ST. PETE BEACH CITY COMMISSION

MEETING

OCTOBER 26, 2010

MINUTES

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENT

Commissioner Shavlan
Commissioner Garnett
Commissioner Halpern
Vice Mayor Parent
Mayor Finnerty

ALSO PRESENT

City Manager Mike Bonfield
City Attorney Mike Davis
Senior Planner Catherine Hartley
City Clerk Teri McMaster
Community Development Director Karl Holley

1. CHANGES TO THE AGENDA

It was requested that Item 7.c., Case No. 20100037 be moved up. It was agreed by all present that 7.c. would be heard immediately following the Consent agenda.

Commissioner Garnett requested that Item 7.e. be removed from the Agenda and turned over to the City Manager for discussion with the owners and Commissioner Garnett. All were in agreement.

Vice Mayor Parent made a motion that Item 7.b., Case No. 20100032, be continued until November 9, 2010. The motion was seconded by Commission Halpern and the motion was approved by unanimous vote.

City Manager Bonfield advised the Public that this is the only notification that will be given; there will be no letters or other notification sent out.

2. PRESENTATIONS

a. Sean McQuaid from “Make a Wish Foundation” announced the Second Annual Beach Walk which is to be held Saturday, May 21, 2011, and invited all to attend. Mr. McQuaid left information leaflets with Commissioner Halpern and went on to explain what his organization does in Pinellas County and what is planned for the coming event.

Debra Martoihue, from the Steering Committee, addressed the Commission regarding community events in St. Pete Beach and partnering with the City to help broaden these events. She titled it “St. Pete Beach Our Community Welcomes You” project and asked Vice Mayor Parent if he would volunteer to help establish a web page with current Community Events listed, thereby expanding visitors’ stays on our Beach.

Commissioner Shavlan asked the Commission if they could put this matter on the agenda for the next regular Meeting to discuss the City web site. Mr. Bonfield will add it to the next agenda and ask IT personnel to attend with suggestions, limitations, etc.

b. Mr. Bonfield stated that the Commissioners should have received a printout of the year end costs; it appears to be $377,000 for legal fees out of the City’s $400,000 total.

Mike Davis, City Attorney, advised the Commission that the two major cases, the Pyle case from 2008 and the Kudora case from 2008, have both now gone to trail. On the Pyle (ballot) case, the trial was held on August 19th; the parties have submitted post-trial briefs which are now in the hands of the Judge and Mr. Davis does not know when the Judge will rule.

On the other case, (Kudora) which also involves the ballot questions and other matters, went to trial on September 30th. Post-trial briefs should be submitted by December 5th. Sometime after December 5th, the Court will rule.

Mr. Davis anticipates they will receive a decision by the end of the year on both of these major cases.

The third significant case is what he calls the “Shade Transcript” case. Judge Demers ruled in the City’s favor and that has now been appealed. That will run the normal course of an appeal and he does not think there will be any resolution until some time next year.

Mr. Davis would like to schedule a Shade Meeting on all these cases when he and Susan Churuti are both available to discuss the various motions that have been filed by the other side against the City and against the Commission for sanctions as well as the motions that Mr. Davis has filed against the other side. That can all be done at a Shade Meeting.

Mr. Davis would also like to have a Shade Meeting to discuss two other lawsuits that are not related to the referendum items, i.e. the Coconut Inn appeal and two Chmielewski cases.

Mayor Finnerty wants to have **one** Shade Meeting instead of several Shade Meetings to keep legal costs down. Mr. Davis said they could all be done in one day, just one after the other.

It was agreed that the Shade Meeting will be held on Monday, November 8, 2010, beginning at 1:00 pm. All three matters will be discussed, one after the other.

3. AUDIENCE COMMENTS

Mimi Gewanter, 265 South Tessier Drive, spoke about the Commission voting on November 2nd (Amendment 4) and she is upset that the Commission is trying to take her voting rights from her. She also spoke about the Coconut Inn issue now pending. She would like to see a little more freedom for the residents of St. Pete Beach and less involvement of the government.

Joe Caruso, 1301 Gulf Way, isn't looking for money from the City; he is only looking for fairness. He suggested talking to everyone to resolve their problems instead of planning legal strategy.

