



City of Pensacola

CITY COUNCIL

Special Meeting Minutes

September 20, 2017

4:04 P.M.

Council Chambers

Council President Spencer called the special meeting to order.

ROLL CALL

Council Members Present: Brian Spencer, Gerald Wingate, Jewel Cannada-Wynn, Larry B. Johnson (arrived after recess when meeting was reconvened at 6:53), Sherri Myers, Andy Terhaar, P.C. Wu

Council Members Absent: None

Council President Spencer indicated this is a special meeting of the City Council to discuss the statutory process required and whether nor not such requirements were met by the Emerald Coast Utilities Authority (ECUA) for the planning and permitting of proposed emergency storage tanks to be located at 1751 North Guillemard Street.

ACTION ITEMS

None.

DISCUSSION ITEM

1. [17-00551 PROPOSED EMERALD COAST UTILITY AUTHORITY \(ECUA\) EMERGENCY STORAGE TANK TO BE LOCATED AT 1751 N. GUILLEMARD ST.](#)

Council Member Myers, as sponsor, began the discussion with reference to the legal opinion provided (at Council's places and dated 9/20/17 - - on file with background materials) by City Attorney Bowling which outlines whether nor not ECUA is statutorily required to obtain consent from City Council to build an emergency wastewater storage tank on property it owns within the City limits pursuant to the provisions of Section 153.03, Florida Statutes. Council Member Myers offered her concerns indicating that she does not believe City Attorney Bowling's opinion addresses the full issue before Council.

Council President Spencer provided an opportunity for City Attorney Bowling's legal memorandum to be provided to Mr. George R. Mead, attorney of record for North Hill Preservation Association, Inc, which has filed a for a temporary injunction against ECUA, to be heard by the court on Monday, September 25th.

DISCUSSION ITEM (CONTINUED)

At Mr. Mead's suggestion and with no objection from Council, Council President Spencer read City Attorney Bowling's legal memorandum into the record in its entirety.

Discussion ensued among Council with City Attorney Bowling fielding comments and questions and providing clarification accordingly.

During discussion, Council Member Myers made comments indicating that she was not satisfied with the (legal) opinion provided by City Attorney Bowling because she believes that other than the statutory requirements referenced in the memorandum, that the City's Comprehensive Plan and Land Development Code should be reviewed as it relates to this project. City Attorney Bowling responded, in accordance with Council's direction, she has provided a legal opinion on the governing state laws related to ECUA's authority, and upon further direction she will certainly delve further into City requirements.

As discussion continued, Council President Spencer called on Mr. Mead to provide his input regarding City Attorney Bowling's legal memorandum. Mr. Mead first indicated he believes the City Attorney to be conflicted in her representation of both the City Administration and City Council related to this issue and provided a copy of a letter (dated 9/20/17 - - on file with background materials) he sent to her stating such opinion. In addition to also citing Florida Statute 153.03, he referenced Chapter 180. Council Members asked questions of Mr. Mead which he responded accordingly.

Council Member Cannada-Wynn requested Mr. Bradley Odom, attorney representing ECUA, address Council regarding their legal position in this matter. Council Members asked questions of Mr. Odom which he responded accordingly. During questions, Mr. Odom indicated he agrees with City Attorney Bowling's legal memorandum.

At this time, public input was heard from the following individuals:

Patti Salvaggio
Jo MacDonald
Pat Regan
Byron Keesler
George Mead
Gloria Horning

Philip Pfeiffer
Melanie Nichols
Kathleen McBride
Nicole Endacotte (no longer in attendance)
Clorissti Mitchell

Council President indicated it is almost 5:30 P.M. at which time another special meeting is scheduled to begin to conduct the final public hearing on the annual budget and millage rates.

A motion to recess (this meeting) and then immediately reconvene following the adjournment of the 5:30 P.M. Special City Council Meeting was made by Council Myers and seconded by Council Member Cannada-Wynn.

The motion carried by the following vote (with Council Member Johnson not yet in attendance):

Yes: 6	Brian Spencer, Gerald Wingate, Andy Terhaar, Jewel Cannada-Wynn, P.C. Wu, Sherri Myers
No: 0	None

RECESS

Council President Spencer recessed the meeting at 5:30 P.M.

RECONVENED

Council President Spencer reconvened the meeting at 6:53 P.M. (with Council Member Johnson in attendance until 7:26).

DISCUSSION ITEM (CONTINUED)

Public input continued as follows:

Dorothy Dubuissou
Philip Partington

Jeff Martin

Upon conclusion of public input, Council President Spencer made follow-up remarks and offered the following motion:

A motion that City Council direct City Administration to instruct ECUA, a legislative body, to bring this matter before Council, to stop construction at 1751 North Guillemard Street until ECUA submits (the) proposed project and project documents for Council consideration and approval was made by Council President Spencer and seconded by Council Member Myers.

Discussion ensued among Council regarding the motion. Mr. Mead responded to questions accordingly related to the upcoming court hearing on 9/25.

Upon conclusion of discussion, the vote was called.

The motion failed by the following vote:

Yes: 2	Brian Spencer, Sherri Myers
No: 5	Gerald Wingate, Andy Terhaar, Jewel Cannada-Wynn, Larry Johnson, P.C. Wu

DISCUSSION ITEM (CONTINUED)

Council Member Cannada-Wynn made comments and offered the following motion:

A motion that City Council direct Council President Spencer to schedule a special meeting following receipt of the court's ruling (related to the temporary injunction against ECUA filed by North Hill Preservation Association, Inc.) regarding the proposed emergency storage tanks to be located at 1751 North Guillemard Street was made by Council Member Cannada-Wynn and seconded by Council Member Terhaar.

There being no discussion, the vote was called.

The motion passed by the following vote:

Yes: 5	Brian Spencer, Gerald Wingate, Sherri Myers, Andy Terhaar, Jewel Cannada-Wynn,
No: 2	Larry Johnson, P.C. Wu

Council Member Myers made follow-up remarks and offered the following motion:

A motion that City Council direct City Attorney Bowling to submit a request to the State Attorney General for a legal opinion whether or not the ECUA stands in the same legal posture as (the) "county" under Florida Statute 153.01 was made by Council Member Myers and seconded by Council Member Cannada-Wynn.

Some discussion took place regarding the motion. Input was also heard from Mr. Mead.

Upon conclusion of discussion, the vote was called.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5	Brian Spencer, Gerald Wingate, Jewel Cannada-Wynn, P.C. Wu, Sherri Myers
No: 1	Andy Terhaar

ADJOURNMENT

WHEREUPON the meeting was adjourned at 7:29 P.M.

Adopted: October 12, 2017

Approved: Brian K. Spencer, President of City Council

Attest:

Ericka L. Burnett, City Clerk