

**OFFICE OF THE CITY COUNCIL**

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**City Council Committee of the Whole on**

**Ordinances 2016-1 and 2016-2 – Meeting Minutes**

**February 4, 2016**

**3:00 p.m.**

**Location:** City Council Chamber, City Hall – St. James Building; 117 West Duval Street,

**In attendance:** Council Members Greg Anderson (President), Danny Becton, Aaron Bowman, Lori Boyer, Anna Lopez Brosche, Katrina Brown, Reginald Brown, Doyle Carter, John Crescimbeni, Garrett Dennis, Al Ferraro, Reggie Gaffney, Bill Gulliford, Tommy Hazouri, Jim Love, Joyce Morgan, Sam Newby, Matt Schellenberg, Scott Wilson

**Also**: Jason Gabriel and Peggy Sidman– Office of General Counsel; Kirk Sherman– Council Auditor’s Office; Dana Farris, Carol Owens, Jessica Morales, Katrin McDonald, Crystal Shemwell, Philip Zamarron – Legislative Services Division; Steve Cassada – Council Staff Services; Sam Mousa, Kerri Stewart and Ali Korman Shelton – Mayor’s Office

**Meeting Convened**: 3:03 p.m.

The President explained the purpose of the meeting, explained the public comment procedure that would be in place, mentioned the human rights executive order that the Mayor had issued the previous Friday (January 29, 2016) and asked the Council Members to introduce themselves.

The President asked Council Member Bill Gulliford to explain the ordinance that he was sponsoring, Ordinance 2016-1. In his remarks on the ordinance, Mr. Gulliford indicated that he was supportive of the Mayor’s position that the proposed human rights ordinances were not necessary.

Mr. Gulliford’s first guest speaker was Attorney Damon Kitchens with the law firm of Constangy, Brooks, Smith and Prophete, LLP. Mr. Kitchens remarked on whether or not civil rights should be extended to the LGBT community. He contended that rights expansion could negatively impact small businesses. He further contended that protection of civil rights already exists in state and federal law. Is a City ordinance necessary to do what the state and federal laws already cover? He felt that a City ordinance on expansion of rights would be redundant. Expansion of rights would result in unforeseen costs that the public would have to take on; there will be increased regulations, an increased burden on businesses and citizens.

At this juncture, Council Member Gulliford announced that he would be willing to withdraw his proposed ordinance if Council Member Tommy Hazouri withdrew his. His offer would remain on the table.

Council Member Tommy Hazouri, sponsor of Ordinance 2016-2, explained his proposed legislation.

He contended that the LGBT community is not protected by state and federal laws. He cited the Chamber of Commerce, the Civic Council and the area’s largest corporations and businesses that are supportive of the proposed expansion of rights to the LGBT community. Mr. Hazouri explained that his ordinance would codify what the Mayor wants to do.

Mr. Hazouri’s next guest, Attorney Bill Shepherd, recalled the numerous civil rights cases that he has been involved with over many years.

Gary Bevel, a children’s ombudsman and attorney, urged the City Council to enact legislation that would include the LGBT community under the Ordinance Code’s civil rights umbrella. He felt that the issue should not be put to a public referendum because the majority opinion has not always been faultless.

Matt Rapp, CEO of the PGA Tour, spoke on behalf of the Chamber of Commerce and its support of the inclusion of the LGBT community in the City’s human rights ordinances.

Audrey Moran, speaking for the Chamber of Commerce, urged passage of the HRO legislation. She characterized the issue as an economic development issue.

Dr. Jeff Goldhagen, formerly Director of the county health department, indicated that he was speaking as a pediatrician in support of the expansion of the human rights ordinance to include the LGBT community. He spoke of how young people in particular are often the victims of violence, about how the issue of youths’ sexual orientation is genetic, and how some children are born gay. The whole LGBT issue is genetic in nature.

Council Member Aaron Bowman, a co-sponsor of Ordinance 2016-2, said that the issue was a Constitutional one and the he had risked his life for thirty years in the U.S. Navy to defend constitutional principles. He alluded to the Pledge of Allegiance, recited at the outset of each Council meeting, which closes with the words “…with liberty and justice for all.” Mr. Bowman reiterated the importance of “for all.”

Council Member Love, another co-sponsor of 2016-2, said that the issue is about liberty for all. This is what he fought for during his years in the Navy as well. He feels that enacting this ordinance is the right thing to do.

Council Member Gulliford suggested that unintended consequences could result if Ordinance 2016-2 was enacted.

