 14, 2011 as National Association of Letter Carriers Food Drive Day in the City of Jacksonville. Following the reading of the Proclamation, Christina Scaglione, Director of Finance and Administration of the United Way of Onslow County, and Bob Atherton, US Postal Service, accepted the Proclamation. Mr. Atherton thanked the Mayor and encouraged everyone to assist by placing their donated food items near their mailboxes on May 14 to be picked up by their letter carriers.

PROCLAMATION – SMALL BUSINESS APPRECIATION WEEK

Mayor Phillips read a Proclamation naming the week of May 9 through May 13 as Small Business Appreciation Week in the City of Jacksonville. Following the reading of the Proclamation, Mona Padrick, President of the Jacksonville-Onslow Chamber of Commerce, thanked the Mayor and invited the public to attend the Small Business Recognition Breakfast on May 12 at the Onslow Memorial Hospital and to review the Chamber’s website for other activities going on that week recognizing small businesses.

PROCLAMATION – NATIONAL TOURISM WEEK

Mayor Phillips read a Proclamation proclaiming the week of May 7 through May 14 as Jacksonville Tourism Week in the City of Jacksonville. Following the reading of the Proclamation, Mona Padrick, President of the Jacksonville-Onslow Chamber of Commerce, thanked the Mayor and stated tourism was big business in Onslow County. The website onslowntourism.com listed all the activities that would be going on for the week.

PRESENTATION OF SERVICE SIDEARM – DAVID TEETER

Mayor Phillips reviewed the past law enforcement service of Captain David Teeter in recognition of his 30 years of service with the Jacksonville Police Department and thanked him

for his integrity and desire to serve. He then presented Captain Teeter with a retirement clock from the City and with his Captain's badge and service firearm pursuant to City Administrative Policy 29. Police Chief Yaniero thanked Captain Teeter for his leadership and for all the work he did in gaining the flagship agency accreditation for the department. Captain Teeter stated it was an honor and a privilege to have served the community. Mayor Phillips also recognized Captain Teeter's wife, Joyce.

YARD AND BUSINESS OF THE MONTH BEAUTIFICATION AWARDS

Mayor Phillips recognized Joe and Susie Henderson for receiving the Residential Yard of the Month Award and Tim Jackson of Jackson's Nursery & Landscape for receiving the Business Yard of the Month Award. Mr. and Mrs. Henderson and Mr. Jackson were unable to attend to accept their awards.

REPORT TO COUNCIL – MAYOR'S COMMITTEE FOR PERSONS WITH DISABILITIES

Joseph Traumer, Chairman of the Mayor's Committee for Persons with Disabilities, reported to Council the annual activities, accomplishments and goals of the Committee. Council Member Fannie K. Coleman is the Council Liaison to the Committee.

JACKSONVILLE ONSLOW ECONOMIC DEVELOPMENT AND THE COMMITTEE OF 100

Jim Reichardt, Director of Economic Development, provided an update on what the Jacksonville Onslow Economic Development and the Committee of 100 has been doing during the past year. He reviewed their mission, marketing goals and strategy. From their original business plan they have been focusing on three main initiatives: business recruitment, retention and expansion of existing businesses, and new product development. Mr. Reichardt introduced Budda Howard, Chariman-Elect to the Committee of 100 which was a group of about 85 business leaders from the area. He also introduced Sheila Pierce, Deputy Director, who brought to the group her many years of expertise and credibility within the real estate community. Mr. Reichardt stated that the growth on the base has been a huge catalyst in bringing new development to the area. An information packet was provided to the Mayor and Council Members.

PUBLIC HEARINGS

REZONING FROM R-7 TO RA-20 – 100 MARSHALL CHAPEL ROAD

Ms. Mary Sertell, Senior Planner, stated that Future Homes/K Miller Investments had submitted a request to rezone one parcel totaling 1.344 acres from Residential 7 (R-7) to Residential Agricultural 20 (RA-20). The subject site was located at 100 Marshall Chapel Road, at the corner of Marshall Chapel and Piney Green Roads. The property was within the Extraterritorial Jurisdiction (ETJ).

