

**COUNCIL MINUTES  
NOVEMBER 18, 2009**

Mayor Brimer convened a regular meeting of the City Council at 7:00 p.m. on Wednesday, November 18, 2009, in the Council Chamber. The following were present: Mayor Mark Brimer, Vice-Mayor Martha Kirby, Councilman Dominick Montanaro, Councilman Michael Chase, Councilman Jeffrey Fleis, City Manager Michael Crotty, City Attorney James Beadle, and City Clerk Barbara Montanaro.

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

**PROCLAMATION RECOGNIZING NATIONAL AMERICAN INDIAN HERITAGE MONTH**

Mayor Brimer presented a proclamation to Susan Hunt, recognizing the contributions of the American Indians and Alaska Natives for contributing to the rich diversity that is America's strength and proclaiming the month of November as National American Indian Heritage Month. Ms. Hunt expressed her appreciation of the support given by the City of Satellite Beach.

**COMMENTS:**

**PRESENTATION BY FORMER MAYOR PAT UTECHT RECOGNIZING THE EFFORTS OF CITY COUNCIL**

Mr. Utecht was not present.

**CITIZEN COMMENTS**

No citizens had signed in for comments.

**CITY COUNCIL COMMENTS**

**Vice-Mayor Kirby** commented on a saying that she observed "Adopt an Attitude of Gratitude" and stated that she is grateful for everything that she has and does and for the wonderful people that she works with, City Manager Crotty, City Clerk Montanaro, City Attorney Beadle, and all the Department Heads. She has written the Council column in the next *Beachcaster* and that says all that she wants to say. She enjoyed and appreciated the opportunity to serve on Council. There are serious issues ahead that need attention at the front line.

**Councilman Fleis** thanked Vice-Mayor Kirby, Mayor Brimer, and Councilman Montanaro for their leadership and dedication. He reported attending the Veterans Day service at Surfside Elementary School.

**Councilman Chase** stated that he co-hosted the 9<sup>th</sup> block party on Hamlin Avenue. There are five new families on the street, each with 2-3 children. When asked what attracted them to Satellite Beach, they responded the small town character, the ability to do things with their children without much effort, especially the beach with Gemini Park near their street. The overwhelming comment was how friendly the city is. For the past six months he has heard more about Satellite Beach taxes from people that do not live in Satellite Beach, those that do not understand the benefit of living in a smaller city, and from those that simply don't enjoy or appreciate the amenities Satellite Beach offers its citizens. He stated that Satellite Beach has attracted five new families to help grow our schools and all appreciate being here because of what this City has to offer – for that, I thank past and current staff, council, and our volunteer citizens for making it happen p Outstanding!

**Councilman Montanaro** complimented the Satellite Beach Woman's Club on another excellent Founders Day Market Place and the Recreation Department for coordinating the parade. He

stated that he attended the Hamlin Avenue block party and talked with families that grew up here, moved away, and then moved back to raise their children in this environment.

**Mayor Brimer** complemented everyone on the successful Founders Day.

Vice-Mayor Kirby stated that the Woman's Club made over \$7,000, which will be contributed back into City projects.

**CITY ATTORNEY REPORT**

City Attorney Beadle did not have a report. He stated that it had been a pleasure working with those leaving Council; they had worked through some interesting issues.

**CITY MANAGER REPORT**

City Manager Crotty did not have a report.

**PUBLIC HEARING: ORDINANCE NO. 1016, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN BASED ON THE CITY'S ADOPTED EVALUATION AND APPRAISAL REPORT AND UPDATED DATA AND ANALYSIS, WHICH INCLUDE AMENDMENTS TO THE TEXT OF THE FUTURE LAND USE, TRANSPORTATION, HOUSING, INFRASTRUCTURE, COASTAL MANAGEMENT/ CONSERVATION, RECREATION AND OPEN SPACE, INTERGOVERNMENTAL COORDINATION, CAPITAL IMPROVEMENTS, COMMUNITY APPEARANCE, AND PUBLIC SCHOOL FACILITIES ELEMENTS OF THE 1998 COMPREHENSIVE PLAN AS AMENDED; TO REVISE AND UPDATE THE EXISTING GOALS, OBJECTIVES, AND POLICIES IN ACCORDANCE WITH THE MANDATES SET FORTH IN CHAPTER 163, FLORIDA STATUTES, AUTHORIZING TRANSMITTAL OF THESE AMENDMENTS TO THE EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL, FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, AND OTHER APPLICABLE AGENCIES FOR REVIEW AND COMMENT AS REQUIRED BY FLORIDA STATUTES; PROVIDING A CONFLICTS CLAUSE AND SEVERABILITY CLAUSE, AND PROVIDING AN EFFECTIVE DATE (SECOND READING)**

On October 25, 2009, the Comprehensive Planning Advisory Board (CPAB) met to review the changes made to the EAR-based Comprehensive Plan Amendments in response to the Florida Department of Community Affairs (DCA) Evaluation and Appraisal Objections, Recommendations, and Comments (ORC) Report dated September 25, 2009.