Paul Pfister, 8090 Gulf Boulevard, commended the Commission on doing the right job on the law suits.

Bill Pyle, 6600 Sunset Way, stated that it's time now to look forward to see what reasonable people can do to foster development in this City.

Debra Schechner, 710 Boca Ciega Isle Drive, spoke about the Bayway Bridge and bed tax. She also spoke about seeing Commissioner Shavlan on a commercial.

Harry Metz, 504 Pass-a-Grille Way, asked about the Holehouse vs City and Fletcher vs City cases. Mr. Davis stated that he did not make a report on those cases. He brought up Amendment 4 and feels that it is a very noble thing that at least one of you SOLV people has stood up for Amendment 4 and understand what is going on with it.

Lorraine Huhn, 9425 Blind Pass Road, stated she is proud of all of the Commissioners.

Debra Edney, 181 – 73rd Avenue, asked Commissioner Halpern about the flood problem. Commissioner Halpern has inquired about that matter and he will be contacting her by telephone to discuss his findings. She is upset that the Meetings are not being placed on the web site and that she has to come in to City Hall and pay for the Minutes to see what her City is doing.

Rick Falkenstein, 6441 4th Palm Point, reminded the Commission that they are the voice of the people; he respects them all and respects every other Mayor and Commissioner that has served his town, whether they did right or wrong.

Mayor Finnerty asked for additional comments; hearing none he asked for Commissioner comments.

Commission Shavlan addressed the email issue that has residents concerned; legally they are not required that this be provided. Mr. Bonfield stated that everything has to be reviewed before it goes out. The Clerk is no longer sending emails out to persons requesting them.

Mayor Finnerty feels it was a service that needed to be kept and felt more connected when it was available.

Commissioner Halpern feels it was abused and is glad it's gone. Residents can email him any time and he will respond.

4. CONSENT

a. Approval of minutes of the September 28, 2010 Regular City Commission Meeting and the October 12, 2010 Regular meeting.

b. Authorize the City Manager to sign a one year agreement with PSTA for Trolley services.

c. Authorize the City Manager to enter into a three (3) year purchasing agreement with Traffic Control Products of Florida, Inc. in the amount of $38,247.76 for pavement markings.

d. Authorize the City Manager to enter into a purchasing agreement with Mrozek Services Group, LLC, in the amount of $29,950 for a

Hurricane Storm Screen for the Police Department north elevation glass curtain wall.

e. Authorization for the City Manager to enter into an agreement with the Florida Department of Transportation to reimburse the City for $150,000 in landscaping improvements on Gulf Blvd. and Blind Pass Road (699).

f. Authorization for the city Manager to enter into an agreement with the Florida Department of Transportation to reimburse the City for $100,000 in landscaping improvements on the Pinellas Bayway (SR 682).

Mayor Finnerty called upon Mr. Bonfield to describe the items listed. Mr. Bonfield said there are six items listed. Teri McMaster pointed out that there was a change to the September 28th Minutes pertaining to reimbursement to Commissioner Garnett. It was reported that the motion was approved by unanimous vote when in fact, Commissioner Garnett abstained. That will be changed.

Mayor Finnerty pointed out that the City has been reimbursed $150,000 for landscaping improvements on Gulf Boulevard and Blind Pass Road. The City has entered another agreement to obtain another grant in the amount of $100,000 for the Pinellas Bayway.

Commissioner Halpern made a motion to approve the Consent agenda. The motion was seconded by Commissioner Garnett and unanimously approved.

7. <u>ACTION ITEM</u>

c. Case #20100037, Request for Special Permit Approval under Section 6.5(f)(1) of the Municipal Code for Consumption of Alcoholic Beverages on the Public Sidewalk. Mr. Bonfield explained that this is an application from a business owner on Corey Avenue. They are requesting seating on the sidewalk outside of the “Swigwam Bar” to be used by their patrons. It’s actually a public right-of-way use request and has nothing to do with the zoning of the property. Basically, it would simply be an agreement between the City and the property owner for use of the public right-of-way.

Robert Williams, owner of the property at 336 Corey Avenue, explained that he is just asking that his customers be allowed to have a drink in the Adirondack chairs that sit outside his establishment. His is a new business having just opened in March of this year.