Mayor Phillips recessed the regular meeting at 7:51 PM in order convene the Public Hearing.

With no one desiring to speak, Mayor Phillips closed the Public Hearing at 7:52 PM and reconvened the regular meeting.

A motion was made by Councilman Warden, seconded by Councilman Bittner, and unanimously adopted to approve the rezoning request based on Findings of Fact A, B, C, and D being found in the affirmative and that the rezoning advances the public interest.

Ordinance 2011-34, Bk. 10, Pg. 395

PUBLIC COMMENT

Kevin O'Connor, 210 Newport Dr, stated he had obtained a list of similar sized communities in North Carolina from the NC League of Municipalities. He called those communities to find out how many fire stations they had. Many had five fire stations and Mr. O'Connor wanted to know why Jacksonville was behind the curve since this was first addressed back in 2007. He felt the City was too far behind in building a fifth fire station and it was constantly being put on the back burner which directly affects the call volume.

NEW BUSINESS

CONSENT ITEMS

RESOLUTION OF ACCEPTANCE – SANDY RUN NEIGHBORHOOD PLAN

Pursuant to City Council's adoption of a Resolution establishing a Neighborhood Planning Program on May 5, 2009, staff and the residents and property owners of the Country Club/ Sandy Run Neighborhood had created Jacksonville's first neighborhood plan, the Country Club/Sandy Run Neighborhood Plan. The Plan identified neighborhood needs and concerns and recommended strategies for meeting those needs. City Council voted to accept the Plan at their

Workshop session on April 5, 2011. For purposes of seeking future grants, it would be beneficial to have an official Resolution on file that indicated Council's acceptance of the Plan.

Council adopted the Resolution accepting the Country Club/Sandy Run Neighborhood Plan.

Resolution 2011-18, Bk. 6, Pg. 394

RESOLUTION FOR DESIGNATION OF AGENT FOR APPLICATIONS OF
FEDERAL/STATE ASSISTANCE

A Resolution for Designation of Applicant's Agent was required by the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to disaster assistance regarding the April 16, 2011 tornadoes.

Council adopted the Resolution for Designation of Applicant's Agent pertaining to disaster assistance for the April 16, 2011 tornadoes.

Resolution 2011-19, Bk. 6, Pg. 395

NON-CONSENT ITEMS

APPOINTMENTS TO THE JACKSONVILLE-ONSLOW SPORTS COMMISSION
INCORPORATED BOARD OF DIRECTORS

The bylaws of the Jacksonville-Onslow Sports Commission Incorporated created by the City of Jacksonville called on the City Council to appoint one-half of the membership of the Board of Directors from recommendations made by the Board of Directors. The Board had adopted bylaws that created staggered three-year terms and a three term limit for membership. The bylaws also codified requirements of federal law for service on a nonprofit board.

The Jacksonville-Onslow Sports Commission Board of Directors recommended that Mike Carter be appointed to Seat "A" and Carol McIntyre be appointed to Seat "B" as the Class of 2014.

A motion was made by Councilman Warden, seconded by Councilman Thomas, and unanimously adopted to appoint Mike Carter to Seat "A" and Carol McIntyre to Seat "B" as the Class of 2014.

PARADE, PICKET OR DEMONSTRATION PERMIT – APPEAL TO PICKET IN
PUBLIC RIGHT OF WAY – 250 MEMORIAL DRIVE

Police Chief Yaniero reviewed the process that was followed when parade, picket or demonstration permits were received and discussions that they had with the requester. Many times revisions were made to the original request because of public safety concerns.

In this case, the request to picket in a public right of way was initially granted at a particular location. When the department received a call that the picketers were not at the location where the permit allowed, an officer went out and the picketers moved. They came to the department the next day to request an alternate location. Chief Yaniero reviewed location alternatives and offered an Alternative Permit under City Code Section 23-66. He also reviewed the department concerns for the picketers newly requested site.