Jim LaRue, LaRue Planning & Management Services, presented an overview of his October 20, 2009, memorandum showing the changes made and recommended by CPAB as follows:

- A. The response to the first Objection now includes the required energy related policies for the Housing Element.
- B. The second response provides intensity criteria for Conservation Future Land Use category and expanded definition.
- C. The third response reverts to the same LOS table that was used in the previous year.
- D. The fourth response deletes responsibility for enforcing the SJRWMD's lawn irrigation rules.
- E. The fifth response includes the revised table showing DCA the complete Housing needs assessment.

**ACTION:** Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to read Ordinance No. 1016

by title only on second reading. VOTE: ALL AYES. MOTION CARRIED.

Mayor Brimer read Ordinance No. 1016 by title only on second reading, there being sufficient copies available to the public.

Mayor Brimer opened the Public Hearing on Ordinance No. 1016. The City Clerk asked any individuals who wished to receive notification directly from DCA to place their name and contact information on the sign-in sheet. The following individual addressed Council:

- Bill Higginson, 1175 Highway A1A, former Chair of CPAB, stated that this document represents a little more than a year's individual and collective review and debate of the EAR-based amendments. The Boards addressed the objections referenced by DCA. By consensus, the refinements were transmitted to LaRue Planning and Management to formulate. These changes are now consistent with Chapter 163, F.S., and 187 State Comp Plan. Mr. Higginson recommended that Ordinance No. 1026 be adopted and forwarded to DCA.

**ACTION:** Councilman Montanaro MOVED, SECOND Vice-Mayor Kirby to adopt Ordinance No. 1016 on second reading. VOTE: ALL AYES. MOTION CARRIED.

**ORDINANCE NO. 1024, AN ORDINANCE OF THE CITY OF SATELLITE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE FY 2008/2009 BUDGET ORDINANCE NO. 1002; SAID ORDINANCE WAS PREVIOUSLY AMENDED BY ORDINANCE NO. 1012, ORDINANCE NO. 1014 AND ORDINANCE NO. 1022; PROVIDING AN EFFECTIVE DATE (SECOND READING)**

Ordinance No. 1024 was approved on first reading on November 4, 2009. This ordinance will amend the FY 08/09 Budget. The Bank Lease Purchase which was supposed to close before September 30 was delayed and adjustments have been made in Ordinance No. 1024 to reflect the changes needed to show actual closing date and fund amounts. These are adjustments to both the General Fund and the Stormwater Utility Fund as shown in the memorandum from Finance Director Brenda Raver dated November 13, 2009.

**ACTION:** Councilman Chase MOVED, SECOND Vice-Mayor Kirby, to read Ordinance No. 1024 by title only on second reading. VOTE: ALL AYES. MOTION CARRIED.

Mayor Brimer read Ordinance No. 1024 by title only on second reading and asked for public comments. There were no comments.

**ACTION:** Councilman Fleis MOVED, SECOND Councilman Chase, to adopt Ordinance No. 1024 as amended on second reading. VOTE: ALL AYES. MOTION CARRIED.

**DISCUSS/TAKE ACTION ON LICENSE AGREEMENT REGARDING SEAWALL AND DOCK AT 600 CINNAMON COURT**

Since mid-year 2008, the property owners (Mr. and Mrs. Rehm), City staff, attorneys, and Council have worked toward an agreement, which would allow the property owners of 600 Cinnamon Court to replace the seawall in the public right-of-way that abuts their property.

Today, staff received e-mail from Mr. Rehm, asking that this item be postponed until a future meeting. It is not unusual for Council to honor such a request, but the decision rests with Council.

Mr. Karl Rehm, 600 Cinnamon Court, again requested that this item be postponed to allow him time to address some concerns and work out some language issues. He expressed appreciation to City Manager Crotty for his attention to detail and working with him on the license agreement.

Council discussed the following:

- This has been an issue for over a year, involving staff time and attorney's fees.
- The City Attorney has provided guidance and suggested language for the agreement; the City Attorney's advice has always been in the best interest of the City.
- It is the responsibility of the Council to protect the dedicated right-of-way and not relinquish any rights the City/public may have.
- It would be helpful to have a survey or plat to see exactly what is involved in the request.
- The third "whereas" clause should keep the stricken language and delete the underlined language.
- Stricken Sections 6 and 9 should remain in the agreement.
- The City is not prohibiting Mr. Rehm from building the seawall/dock.
- It would be beneficial to record the license agreement so that a future purchaser would be aware of the public right-of-way.

City Attorney Beadle stated that the document under discussion contains changes made by Mr. Rehm and City Manager Crotty, some of which he has not been a party to. The City Manager stated that this version of the agreement is Mr. Rehm's reaction to the version reviewed by the City Attorney.

**ACTION:** Councilman Montanaro MOVED, SECOND Vice-Mayor Kirby, to approve the licensing agreement with the stricken "whereas" language and without the inserted "whereas" language and including the stricken sections 6 and 9.

Mayor Brimer asked for public comments. The following individuals addressed Council"

- Karl Rehm, 600 Cinnamon Court, stated that he had asked that this agenda item be postponed and questioned the long discussion. He requested that there be no further discussion until he and Mr. Crotty reviewed the agreement again.
- Ed Kinberg, 245 Hedgecock Court, stated that he is the attorney for Mr. Rehm in this matter; however, is not speaking on his behalf at this meeting. He countered the comment that the City is not prohibiting Mr. Rehm from doing anything; if that were the case, there would be no need for an agreement.
- Rodney Smith, 265 South Robert Way, stated that overall public access has been a contentious subject, recalling times when individuals attempting to use the public right-of-way to access the canal or river were treated like criminals by neighboring property owners. Public access to Samsons Island has been a problem. He commended Council for addressing this issue and protecting the rights to the public right-of-way.
- Bill Higginson, 1175 Highway A1A, stated that he is not aware of any City on the barrier island that relinquishes its rights to public rights-of-way. If Council gives the rights away and then has a stormwater or other issue that needs to use the right-of-way, you are stuck. Never give away any city rights, especially right of access.

Council concurred that they have no intention of giving up any city rights regarding this property. If these issues cannot be resolved, this would be a good spot for a picnic table for citizens to use and enjoy the water.

Councilman Montanaro rescinded his motion and Vice-Mayor Kirby rescinded the second, based on an understanding that Mr. Rehm and City Manager Crotty will discuss and resolve the issues by January without protracted negotiations and unnecessary legal fees. City Manager Crotty stated that he will meet with Mr. Rehm in an attempt to reach a meeting of minds by the January meeting.

**DISCUSS/TAKE ACTION ON FRATERNAL ORDER OF POLICE CONTRACT (OCTOBER 1, 2009 – SEPTEMBER 30, 2010)**

City Manager Crotty stated that Council had provided direction for the Fraternal Order of Police Contract; and the majority of the membership approved the proposal. He expressed appreciation to the membership support in these challenging financial times. The contract is for one year, October 1, 2009 – September 30, 2010. It provides a one-year freeze on wages – no Cost of Living Adjustment and no progression/advancement through the steps for 09/10. Birthday holiday pay will be moved from July to December. Other amendments include provisions for training officers to receive ten percent of their training time while conducting authorized department training in compensatory time. Also, at the end of each one year of continuous service as a detective, an employee shall receive twenty hours of compensatory time for “on call” time. Reimbursement for vision correcting appliances and their fitting is increased from \$150.00 to \$225.00

**ACTION:** Councilman Fleis MOVED, SECOND Councilman Chase, to approve the FOP Contract as presented for the one-year period of October 1, 2009 – September 30, 2010. VOTE: ALL AYES. MOTION CARRIED.

**ADOPTION OF MINUTES: NOVEMBER 4, 2009, REGULAR MEETING**

**ACTION:** Councilman Montanaro MOVED, SECOND Vice-Mayor Kirby, to approve the November 4, 2009, minutes as presented. VOTE: ALL AYES. MOTION CARRIED.

**COMMENTS FROM MAYOR MARK BRIMER, VICE-MAYOR MARTHA KIRBY AND COUNCILMAN DOMINICK MONTANARO**

**Vice-Mayor Kirby** reiterated her comments at the beginning of the meeting, noting the level of competence in City staff.