Mr. Gulliford invited an additional guest to the podium. Attorney Kellie Fieeordk, representing the Alliance Defending Freedom from Washington D.C. was at the Committee of the Whole meeting with her client, Barronelle Stutzman of Washington state. Ms. Fieeordk cautioned that there would be many unintended consequences if the HRO bill is enacted. She cited the case of her client Ms. Stutzman, a florist, whose refusal to create a floral arrangement for a same-sex wedding ceremony resulted in a lawsuit and abuse. She mentioned a photographer in New Mexico and a baker in Colorado who were fined for refusing to provide their professional services for same-sex wedding ceremonies because it violated their personal religious beliefs. Ms. Fieeordk characterized HRO laws as unconstitutional and un-American. Ms. Stutzman recounted her experience in declining to provide professional services to a potential customer because of her religious convictions about the nature of marriage. She explained that she had been sued personally and professionally, had been the target of abuse and threats, including death threats, and has had to go so far as to vary her commute to work out of fear for her safety.

Council Vice President Boyer offered what she characterized as a third alternative to the two pending ordinances. She referenced the Mayor’s executive order issued last Friday committing the administration to ensuring compliance with all applicable state and federal anti-discrimination laws and indicated that she was uncomfortable with both 2016-1 and -2. She explained her preference to allow the Mayor’s directives to be implemented before taking further legislative action.

**Motion** (Boyer): withdraw pending ordinances 2016-2 -

**Motion** (Schellenberg): call the question and vote immediately on the previous motion – **fails 4-15**.

Council Member Gulliford and Council President Anderson echoed Ms. Boyer’s proposal to let the executive order take effect and judge its outcome before taking any further action. Council Member Reggie Brown stated that doing nothing is not an option. The Council has made a commitment to the citizens to hold three Committee of the Whole meetings and allow citizen input at each, so that process should continue and Council can then weigh the pros and cons and take some action. Deputy General Counsel Peggy Sidman explained the rules of a Committee of the Whole regarding making a committee recommendation to the full Council for action and the consequences of failing to make a committee recommendation.

The Boyer **motion to withdraw 2016-2** **failed 8-11**.

**The committee was in recess from 4:55 p.m. to 5:04 p.m.**

In an abbreviated report (given the constraints of time for the public hearing), General Counsel Jason Gabriel reported that 11of Florida’s 67 counties and approximately 36 cities have passed ordinances extending protected class status to sexual orientation or gender identity. Jacksonville currently has human rights/equal rights ordinances applying non-discrimination protections to citizens in the areas of housing, public accommodations and employment. The Mayor’s recent executive order covers non-discrimination in City employment pursuant to state and federal law as currently interpreted by the courts and the U.S. Equal Employment Opportunity Commission, and extends those requirements to City vendors as well. He posed several threshold questions for determining if further action is necessary – is there a need for legislation to solve a problem, and if so, what legislative action is necessary. Mr. Gabriel reviewed the major commonalities and differences of 2016-1 and 2016-2. The major difference is the provision in 2016-1 (the Gulliford bill) to amend the Ordinance Code after an amendment to the City Charter is approved by way of a voter referendum versus 2016-2 (the Hazouri bill) which provides just for the Code amendment without the Charter amendment and referendum. The Code currently contains exemptions, penalties and remedies, none of which would be changed by either of the pending ordinances as currently drafted.

Council Member Gulliford requested that Mr. Gabriel be scheduled on the agenda for the next meeting to give a more in-depth legal briefing. President Anderson asked the council members to pose any questions they may have to Mr. Gabriel directly so that he can prepare responses that will be shared with all members.

Public Comment

Floor Leader Joyce Morgan outlined the rules of procedure for the public comment period, with each speaker being given one minute and thirty seconds to speak. Speaker cards were divided into pro and con piles and shuffled, and pro and con speakers were called in alternating order to speak. After one hour of public comment had elapsed, the President ended the public comment period and announced that the speaker cards submitted by persons who had not gotten the opportunity to speak at this meeting would be held over the beginning of the public comment period at the next meeting.

The next meeting will be held on Thursday, February 18th. The agenda will include the General Counsel and other invited experts responding to questions posed by council members, then another hour of public comment.

**Meeting adjourned:** 6:08 p.m.

Minutes: Jeff Clements, Council Research

2.5.16 Posted 5:30 p.m.

Tapes: City Council Committee of the Whole on 2016-1 and 2016-2 meeting – LSD

2.4.16