Commissioner Garnett asked if he would be doing this during all business hours, from the time they open until the time they close. Mr. Williams said yes but if there is major opposition, he wouldn't be opposed to changing that.

Commissioner Shavlan asked how much of his business is before 6:00 pm. Mr. Williams responded that a majority of his business is *after* 6:00 pm. Saturday and Sunday, during the day, he does a pretty good business. He only has four (4) chairs; most people stay inside. Most of the businesses on Corey close at 6:00 pm except on special occasions such as the last Friday of the month.

Vice Mayor Parent asked if there was a City bench out there that gets used as part of the seating and Mr. Williams responded that people do sit there. Vice Mayor Parent asked if there was an opportunity to have a smoking area out in the back and Mr. Williams stated that there is and right now it's just gravel and weeds and he has talked to Commissioner Halpern about maybe building a deck out there with picnic tables and an umbrella or two.

Commissioner Shavlan expressed his concern with people congregating on the sidewalk and how Mr. Williams would control the people. Mr. Williams agreed the he doesn't want to see people blocking the sidewalk but people on the street are a good thing.

Vice Mayor Parent expressed his concern that the agreement with the City would be open-ended. Mr. Davis said there were be a clause in the agreement that would set a time certain with a 30-day cancellation by the City.

Commissioner Shavlan asked if they were able to give approval on one business and not another. Mr. Davis said absolutely because it's the City's right-of-way. Each establishment would be individually judged.

Mayor Finnerty then asked for audience comments.

AUDIENCE COMMENTS:

Linda Beth Price, Treasure Island, who has frequented the "Swigwam", spoke in favor of the request and sees no problem.

Sally Adams, 6855 Bay Street, a merchant on Corey Avenue, thinks the chairs look great and wished they all had them in front of their places.

Jeff Jansen, President of "Point of View Interior Design, 343 Corey Avenue, who is directly across the street from the "Swigwam", has witnessed the activities across the street and has not seen a problem. Mr. Jensen said Mr. Williams is a great addition to Corey Avenue. He's all for it!

Paul Pfister, 8090 Gulf Boulevard, President of North Beach Civic Association, stated that his members who go to the theatre don't feel comfortable at night but when they see people down there, they are a little more unafraid that there's someone around in case something does happen. This is good and something they need.

Mr. Hanson, shop owner on Corey Avenue, is concerned about people sitting out there drunk or passing out. Not a good thing for Corey Avenue.

Steve Taylor, 7141 Bay Street, Proprietor of the "Rip Tides" on Blind Pass Road, stated that it's the responsibility of any proprietor to manage their business in an appropriate and responsible manner. In his estimation, Mr. Williams has done this. He is in favor of granting the request.

Robbie Kahn, owner of "Simply Perfect", 339 Corey Avenue, across the street from the "Swigwam", admitted that she is one of the persons who complained because of some activity in front of the bar dealing with a homeless person and a person who "hangs out" on Corey Avenue. Maybe this is an opportunity to develop Corey Avenue a little more, maybe it's an opportunity to put out some more planters and make it look more like Dunedin Main Street and St. Armands Circle.

Mayor Finnerty asked for more audience comments; hearing none, the Meeting was closed to further comments.

Mayor Finnerty stated that they seem to agree in moving the bench and asked the Commissioners if they should suggest any change in time period as far as

when they may be able to use the front or do they want to go ahead and when the operation is open, let their patrons use the chairs.

Mr. Bonfield suggested that perhaps they should better define "*congregation"* on the sidewalk. He believes the intention is to allow outside seating. He wants the area in which the people congregate to be defined so that it can be enforced.

Mr. Williams was called before the Commission during this discussion and said that he is not opposed to a probationary period to see how this works out. If it's not working out, 30 days and it's done.

Vice Mayor Parent would like to limit the outside seating to after 6:00 pm and limit it to ten people, something like that.

Mayor Finnerty called on Mr. Jensen to speak.

Mr. Jenson stated that he is also President of the Corey Avenue Business Association and he is very aware of the three incidents that have taken place and unfortunately, he feels that there are one or two individuals who made it their business to anonymously call the police and exaggerate many of these so-called problems that have arisen. He has seen person after person come before the Commission and support this issue; he has not seen anyone come before you and discourage it. By micro-managing this, you are making it un-manageable.

Mr. Bonfield then stated to the Commission that in terms of the agreement, they will add the language that has the 30-day out provision and define the area as that in front of the business and we are *not* going to add anything about 6:00 pm.

A motion was made by Commissioner Halpern that the request be approved as described by Mr. Bonfield. The motion was seconded by Vice Mayor Parent and unanimously approved by roll call vote.

5. RESOLUTIONS

There were none placed on the Agenda.

6. ORDINANCES

a. Ordinance 2020-18, First Reading and Public Hearing establishing Division 40 and amending Divisions 23 and 26 of the Land Development Code to provide development standards for the Community Redevelopment District 8th Avenue and amending the Official Zoning Map of the City to assign the Community Redevelopment District-Eighth Avenue zoning to the subject property.

Mr. Bonfield called upon Senior Planner Catherine Hartley to give an overview and what is provided for with this Ordinance.

Ms. Hartley outlined the basics of the Ordinance and requested approval at First Reading.

After lengthy discussion, Mayor Finnerty opened the Meeting to audience comments.

AUDIENCE COMMENTS

Rick Falkenstein, 6441 4th Palm Point

It was then suggested by Commissioner Garnett and Mike Bonfield that the matter be tabled until November 23, 2010; Mayor Finnerty was in agreement. The Commission then deferred the matter to Commissioner Garnett and Mr. Bonfield until the November 23, 2010.

A motion was made by Commissioner Garnett that further consideration of Ordinance 2010-18 be continued until November 23, 2010. The motion was seconded by Vice Mayor Parent and approved 4-1 by roll call vote; Commissioner Halpern voting no.

7. ACTION ITEMS

a. Case #20100030, Application of JP Morgan/Chase, agent for Dolphin Village Partners LLC, for property located at 4625 Gulf Boulevard. Applicant's request amendment of the Planned Development site plan to allow for modification of the approved site configuration for construction of a new bank.

Mr. Davis stated that this is a quasi-judicial matter and even though they are not required to be sworn in, the Commissioners are required to disclose any ex parte contact that they may have had with the applicants. All Commissioners denied having any contact. Mr. Davis asked audience members, if they are a substantially affected party, to make themselves known at this time. Seeing no one, Mr. Davis asked the City Commission to proceed with presentation followed by presentation by the applicant.

Karl Holley presented the basic issues and stated that the Staff have no concerns or objections to what is being proposed.

Mayor Finnerty thanked Mr. Holley for his remarks and hearing no questions from the Commission, called upon the applicant for presentation.

Chris Kirshner of BG Architects, made a presentation on behalf of the applicants. Commissioner Halpern commended them for their parking arrangement and hearing no questions, Mayor Finnerty asked for a motion.

Commissioner Halpern made a motion to approve the amended plan development site for property located at 4625 Gulf Boulevard. The motion was seconded by Vice Mayor Parent.

Mayor Finnerty asked for audience comments; hearing none, roll call was taken and the motion was unanimously approved.

Mayor Finnerty called for a ten minute recess until 9:45 pm.

Mayor Finnerty called the Meeting back to order and asked Mr. Bonfield to resume with the Action Items agenda.

d. Authorization for the City Manager to temporarily reduce the Upham Beach portion of monthly minimum rent paid to the City from Paradise Sweets, LLC by 33.3% ($737.76) for the months of October and November, 2010, for the duration of the Upham Beach re-nourishment project.

Mr. Bonfield explained the purpose of the rent reduction and since the re-nourishment is complete, he recommended to the Commission that they approve the rent reduction for just the month of October. It is a discretionary matter for the Commission and Mr. Bonfield stated that in the past there were similar rent reductions during re-nourishment periods.

Commissioner Garnett made a motion to authorize the City Manager to temporarily reduce the Upham Beach portion of monthly minimum rent paid to the City by Paradise Sweets, LLC by 33.3% which is $737.76 for the month of October, 2010, due to the beach re-nourishment project. The motion was seconded by Vice Mayor Parent and unanimously approved by roll call vote.

Mr. Bonfield asked the Mayor if they could jump to Item 8.a. on the Agenda; Mayor Finnerty was agreeable.

<u>8. ITEMS FOR DISCUSSION</u>

a. A written request from Lessee, Dolphin Landings, A Charter Boat Center, Inc., to consider a five year extension option of the existing Merry Pier Lease Agreement.

Mr. Bonfield explained that the initial term of the Lease Agreement was five years; there was a provision for three five-year renewals. There is a provision that required the tenant to notify the City within ninety (90) days of their desire to renew; they have done that. He is asking the Commission for some guidance and thoughts on whether they want to accept that request to renew or do they want to go back out and re-open and take bids for the operation of the Merry Pier.

Commissioner Halpern feels that the City has some obligation to the existing tenant to re-new if requested. He understands there is another interested party who would like to submit a bid for a lease.

Commissioner Garnett announced that there is a third party who is also interested but they are not in attendance at this Meeting.

Vice Mayor Parent agreed with Commissioner Halpern's comments, but feels the five year term on the lease (and extensions) are a little long.

Commissioner Shavlan said he would like to hear from Dan Perez and the other interested parties who are in attendance.

Mayor Finnerty called upon Capt. Dan Peretz to address the Commission.

Dan Perez, 4737 Gulf Boulevard, the Lessee for the Merry Pier and also has Dolohin Landings Charter Boat Center at the Dolphin Village Shopping Center, stated that at the beginning of the five year lease, they made a large investment and everything went well for the first couple of years and after 2 ½ years, everything started changing and his investment has not been realized back. Things have started to turn around and he is optimistic about the future of his company.

Mayor Finnerty asked Mr. Davis if it was possible to not extend for a term of five years but perhaps another period of time; Mr. Davis advised him that they would have to re-negotiate the lease in that event. The City could make a counter-offer if they desired.

Mayor Finnerty called upon the owners of the Merry Pier.

Another business owner of the Merry Pier addressed the Commission and stated that she feels they could do better on both sides without a landlord in the middle.

Another boat owner spoke to the Commission and expressed his dissatisfaction with renting at Merry Pier. When Capt. Dan came in, his rent doubled; it went from $14,000/15,000 a year to $36,000 a year. He would like to see it go back up for bids.

Mayor Finnerty stated that he thinks they are obligated to re-open for bids.

Mr. Bonfield advised the Commission that the current contract expires January 31, 2011 and he could get Dan O'Connor started on it right away. He asked the Commissioners to get back to him with any comments they might have so they can be considered before they draft the final proposal.

Vice Mayor Parent also supports putting in for outside bids.

Commissioner Halpern stated he would go along with that; Commissioner Garnett agreed.

A motion was made by Vice Mayor Parent that the request of Dolphin Landings, A Charter Boat Center, Inc. for a five year extension of the Merry Pier be *denied* and the City Manager notify the Lessee of the City's decision per the terms of the existing Lease. The motion was seconded by Commissioner Garnett and unanimously approved by roll call vote.

7. ACTION ITEMS

f. Authorization for the City Manager to expend an additional $18,513.10 to Bryant Miller Olive to develop a special assessment revenue source for the stormwater utility.

Mr. Bonfield explained that this matter had previously been before the Commission but was delayed until further information was provided.

Mr. Davis apologized to the Commission for the additional fees and went into detail about what had to be done and what was done to provide the information that the Commission requested.

After discussion and questions by the Commissioners and Mayor, Mr. Bonfield advised them that it was their decision to pay it or not.

Mr. Davis withdrew the request for additional fees in the amount of $18,513.10 to Bryant Miller Olive.

9. CITY MANAGER, CITY ATTORNEY AND COMMISSIONER REPORTS

City Manager Bonfield presented his Report.

Commissioner Shavlan presented his Report.

Commissioner Garnett presented her Report.

Vice Mayor Parent presented his Report.

Commissioner Halpern presented his Report.

Mayor Finnerty presented his Report.

10. ADJOURNMENT

There being no further business to come before the Commission, the Meeting was adjourned.

______________________________ City Clerk

______________________________ Mike Finnerty, Mayor

Minutes Approved on:___________