**Councilman Montanaro** spoke of the great opportunities to serve the residents and to serve with other Council Members and Mayors during his seven years in office. He listed accomplishments during those seven years, including establishment of the Community Redevelopment Agency which provides façade grants to city business owners and is working toward underground utilities along the A1A corridor and improvements to Pelican Beach Park, Hightower Beach Park, and beach accesses. He also noted the acquisition of the Sunrise and Gemini properties, annexation of Patrick Air Force Base South Housing, and resolution of the tax issues. He commended the accomplishments of each department and the leadership provided by the Department Heads. He expressed appreciation to the grant writers who search for and prepare grants to defray costs of necessary city projects. He recognized the hours and hours of services provided by the volunteers. He thanked his parents and his wife for support and encouragement.

**Mayor Brimer** stated that it had been a great eleven years – six as Mayor and 5 as Councilman. He expressed appreciation to his wife, sons, and parents. He commented on the friendships formed with other members of council and the pleasure of working with each of them. He thanked staff for their years of support, stating that the City Manager had taught him as much about government as he had taught the City Manager about coaching Little League. He commended City Attorney Beadle for his long-time service with advice that has been 100% ethical and accurate. He welcomed the new councilmembers and advised them to work with staff to answer the hard questions. AIM HIGH.

#### **TRANSITION**

- A. BILL HIGGINSON AND SCOTT RHODES SWORN IN AS COUNCIL MEMBERS BY MAYOR MARK A. BRIMER**
- B. JOSEPH FERRANTE SWORN IN AS MAYOR BY MAYOR MARK BRIMER**

Mayor Brimer administered the oath of office to Bill Higginson, Scott Rhodes, and Joseph Ferrante. City Clerk Barbara Montanaro asked them to affirm and sign their respective oaths.

#### **C. COMMENTS FROM NEWLY ELECTED COUNCIL MEMBERS**

**Councilman Higginson** thanked his wife Suzanne for encouraging him to step forward and expressed appreciation to his campaign supporters and citizens. He stated that he cannot and will not endorse involuntary staff layoffs. His goal is to ensure the existing levels of services and will seek ways to do so.

**Scott Rhodes** thanked his supporters and his wife Angie and children Summer and Slater. He expressed appreciation to Vice-Mayor Kirby for encouraging him to become involved in the City.

**Mayor Ferrante** commended retiring Councilman Montanaro, Vice-Mayor Kirby, and Mayor Brimer for their untiring efforts on behalf of the citizens of Satellite Beach. He congratulated new members Bill Higginson and Scott Rhodes and noted that Councilman Chase and Councilman Fleis are now the seasoned veterans. He commended the staff, stating, “The City runs well because it is well run.” He thanked his friends and family for their help with the campaign and every challenge in life. He pledged to follow the words of his wife Barbara to always do what is best for the citizens of Satellite Beach.

**Former Mayor Utecht** (originally scheduled for earlier in the meeting) stated that the public may not realize the time involved in serving on Council – it is almost a full-time job. He commended the accomplishments of the past Council. He stated that he has personally benefited from the Communities for a Lifetime Program initiated by Mayor Brimer and implemented by the Fire Department.

#### **APPOINTMENTS TO BOARDS**

City Clerk Barbara Montanaro presented a list of board vacancies, reappointments, and applications for Council to consider.

Mayor Ferrante asked for public comments prior to the vote on each appointment. There were no comments.

**ACTION:** Councilman Rhodes MOVED, SECOND Councilman Higginson to reappoint Marty Hindsley to a two-year term on the Recreation Board, said term ending December 1, 2011. VOTE: ALL AYES. MOTION CARRIED.

**ACTION:** Councilman Chase MOVED, SECOND Councilman Fleis, to reappoint Angie Rhodes to a two-year term on the Recreation Board, said term ending December 2, 2011. VOTE: ALL AYES. MOTION CARRIED.

**AGENDA ITEMS FOR NEXT REGULAR COUNCIL MEETING**

City Manager Crotty presented a list of items for the December 2, 2009, agenda. Mayor Ferrante asked that Council discuss and take a strong stand to support the two elementary schools in Satellite Beach – Holland and Surfside. The School Board is in the process of redistricting schools this year and may close schools next year.

**ACTION:** Councilman Fleis MOVED, SECOND Councilman Chase to cancel the second meeting in December. VOTE: ALL AYES. MOTION CARRIED.

Mayor Ferrante adjourned the meeting at 8:30 p.m.

Barbara Montanaro, CMC  
City Clerk