Dr. Bartolo Spano appealed the City's decision to deny his Parade, Picket or Demonstration Permit request to stand in the unpaved sections of Memorial Drive while conducting a public assembly and demonstration.

Councilman Warden asked if this was the first year they picketed in this area. Chief Yaniero stated that people have been picketing there for several years, and he has worked with other groups in the past.

Dr. Spano stated they had originally agreed to the particular site on the sidewalk across from the facility, but there was no reference on the original permit that stated they had to stay on a paved sidewalk. They felt that the dirt walkway was a sidewalk according to Article 4, and they had no problems with traffic while they were standing in that area. Their purpose was to present their message and it would not be visible if they were limited to the alternative site.

Mr. Woodruff pointed out to Council that the building could be accessed off Memorial Drive on both sides. Both access points were entrance/exits. He discussed the arc and curbing on the road curve and why one area was safer than another to stand. He also stated that the speed limit recently changed from 35 MPH to 25 MPH because of a request from the medical community to reduce the speed limit in that area.

Dr. Spano stated that the entrance where they were standing on the dirt sidewalk was where the majority of the traffic entered the clinic, so it gave them the best exposure.

Mayor Phillips stated that Council did not want to deny 1st Amendment Rights, but did have to look at public safety. Mr. Carter stated that the Jacksonville City Code was adopted from the International Municipal Lawyers Association "best practices" sample code, and that the Chief had the right under our Code to deny and find another acceptable location when public safety was a concern.

A motion was made by Councilman Bittner and seconded by Councilman Warden to deny the appeal on public safety concerns and that evidence indicated the police department had attempted to provide alternative locations in consideration of the safety issues.

Councilman Willingham stated that part of the problem was that the building faced away from Memorial Drive so there was no way to picket in front of the building. He understood the safety concerns and felt the options provided were viable.

A vote was taken on the motion and was unanimously approved to deny the appeal.

PUBLIC COMMENT

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

REPORTS

Councilman Willingham congratulated Team 6 of the Navy Seals for accomplishing an amazing mission and also thanked the larger team and executive leadership.

Councilman Bittner stated he previously spoke during a budget session about having performance data supplement the budget, but felt it could be postponed for action upon next year's budget.

Councilman Bittner commented on the report on the "race" to build the most fire stations. He would be interested in seeing which municipalities had the most full time paid fire fighters. Fire fighters put out fires and not fire stations.

Councilman Thomas reported on the recent formation of a citizens group in response to the April 16 tornadoes. The group, Operation B4, hoped to lend their efforts to help the victims return to their life the way it was before. They had an event planned for June 4. Anyone who wanted to lend a hand was invited. They met every Thursday at 5:30 PM at the Brewed Awakenings Coffee Shop.

Mr. Woodruff stated that the Redistricting Committee had met five times over the last two weeks and they met again today to adopt the criteria that would be used to consider redistricting. Their goal was to bring to Council a redistricting plan at the Council meeting on May 17 for Public Hearing and formal adoption. They would then be able to submit the material to the Justice Department and the November election would be held on time assuming the plan was approved.

Mr. Woodruff stated that there were two more budget workshops scheduled for May 16 and May 17 with additional sessions after that. In response to Mr. O'Connor's comments, the

City Council and work program for the coming year had acknowledged that a vast majority, approximately 65%, of the fire calls received were actually EMS calls. The staff was charged with bringing back a report that stated how the City should most efficiently and economically address those issues. They were currently working on that report which would have a direct impact on where fire stations would be built.

ADJOURNMENT

A motion was made by Councilman Bittner, seconded by Councilman Willingham, and unanimously adopted to adjourn the meeting at 8:29 PM.

Adopted by the Jacksonville City Council in regular session this 7th day of June, 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk