

# **CITY OF ST. AUGUSTINE**

## **Regular City Commission Meeting**

**March 10, 2003**

The City Commission met in a formal session Monday, March 10, 2003, at 5:00 p.m. in The Alcazar Room at City Hall. The meeting was called to order by Mayor George Gardner, and the following were present:

**1. Roll Call:**

George Gardner, Mayor/City Commissioner

Susan Burk, City Commissioner

William Lennon, City Commissioner

Errol D. Jones, City Commissioner

Donald A. Crichlow, City Commissioner

William B. Harriss, City Manager

Jack E. Cubbedge, Assistant City Manager

James P. Wilson, City Attorney

Martha V. (Nell) Porter, City Clerk

Timothy A. Burchfield, Director, General Services

Mark Knight, Director, Planning and Building Department

Mark Litzinger, Director, Financial Services

Paul Williamson, Director, Public Affairs

Dr. William Adams, Director, Heritage Tourism

William H. Harding, Director, Public Works

John Regan, Director, Utilities

David Shoar, Chief of Police

James Owens, Fire Chief

Orfeo Paolini, Sound Technician

Karen Rogers, Recording Secretary

---

## **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

Major Tim Roberts, Salvation Army, presented the invocation, and Commissioner Lennon led the Pledge of Allegiance.

## **3. ADMINISTRATIVE ITEMS**

### **3.A/ Modification of Agenda**

(None)

### **3.B/ Approval of minutes**

The minutes of the Regular City Commission meetings of February 24, 2003 were approved as presented.

## **4. General Public Presentation and Comments (3 minutes per presentation)**

Jason Mauro, 56 Saragossa Street, suggested that the old fire station be used as a meeting place for various organizations and workshop settings. He said that the building could serve for the City Archeologists as well and serve a joint purpose for the community.

## **5. PRESENTATIONS AND STAFF REPORTS.**

### **5.A/ Presentation of a Proclamation declaring March as Archaeology Month.**

Mayor Gardner read and presented the Proclamation to Linda Chandler, President of the St. Augustine Archaeological Society.

Ms. Chandler presented two Archaeology Month posters to the City entitled Lost Landscapes.

### **5.B/ Presentation by Flagler College students regarding the marketing project for the Chamber of Commerce Tourism Task Force.**

Felix R. Livingston, Ph.D., Professor of Economics and Business, introduced Heather Jordon and Elizabeth Victor who presented a power point presentation of their class project regarding "What is Missing from the St. Augustine Experience?" The primary outcome of the project was that the City of St. Augustine had a parking and traffic problem, the stores closed rather early, and there was not enough free transportation around the City. Some recommendations were for a greater nightlife, more upscale restaurants, and street performers.

**5.C/ Presentation by the St. Augustine Port, Waterway & Beach District regarding a river walk project for the San Sebastian Project.**

Jack McGuinness, 8 Sarragossa Street, distributed a photo presentation regarding the St. August Port, Waterway & Beach District project from a river walk in Shem Creek in Charleston South Carolina. He identified the cooperation that the Port Authority had shared with the City for improvements, such as conducting a study for a boat ramp on South Riberia Street.

Mr. McGuinness explained that the proposal had first been identified in 1993-94, as the San Sebastian River was a jewel waiting to happen; however, the Port Authority had not had the resources. He said that currently they had resources and wanted to reintroduce the project. He said that the City owned a right-of-way on the west side of the San Sebastian from the Oyster Creek Marina north to King Street. He referred to the last page of the handout containing an aerial view of their proposal for St. Augustine. He noted that the property the City owned on the east side of the San Sebastian could also be used for a connective river walk with a foot bridge across the San Sebastian River to tie both walks together. He said the key would be to snake an eight foot wide board walk through the private property at the north and south end of the City right-of-way.

Mr. McGuinness said that the Port Authority had entered into discussion with the property owners on the South end of the proposal, and they indicated cooperation and were enthusiastic. He said that on the south end the enthusiasm was good; however they were not certain they wanted the walk to go between the docks. He said the alternative was to continue the walk with delineated paving stone on the City right-of-way. He stated that the Mayor and City Manager had exhibited enthusiasm regarding the project, and they had suggested connecting the east and west bank of the river.

Mr. McGuinness stated that the river walk would upgrade the property values with higher use and tax base. He said the Port Authority was willing to do the design work and funding for the west bank, and he questioned whether the City would be willing to fund the east bank or include it as a criterion for the San Sebastian project. He said that using both sides of the river would create approximately a half mile of river walk. He compared the potential to the river walk in Jacksonville.

Mr. McGuinness said that the Port Authority only required the City's approval. He said that the City could possibly obtain funds through FIND, and the Port Authority would apply to FIND for matching funds for the initial study. He noted that the deadline for application was April 1<sup>st</sup>.

Mayor Gardner questioned whether the Port Authority would do the design for both sides of the San Sebastian and the response was affirmative, but they would not have the resources to construct the entire project.

Commissioner Lennon questioned the situation with mitigation, would the project raise taxes, and what would the project on the west side of the river cost. He concluded that the project was a good idea if it could be worked out.

Mr. McGuinness stated that mitigation would have to be addressed; however, a boardwalk may not be an issue. He said that the project would not incur any taxes. He guesstimated that it would cost \$1.2 million dollars.

Commissioner Crichlow questioned the accessibility for future property owners.

Mr. McGuinness noted that the property owners owned to the center line of the San Sebastian River and the City right-of-way served as a street; therefore they would be provided with ramps, as they could not be denied access.

Commissioner Crichlow referred to the water side and questioned whether a landowner could have dockage and what about the fishing situation.

Mr. McGuinness said of course if they could get permitting, as most of the property in question was marshland. He said that fishing would be addressed to be sure there would be no problem. He noted that the river walk would be pedestrian friendly similar to a linear park with lighting and benches etc.

Commissioner Lennon questioned who would maintain the walk way.

Mr. McGuinness stated that the Port Authority would maintain the west side, but the east side would be the City's responsibility.

Commissioner Jones indicated that he approved of the concept and questioned the anticipated timeframe.

Mr. McGuinness said they would not have a timeframe until after they acquired the funding and arrived at the construction phase.

A brief discussion resulted and it was determined that the Port Authority considered the project a priority and committed funds to the design phase.

## **MOTION**

**Commissioner Lennon MOVED to move forward with the project.  
Commissioner Burk SECONDED the motion.**

**VOTE ON MOTION**

**AYES: Lennon, Burk, Crichlow,**

**Jones, Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

**5.D/ Presentation of proposals for management of the "Kingbuster" Kingfish Tournament.**

Timothy A. Burchfield, Director, General Services, explained that he had been contacted by Dave Workman, one of the originators of the Kingbuster" Kingfish Tournament, informing him that Mr. Workman had parted ways with Don and Roger Combs, the other originators of the event. He said that Mr. Workman expressed a desire to run the event himself; however, Mr. Combs was also interested in running the event. He said that after consideration it was determined that, because there was no formal contract, both parties would deliver proposals to the Commission. He said that the City Attorney indicated that in the future the City should have a formal contract with whoever ran the event.

Commissioner Burk clarified that the City provided the space for the tournament; however, there was an organization that sanctioned the event.

Mr. Burchfield stated that the Southern Kingfish Association had sanctioned the event since inception.

Commissioner Burk questioned why the City would be making the decision on who would produce the event.

Mr. Burchfield replied that after talking with the SKA it was apparent that the association would sanction either party as the official tournament body.

Jack Holmes, Southern Kingfish Association, stated that was not the case.

Commissioner Burk suggested that presentations from the two parties were a waste of time when the SKA should make the decision about sanctioning.

Mr. Burchfield stated that after talking with Mr. Holmes it was his understanding that the board of directors for the SKA did not want to make the decision.

Commissioner Burk suggested that the Commission hear from Mr. Holmes first.

Mr. Harriss explained that the situation was complicated because a tournament could be run without sanctioning. He said the sanctioning simply added prizes to the event; therefore the parties in question could run a tournament without the SKA.

Commissioner Burk pointed out that the success and number of boats in a tournament was related to sanctioning.

Mr. Harriss agreed that the sanctioning made the event more attractive to the fishermen. He suggested that Mr. Holmes answer questions before the presentations.

Mr. Holmes agreed that the SKA helped to bring people to the event, and he briefly described the 60 tournaments the SKA sponsored. He said that Mr. Workman and Pat Stinson had been partners in similar tournaments in the past and Don and Roger Combs were the other partners; however, the partnership was split with both parties wanting to put on the tournament. He said that in the opinion of the SKA Mr. Workman was the logical choice, because he and Mr. Stinson were the moving force behind the tournament. He noted that the parties in question were fighting over the issue, and Mr. Workman had determined that he would not be able to put on the event within the necessary timeframe. He noted that the SKA had a large stake in the tournament and attracted 250-300 people to the tournament.

Commissioner Burk questioned whether the SKA would sanction whichever party the Commission chose.

Mr. Holmes replied no, because the SKA wanted to produce the tournament. He explained that the SKA would be more comfortable producing the tournament. He suggested that the two parties were in a bad state of mind; therefore, he did not have faith that either party could produce a tournament that would be beneficial to the Kingfish Association.

Commissioner Jones clarified that the SKA would not sanction the event produced by the parties in question.

Mr. Burchfield stated that on Friday Mr. Workman had told him that if he did not attend the meeting Mr. Holmes would make the presentation. He noted that what Mr. Holmes had stated was a different story than he had heard from Mr. Workman on Friday.

Donald Combs, 3870 Coastal Highway, said that he would present the Kingbuster 400, which he had been part of from the inception. He distributed a hardcopy of his power point presentation to the Commission.

Commissioner Burk questioned how long the tournament had been in existence.

Mr. Combs replied since 1995. He indicated the logo for the 2003 season and the "Kingbuster" trademark, which was registered to C. & H. Lores Ultimate Tackle, of which he was the president and founding partner. He noted that if there were another tournament held in St. Augustine it could not be called "Kingbuster".

Mr. Combs said that he had a conversation the previous Thursday with Mr. Holmes, and Mr. Burchfield and witnesses, when he was informed that the City

Commissioners would make the decision of who would run the tournament, and the SKA would sanction the Commissioner's choice. He referred to a copy of the Angler Magazine in which the "Kingbuster" tournament was listed as sanctioned by the SKA.

Mr. Combs pointed out that he had created the brochure for 2003, which included \$165,000 in prizes. He said that the name "Kingbuster" came from a lure made by Lores, and he sent out 110,000 every year. He said that Mr. Workman had been a managing partner of C. & H. Lores that approached the City on behalf of Lores to promote fishing and their product. He said that when Mr. Workman terminated his employment with C. & H. Lores he decided that he wanted the tournament for himself, and then he turned it over to the SKA like it was an object up for grabs. He said that he had paid to send out over one million pieces of literature from Lores advertising the tournament over the past 8-years, therefore the event was not up for grabs.

Mr. Combs referred to the Lores catalog depicting the St. Augustine Marina that he had sent out to 25,000 people, which Lores had paid for. He said that for 2003 he had created a "Kingbuster 400" web site further depicting St. Augustine.

Mr. Combs noted that Mercury Motors had told him and Mr. Workman that they would work with whomever the City Commission chose to produce the tournament. He noted that they had 400-boats in the tournament for all but one year. He described the prizes for the winners and the itinerary for the tournament. He noted his and his partners experience and qualifications to run the tournament. He noted that he was prepared to produce the tournament and offered to answer questions.

Commissioner Burk questioned whether Mr. Combs and Roger Combs were co-owners of "Kingbuster" Classics.

Mr. Combs replied that "Kingbuster Classic 400" had been the original name for the tournament; therefore they had dropped the name when the corporation was dissolved.

Commissioner Burk questioned when the corporation had been dissolved.

Mr. Combs said during the previous month when Mr. Workman had resigned. He said they had adopted the "Kingbuster 400", and he owned the trademark for the name "Kingbuster", as the tournament had been originated by C. & H. Lores.

Commissioner Burk questioned whether Mr. Workman had been a co-owner of the "Kingbuster Classic 400" when the corporation was dissolved.

Mr. Combs said that was correct.

Commissioner Crichlow clarified that if someone else produced the tournament the name "Kingbuster" could not be used, and the response was affirmative that the name "Kingbuster" could not be used by anyone but him and his brother.

A brief discussion resulted when it was clarified that Mr. Workman had been the managing partner of Lores at the time he spoke with Commissioner Lennon about their intention to produce the finest Kingfish tournament on the east coast of the U.

S., but currently Mr. Workman was not with Lores and wanted to produce the tournament himself. It was also determined that the SKA had advertised the 2003 tournament with their sanctioning.

Mr. Combs stated that it was his understanding that Mr. Holmes had not met with his board of directors; therefore he suggested that Mr. Holmes reconsider his position. He suggested that the SKA was attempting to take over his tournament.

Commissioner Crichlow questioned how not being sanctioned by the SKA could affect the tournament.

Mr. Combs said that it would affect the tournament; however, he was prepared to advertise in other locations. He noted that the SKA was not the "be all end all" of fishing tournaments; therefore it was his intention to produce the tournament without their sanctioning.

Commissioner Burk questioned whether the City received any payment for allowing the tournament.

Mr. Harriss replied that the compensation was limited. He explained that the City was paid \$500 for the use of the floating dock for weighing fish, and the City had the rights to the ice. He clarified that currently there was no licensing or permitting for the event. He said the event producer hired some off duty policeman for security and the City provided additional police officers to handle the crowd. He said that the producer also rented the Special Events Field for parking. He noted that approximately 80 boats could fit at the marina; therefore the other 380 boats came from other marinas and boat ramps around the City.

Mr. Combs clarified that the tournament was limited to 400 boats because that was the limit available around the City. He said there had been an economic impact study conducted on the "Kingbuster" Tournament indicating that the event brought \$6.5 million dollars to the City. He added that initially the TDC had provided approximately \$8,000 annually to produce the event, but once the tournament was established they no longer accepted revenue from the TDC.

Commissioner Jones questioned whether the City had drafted an RFP upon becoming aware of the two competing bodies. The response was affirmative and the Commissioner requested a copy of the RFP. He questioned whether there was a bid amount to produce the event and the length of the contract.

Mr. Harriss said that if both entities were totally equal the differentiation would be in the monetary amount they bid. He said that was not common practice, but it was an argument used in other situations in the City. He said that the length of the contract was 3-years.

Commissioner Crichlow questioned whether the amount bid was the primary concern.

Mr. Harriss noted that the bid would be the tie breaker.

Mr. Holmes distributed a hand out to the Commission containing information concerning the Southern Kingfish Association and his biography. He expressed concern that he had not received a contract from either party that wanted to produce the tournament and he pointed out that Dave Workman's name was on the past contracts..

Mr. Holmes referred to the tournament for 2002 and noted the name Donzi, as they had been the primary sponsor for the past few years. He said his impression was that Donzi had reservation about sponsoring the 2003 tournament without Mr. Workman's involvement, and he had the same reservations. He said that more importantly Mr. Pat Stinson, another partner, had not been mentioned. He said that Mr. Stinson owned the marketing company Stinson and Partners, and he believed that Mr. Stinson had been the backbone of the tournament, because he handled the brochures, mailing, and made sure there were 400 boats in the event. He noted that the Commission had not yet heard about the job that the SKA had done for the tournament. He added that the SKA also sanctioned another tournament held by the St. Augustine Sport Fishing Club, which before the SKA sanctioning had floundered. He pointed out that the only other sanctioning body for King Mackerel tournaments operated in North Carolina.

Commissioner Jones suggested that Mr. Jones tell him why the Commission should select him, not why the Commission should not select Mr. Combs.

Mr. Holmes replied that to insure the integrity and success of the tournament the Commissioners should chose the SKA over the two arguing factions. He said the question was whether the SKA could take the chance of sanctioning those factions and potentially disappoint the sponsors. He said that Donzi did not want to be a sponsor, and give away two boats, unless the SKA promoted the event. He added that Donzi Marine was a major sponsor for the SKA.

Commissioner Lennon questioned whether Mr. Workman was employed by Donzi and whether he was on the board of directors.

Mr. Holmes stated that to his knowledge Mr. Workman did not and never had worked for Donzi, he was sponsored by Donzi, but he was not on the board of directors.

Commissioner Jones questioned what being sponsored by Donzi meant.

Mr. Holmes replied that Donzi Marine paid Mr. Workman to fish.

Mayor Gardner questioned the situation around the "Kingbuster" name.

Mr. Holmes stated that they would use the name "Kingmasters", which they had used in other tournaments.

Commissioner Crichlow questioned whether SKA ran any other tournaments.

Mr. Holmes replied affirmatively and described the other tournaments the SKA ran and the number of people employed by the SKA.

Commissioner Crichlow questioned how Mr. Workman's was associated with the SKA and the proposed tournament.

Mr. Holmes replied that Mr. Workman would not be associated with the tournament, and that he was one of 31 partners in SKA, which was the reason Mr. Workman had suggested to him that the SKA run the tournament. He stated that two weeks prior he had supported Mr. Workman producing the tournament because of his association with Pat Stinson, as Mr. Stinson was the catalyst for the tournament. He added that in his opinion Mr. Combs was not capable of producing the tournament. He concluded that the situation was a mess.

Mayor Gardner questioned whether the SKA could sponsor two tournaments.

Mr. Holmes replied negatively because the SKA already sanctioned two tournaments in St. Augustine. He stated that if the SKA did not produce the tournament they were prepared to go to Jacksonville to put on a tournament of their own. He expressed a desire to work the situation out.

Commissioner Burk stated that personally she did not like the town being inundated with 400 boats; however, she knew it was good for the economy. She stated that she wanted the marina to reserve some slips at the marina for local boats.

Mr. Harriss stated that the present arrangement was that the sponsor bought-out the entire north end of the marina for the weekend. He said they moved anyone else to the south end, generally the commercial area. He noted that most locals did not want to pay for the dockage and generally the local's towed their craft; however the request could be part of the agreement.

Commissioner Burk noted that many people wanted to dock at the marina. She stated that her main concern was why Mr. Workman had not attended the meeting, and that the SKA had originally said the decision was up to the Commission but suddenly Mr. Workman was out of the picture, and the SKA wanted to produce the tournament; moreover, if they did not get their way they would go elsewhere. She stated that Mr. Combs should produce the tournament and she hoped that the SKA would reconsider sanctioning him as they had said they would, because something smelled fishy.

Commissioner Lennon said that everyone present for the issue was responsible for the success of the tournament. He said that the Combs had been most responsible as they put up the money; therefore, why would the Commission consider anyone else producing the tournament. He added that he hoped the SKA would reconsider sanctioning Mr. Combs. He expressed no concern if the event was not sanctioned.

Commissioner Crichlow stated that Mr. Comb's credentials were excellent. He said that continuity suggested that the folks who had run the event should continue to do so.

Commissioner Jones agreed with the Commissioner's continuing support for the Combs, but he said that it was unfortunate that the SKA would withdraw their sanction.

After a brief discussion it was determined that the City Manager would negotiate the contract with Mr. Combs.

**MOTION**

**Commissioner Burk MOVED to authorize the City Manager to negotiate a contract with Mr. Combs, and the City would reserve five boat slips for St. Johns County residents (during the "Kingbuster" tournament). Commissioner Lennon SECONDED the motion.**

**VOTE ON MOTION**

**AYES: Burk, Lennon, Jones,**

**Crichlow, Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

Commissioner Crichlow suggested a minimal fee in the contract, and it was agreed.

**6. ITEMS BY CITY ATTORNEY**

Mr. Wilson stated that the new Entry Corridor Review Board, by law, could not serve as a final arbiter, but the board would serve in an advisory capacity, and the City Commission would make the final decision. He noted that there would be changes made to the ordinance.

**MOTION**

**Commissioner Jones MOVED that the language aforementioned be part of the record. Commissioner Burk SECONDED the motion**

**VOTE ON MOTION**

**AYES: Jones, Burk, Crichlow,**

**Lennon, Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

Mayor Gardner requested a report regarding PUD's.

Mr. Wilson pointed out that the Commission had the authority to extend a PUD after it had been created, as a PUD expired after 18-months if work had not commenced. He pointed out that the ordinance that had been discussed during the previous

meeting was created to allow three years, and the ordinance had not been challenged within 30-days, thereby making it law for that particular PUD.

Commissioner Lennon questioned the status of the vendor selling tickets for the sightseeing train in the Plaza.

Mr. Wilson said that after some research he had discovered that there were a number of people selling tickets, and he could not find anyone else with a permit. He said that the vendor in question had pulled his operation at the request of the trolley owners.

Commissioner Lennon stated that the vendor had been selling tickets in the Plaza the previous Sunday.

Mr. Wilson said that he could amend the ordinance to stop it.

Commissioner Lennon questioned, having amended the street entertainer ordinance, whether they had to allow the Plaza to be open to vendors.

Mr. Wilson stated that there had to be ample alternate avenues of expression and designating the Plaza had satisfied the court; therefore, he was reluctant to potentially weaken the ordinance; however, with direction from the Commission he would research the matter further.

Commissioner Lennon requested that the City Attorney research further, as the Plaza was becoming a flea market.

Commissioner Crichlow questioned the cost of the vendors permit, and he was informed that a permit cost \$2.50 a day.

## **7. BY CITY CLERK**

### **7.A/ Confirmation of appointment of the fifth member to the Firefighters' Retirement Board of Trustees.**

#### **MOTION**

**Commissioner Lennon MOVED to accept Mr. Wiles as the fifth member of the Firefighters' Retirement Board of Trustees. Commissioner Burk SECONDED the motion.**

#### **VOTE ON MOTION**

**AYES: Lennon, Burk, Crichlow,**

**Jones, Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

**7.B/ Consideration of an appointment to the Historic Architectural Review Board.**

The applicants were as follows:

1. Karen G. Harvey
2. Paul L. Weaver

Tim Burchfield, Acting City Clerk, noted that Martin F. Gold had submitted his application late, but the application had been distributed before the meeting for the Commissioners consideration.

Commissioner Crichlow pointed out that Mr. Weaver was ultimately qualified for the position, because he was an architectural historian; therefore, Mr. Weaver had his vote; furthermore, he encouraged the Commission to vote for Mr. Weaver.

The Commission voted by written ballot, and Ms. Harvey received two votes and Mr. Weaver received three votes.

**8. ITEMS BY CITY MANAGER (Includes Consent Agenda)**

**8.A. Preview of upcoming Commission meetings.**

**8.B. Consideration of Office space lease renewal with the Florida Department of Children & Families.**

**8.C. Determination of legal sufficiency and acceptance of an application to appeal a Planning and Zoning Board decision relative to property located at 21 Milton Street.**

**8.D. Approval of the Intergovernmental Agreement with the Florida Department of State, Division of Historical Resources.**

**8.E. Approval of emergency funds for use by the Fire Department.**

**8.F. Consideration of property acquisitions.**

**8.G. Report concerning animal registration and licensing.**

**8.H. Consideration of traffic circulation engineer study for the Leonardi Street area.**

**8.I. Consideration of Release of Lien and Unit Connection Fee Mortgage.**

Mayor Gardner requested information regarding Item 8.F.

Mr. Harriss explained that the property acquisitions were for the expansion of the Water Treatment Plant and replacement of the Fleet Maintenance Facility.

Mr. Crichlow noted that there were some existing buildings on the property that with renovation could adequately accommodate the City Archaeological Program, and the property acquisition would put the maintenance facility on the same property as the City vehicles.

Commissioner Jones referred to Item 8.G. regarding animal registration and noted that most people in the City had not registered their pets. He suggested that he and the general public were not aware of the registration; therefore, he requested adequate advertising and public notices to inform the public.

Commissioner Burk suggested repealing the ordinance, as it was outdated and pets were generally registered through rabies ID tags.

Mr. Harriss noted that there were parts of the ordinance that needed to be eliminated, but there were parts that needed to remain.

After a brief discussion it was determined that the Humane Society should examine the ordinance for updating.

Mayor Gardner questioned whether the City received the required records from the Humane Society regarding their duties considering they received \$40,000 annually for their service. He questioned whether the county might step in.

Mr. Harriss said the county's service provided an animal control officer, but the City had hired the Humane Society to upgrade the level of service. He noted that the animal complaints to the City were quite minimal.

Mayor Gardner requested that staff examine the annual reports from the Humane Society to find out exactly what service they provided for \$40,000.

Item 8.H. was withdrawn for discussion.

## **MOTION**

**Commissioner Lennon MOVED to approve Items 8.A. through 8.G. and Item 8.I. on the Consent Agenda. Commissioner Burk SECONDED the motion.**

## **VOTE ON MOTION**

**AYES: Lennon, Burk, Crichlow,**

**Jones, Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

## **8.H. Consideration of traffic circulation engineer study for the Leonardi Street area.**

Mr. Harriss said the area in question was the intersection of Leonardi, Davis, Pellicer Streets and South Dixie Highway with a three-way stop sign, and a configuration that made the intersection complex. He said that in lieu of the recent discussion regarding roundabouts, the staff Parking and Traffic Committee felt the area would be applicable to such a study. He suggested that a roundabout could possibly slow traffic and solve the complexity problem.

Charlie Hotchkins, 190 Nix Boatyard Road, said that he lived in the area and he would be donating land to the City to solve the problem. He said that he had just learned of the roundabout and it scared him. He said that he had a different idea to solve the problem and presented the Commission with a free hand drawing, stating that his idea would save the expense of an engineers study. He added that a roundabout would eliminate parking, affect the Church and be confusing; whereas his solution would not. He concluded that he would like to be included in the engineer study as the engineer may not be aware of the historic nature of the neighborhood.

Jerry Butterbaugh, 21, Leonardi Street, said that a number of years ago a study had been conducted on the intersection, which resulted in a stop sign on Davis Street that made little difference. He recommended that an engineer talk with the citizens of the neighborhood to find a resolution. He suggested that a roundabout would create more traffic in the neighborhood. He noted that the neighborhood had not been included when Davis Street had been designated one-way. He made note of the fact that generally traffic violated the speed limit in the area; therefore, he suggested lowering the speed limit and increasing enforcement.

Commissioner Lennon suggested speed bumps to slow the traffic.

Mayor Gardner questioned whether Mr. Hotchkins drawings would eliminate the need for an engineer.

Mr. Harriss recommended that a professional deal with the matter but noted the plan did look like a partial solution. He added that a roundabout was only an option, and the neighborhood would be included in the solution.

Commissioner Crichlow suggested that the newly formed Parking and Traffic Committee be involved with the solution and serve as liaison for the residents.

Commissioner Jones questioned whether the speed limit could be lowered to 20 miles per hours until a solution was reached.

Mr. Harriss stated that the public did not realize that state law required that the speed limit be 30 miles an hour, and to lower the limit an engineering study was required. He said there had been a study conducted for the City

based on the street widths, and if the street fit the study criterion the limit could be reduced to 20 miles an hour.

Commissioner Jones questioned the viability of speed bumps.

Mr. Harriss replied that speed bumps on residential streets were a liability, but he said speed humps were acceptable. He said that he would research the matter.

## **MOTION**

**Commissioner Crichlow MOVED to proceed with a traffic consultant study for the intersection at Leonardi Street. Commissioner Jones SECONDED the motion.**

## **VOTE ON MOTION**

**AYES: Crichlow, Jones, Lennon,**

**Burk, Gardner**

**NAYES: None**

## **MOTION CARRIED UNANIMOUSLY**

### Non Agenda Item - Sidewalks

Mr. Harriss distributed a photograph of sidewalks and reported that the City had been replacing defective sidewalks. He noted that many could be replaced, but the City had to work within the budget. He questioned whether the Commission wanted to replace the sidewalks with the more expensive coquina base product or the standard sidewalk replacement mix, which produced a slightly different color that would blend with time. He noted that there had been mention made in the community of the different color replacement material.

Mayor Gardner agreed that there was a difference in the color and suggested that if the citizens wanted the coquina mix they should bear the extra cost.

Commissioner Crichlow suggested that the City add color to the concrete to help it blend.

Mr. Harriss agreed that adding color could blend the color and save the expense of the coquina mix.

A brief discussion noted that the sidewalk replacement program was designed for the safety of the public.

## **9. ITEMS BY MAYOR AND COMMISSIONERS**

### Commissioner Crichlow — Board Members

Commissioner Crichlow stated that he wanted the City Commission to direct the City Attorney to amend the ordinance requiring that members of PZB, HARB, and CEAAB be residents of the City of St. Augustine, unless qualified people had not applied, in which case the Commission could vote to allow a non-resident to serve. He added that the amendment would not be retroactive.

Mr. Harriss clarified that currently the ordinance read residents, business owners, or property owners could serve on boards; however, the request was for residents only unless there were no qualified applicants. He questioned whether the Commissioner wanted the City to accept applications from citizens living outside City limits.

Commissioner Lennon stated that he could not support that request, as there were citizens who had businesses or owned property in the City that paid high taxes and should not be excluded from serving the City.

Mayor Gardner questioned whether procedure would be for the City to accept all applications and it would be the discretion of the Commissioners to determine whether they were qualified. However, He said that Commissioner Crichlow was requesting that determination be made by vote.

Commissioner Burk stated that her understanding was that the Commissioners receive a list of residents and if no one was qualified the Commission would request non residents to apply.

Commissioner Crichlow stated that they were citizen boards with quasi judicial authority; therefore, he considered it imperative that the members be residents of the City.

Commissioner Lennon suggested that the Commissioner Crichlow's method of determination would embarrass citizens publicly.

Commissioner Crichlow stated that they would not be embarrassed; they would not be on the list.

Mr. Harriss clarified that if a list was presented to the Commission they would have to make a determination as a group and if none of the applicants won the City would seek non-residents.

Mr. Harriss questioned whether the Commissioner wanted the City Clerk to accept applications from non-residents with that understanding or not accept application from non-residents. He stated that he needed the Commissioners direction for operation.

Commissioner Burk suggested that the City Clerk accept applications from non-residents and create two packets.

Commissioner Jones objected to using the term qualified, as the Commissioners choice was subjective. He suggested that using the term could put the City in the position for a liable suit.

A discussion ensued and it was agreed to strike the term *qualified* and simply use *City resident*.

Commissioner Crichlow said his recommendation was based on citizen requests as the people of the City wanted to be in charge of their own destiny.

Mayor Gardner suggested that consideration should be given to City property owners whether they were residents or not.

After a brief discussion the consensus of the Commission was for the City Attorney to amend the ordinance to reflect the aforementioned.

#### Commissioner Jones — Agenda

Commissioner Jones requested that Item 12. on the agenda be amended to allow 5 minutes of public comment and 15 minute presentations would be submitted for approval by the Commission or the City Manager.

After a discussion it was agreed.

#### **MOTION**

**Commissioner Jones MOVED to amend the agenda to reflect that public comments be limited to five minutes at the end of the meeting prior to adjournment, and comment may be made by any citizen, and fifteen minute presentations must be prepared and submitted to be sponsored by staff or the Commission. Commissioner Burk SECONDED the motion.**

Mayor Gardner stated that there was the appearance of going back to shutting the public out, therefore it should be noted that the Commission had the authority to change the agenda at any time.

#### **VOTE ON MOTION**

**AYES: Jones, Burk, Crichlow,**

**Lennon, Gardner**

**NAYES: None**

#### **MOTION CARRIED UNANIMOUSLY**

Commissioner Burk — Horse drawn carriages

Commissioner Burk stated that the carriage horses looked bad. She said that currently the carriage company hired their own veterinarians; therefore, she suggested that the City hire a veterinarian for inspections to issue certificates and the City be reimbursed by the carriage company. She said that she believed the horses were inspected once a year, which was insane. She suggested that the horses be inspected four times a year or even monthly.

Mr. Harriss said that when the inspection began an expert from the University of Florida prescribed a course of action for the horses. He suggested further input from an expert. He said that it would be no problem for the City to hire a vet and be reimbursed by the carriage company. He said that staff would secure the expert and veterinarian.

Commissioner Lennon questioned what difference it made, as a vet was a registered doctor.

Commissioner Burk stated that was like saying all lawyers were equal.

Mr. Harriss stated that the City might hire the same vet that the carriage company had, but the difference would be that he would be working for the City and not the carriage company. He said that staff would look into the Commissioners request.

## **10. APPEALS AND PUBLIC HEARINGS**

**(Not pertaining to ordinances and resolutions)**

### **10.A/ Public hearing and appeal of a Planning and Zoning Board decision relative to the Sebastian View Subdivision located on Lewis Speedway.**

Mark Knight, Director, Planning and Building Department, was sworn and said that the appeal was for the PZB decision made on January 7, 2003, when the board reviewed a request to install a bulkhead to stabilize uplands on properties located at 3378, 3384, 3306, 3354, 3360 and 3258 Lewis Speedway. He said it was a recent platted subdivision, and the developer was beginning construction of homes. He said that the property had been filled and a stop order had been initiated until the developer could complete the engineering, but there was still some dirt in the bulkhead that needed to be removed. He said it was up to the Commission to determine whether the PZB had erred and then reverse, affirm or modify the decision.

Commissioner Lennon questioned whether the fill had been installed to comply with the 9-foot limit.

Mr. Knight replied that it had been put down to raise the lot to the level of the lot immediately south. He said that he would not be surprised if the developer had put the fill down to get to the 9-foot limit.

Exparte communications

Commissioner Crichlow reported that he had been to the site, and he had spoken with Mrs. Mills.

Mayor Gardner reported that he had been to the site and discussed the matter with Gina Burrell.

George McClure, 170 Malaga Street, counsel for the appellant Tim Ford, said the appeal was regarding a denial for a permit for Conservation Zone Two development dealing with six lots located in the Sebastian View subdivision. He gave a brief of the history of the subdivision and the standards determined by the PZB.

Mr. McClure said that there had been ample discussion regarding the subdivision because of the location of the uplands and the marshes that represented the headlands of the San Sebastian River. He said that Conservation Zone Two development represented development that was within 100-feet of the mean high water mark or jurisdiction line, whichever was most landward. He said that in that case the wetland jurisdiction line represented a clear bluff between the upland and the beginning of the salt marshes. He noted for the Commission that the application was for a permit not a zoning variance or exception, in other words his client was not asking for relief, change of classification, or claiming hardship. He stated that a permit contemplated that if the applicant met certain criterion he/she was entitled to the issuance of a permit. He said the PZB had erred, because they had not considered the criterion for the determinacy of the issuance of a permit.

Mr. McClure referred to the minutes of the January 7, 2003, PZB meeting which established the departure from the Code. He said the Code was intended to protect adjacent wetland systems. He said that the PZB expected a developer to consider natural and proposed drainage patterns, effective point and non-point discharge into the marine environment, proposed soil stabilization and erosion control methods, affect on vegetation and shellfish, impact on vegetative and animal communities, impact of development on plant and animal habitat, potential loss of acres and percent of site, impact of development on water quality, and impact of development on shellfish, commercial and sport fish and water fowl. He said the aforementioned criterion were concerns of the City to protect the ecological systems existing in the City with a water front community. He said the minutes from the PZB indicated that was not the board's consideration. He said that Mr. Ford had gone to the board with the proposal for a bulkhead on six lots, which represented a better method of insuring that the upland soil was stabilized and stop sediment from flowing into the marsh, which could jeopardize the aforementioned ecological qualities of the marshlands.

Mr. McClure pointed out that the minutes revealed that the board had discussed their sentiment that the application should never have been approved as opposed to addressing the application. He noted Mr. Ford's qualifications and the steps he had taken to adhere to all the rules and regulation in connection to the site, and his intention to complete the development in a responsible fashion. He noted that regardless of the board's opposition to the development they could not legally deny all of Mr. Ford's applications. He said the applications must be evaluated based on the criterion that currently existed and apply the rules within the Code.

Tim Ford, 29 Bermuda Run, noted that the development consisted of 23 lots and currently there were four houses and one under construction. He explained that upon

preparing the lot for construction it came to his attention that he had exceeded the standard limit for normal fill without a necessary form. He admitted that it was his fault, therefore he received a stop order which he rectified and the stop order was released. However, in the course of the matter Water Management had been contacted to find out whether he could build on the lot, but the matter was out of their jurisdiction. He said DEP had been contacted also and after inspecting the site it was agreed to delineate the separation between highlands and wetlands by moving inland. He said that after the move the DEP had reviewed the situation again and acknowledged compliance, as well as suggesting that he consider putting a man made retainer wall to contain the bluff and fill area and provide a clear delineation between the human and natural habitat without a transverse of the area. He said they also suggested raising the bulkhead design another six inches and then grade off the property to eliminate wash-off. He said with that suggestion he had made application with the City to construct the bulkhead.

Mr. McClure cross examined Mr. Ford to establish the following:

- The City had asked Mr. Ford to stop work on one lot due to the fill
- One lot was completed and occupied
- The ability to build the bulkhead did not affect his ability to build on any of the lots
- All the lots were buildable and varied in depth from 100 to 175-feet of buildable area
- the proposed bulkhead was approximately 4-feet tall and designed for retaining
- The bulkhead was located entirely on the uplands
- Wetlands would not be built on

Commissioner Lennon questioned whether the aforementioned information with letters and agreements from the DEP had been presented to the board.

Mr. Ford replied that it had, as well as staff's recommendation for the bulkhead.

Mayor Gardner questioned whether it was one lot affected by the bulkhead.

Mr. Ford stated that there were six lots determined better off with the bulkhead, but the bulkhead did not determine the buildability of the lots, it simply minimized the environmental impact.

Bill Brown, 2825 Lewis Speedway, was sworn and said that he was a biologist for Environmental Services on Lewis Speedway.

Mr. McClure established Mr. Brown's qualifications and asked him to describe the site for the Commission.

Mr. Brown noted that lot number 22 was the one in question regarding the fill that had been placed in the wetland. He said there had been some impact on the wetland, but the fill had been pulled back to the jurisdiction line. He noted that there had been a filtration fence installed along the lot line to contain the fill. He said that lot 21 was currently being built on and no fill had gotten into the wetland.

Mr. McClure questioned the forestation and ground cover on the uplands.

Mr. Brown replied that lot 22 had been mostly cleared of vegetation, and lot 21 had some vegetation on the jurisdiction line next to the marsh.

Mr. McClure questioned whether the site in question had a significant environmental characteristic or habitat for flora or fauna.

Mr. Brown noted that St. John's County regulated several communities that were designated significant natural communities, but the property in question did not fall into any of those categories.

Mr. McClure questioned whether the site was a nesting or roosting habitat for any endangered species, and the response was no. He referred to the Code and the concerns for determining the affect of development on soil stabilization, impact on vegetative and animal communities, vegetation and shellfish and water quality. He asked Mr. Brown whether those characteristics were better served by a natural berm or the creation of a bulkhead.

Mr. Brown stated that in his opinion the bulkhead was a good idea, because it would serve as demarcation of boundaries between development and natural areas for vegetation and wildlife, keep nutrient laden stormwater out of the marsh, and it would prevent drainage into the marsh from increasing the threat of erosion.

Mr. McClure questioned where the water would run if it was not directed off the back of the lots.

Mr. Brown replied that it would seep into the ground, or it would run toward the front of the lot into the roadside ditch along Lewis Speedway that ultimately dumped into the San Sebastian River.

Mr. McClure questioned whether the ditch provided additional treatment.

Mr. Brown stated that the ditch would provide some stormwater treatment.

Mr. McClure said that Code also referred to softening bulkheads adjacent to wetlands, and he questioned why that was important.

Mr. Brown responded that if the bulkhead was built there should be some rip rap placed to provide the softening action and allow plants to grow and over time create a more natural environment. He added that with rip rap in place there would never be a question of flooding or erosion on the lots.

Mayor Gardner opened the public hearing. He had all those prepared to speak to stand and be sworn simultaneously.

Deborah Andrews, Attorney for Diane Mills, stated that there were several reasons to uphold the decision of the PZB. She questioned Mr. Knight to establish the following:

- The lots were adjacent to the salt marsh associated with the San Sebastian River

- The jurisdictional line crossed through all the lots
- The San Sebastian River supported shellfish
- Documentation was not provided to the PZB regarding the DEP
- The Planning and Building Department had not received notification from the DEP regarding illegal association with the lot in question

Ms. Andrews distributed a copy of the letter from the DEP and copies of photographs of the location in question and stated that there had been a violation. She stated that Mr. Ford's understanding of what the DEP had said was classic hearsay, and the correspondence from the DEP did not support his statement. She referred to the photographs she had distributed and noted that the applicant created the problem by bringing fill material into the lot that washed into the wetlands. She referred to another photograph which indicated that if water was directed toward the front of the property it would cause further flooding on Lewis Speedway.

Commission Lennon suggested that the applicant was attempting to stop the flooding problem.

Ms. Andrews stated that based on the topography of the area water dropped from the east to the west, and Mr. Ford was attempting to alter that natural flow. She said that stormwater facilities required engineer designed plans; however, Mr. Ford had been hand drawn, not an engineer's rendition. She noted that there was no reference in the Water Management Manual to bulkheads serving as a stormwater management control devices.

Ms. Andrews proceeded to question Mr. Brown asking whether he had submitted an application to the St. Johns River Water Management requesting a bulkhead as a stormwater management system.

Mr. McClure stated that he had not presented Mr. Brown as an engineer. He noted that Ms. Andrews could cross examine Mr. Brown about anything he had said during his direct, but she could not use him as an expert when she had not provided one; furthermore, for her to testify as an engineer was inappropriate. He said they were not in a court of law; therefore, it was unfair to ask the Commission to make rulings of law. He noted that she had not qualified herself to testify as a witness nor had the photographs been authenticated. He said that the simple rules of fair play were for Ms. Andrews to present her case.

A brief discussion followed regarding Mr. McClure's examination of Mr. Ford.

Ms. Andrews cross examined Mr. Brown to establish the following:

- Mr. Brown was not a stormwater engineering expert and was not qualified to give an expert opinion about the flow of water or stormwater management systems
- The bulkhead was intended to contain the fill necessary to raise the lot to make it buildable
- He could not comment about stormwater issues or water management permits
- He had no knowledge of a similar system being used for stormwater management purposes

- He had not witnessed correspondence from the DEP on the issue, nor did he know if Mr. Ford had received a permit from the DEP for a bulkhead
- The bulkhead would minimize nutrient laden water from flowing into the salt marsh

Mr. McClure objected to Ms. Andrews questions, and he suggested that she was wasting time with them.

Ms. Andrews objected to Mr. McClure's testimony at the beginning of his presentation as being not factual based as lawyers were intended to deliver.

Commissioner Lennon suggested that Ms. Andrews was trying to mislead the Commission by saying she had engineering skills.

Ms. Andrews clarified that she was not an engineer but there were no engineering plans in the application, which was a lack of evidence.

Ms. Andrews cross examined Mr. Ford to establish the following:

- Mr. Ford had received a letter recommending a bulkhead or a natural form of retention from the DEP, and they could not approve a bulkhead
- He had given the letter to the building department when applying for the permit
- Natural vegetation or man made material was suggested as a form of retention
- Staff report had a positive recommendation for a permit for the bulkhead
- He had not provided engineering drawings; he made the drawings himself

Ms. Andrews cross examined Diane Mills, 3455 Lewis Speedway, to establish the following:

- Ms. Mills had taken the photographs indicating flooding on Lewis Speedway, a Wood stork feeding in the drainage ditch, and fill running into the wetlands
- She lived approximately 151 feet from the property in question
- Lewis Speedway flooded all the time
- Ms. Mills felt that Mr. Ford's development was detrimental to the neighborhood, the existing houses, and the environment.

Mayor Gardner questioned whether the fill was eroding or if the fill was causing further erosion.

Ms. Mills said the fill was washing into the wetlands.

Ms. Andrews said that in a Conservation Overlay Zone Two the first 25-feet was supposed to remain undeveloped; however, Mr. Ford's proposed bulkhead would represent a development structure, and it would reside within the first 25-feet from the wetlands. She said that according to Code ground cover and vegetation up to 36-inches should be retained, but the fill area violated that section of the Code. She said the most important reason to deny the appeal was to protect estuaries and lagoons from construction on gently sloping shorelines as according to the Florida Statutes.

Mayor Gardner questioned whether Ms. Andrews opposed to rip rapping because it would impose further into the wetlands.

Ms. Andrew said yes, and it was not included in Mr. Fords diagram. She said the bulkhead was slated for construction on the wetland line, therefore the rip rap material would be in the marsh on top of the grasses. She stated that the rip rap would not be necessary if there was no bulkhead.

Chap Johnson, 3294 Lewis Speedway, stated that after listening to the hearing he thought the Commission should require bulkheads to protect the wetlands.

David Thunderstorm Queen, 16 Fountain of Youth Boulevard, was sworn and stated that Mr. Brown was probably trying to make a living, but he was not an expert witness. He said that environmental service companies were filled with biologists that prostitute science for money. He suggested that the Commission protect what was left of St. Augustine by stopping the development on the edge of the wetlands.

Mayor Gardner closed the public hearing.

Mr. McClure read a letter from the DEP into the record suggesting that Mr. Ford build a permanent retaining wall on the upland portion of the property to stabilize the fill material and prevent further erosion of that material into the wetlands. He questioned Mr. Ford to establish the following:

- The proposed retaining wall was entirely upland of the wetland jurisdiction line
- The proposed retaining wall did not require a permit from the DEP
- The photographs provided by Ms. Mill demonstrated flooding on Lewis Speedway that was not on the same side of the road as Mr. Ford's property

Mr. McClure questioned Mr. Brown to establish the following:

- Wood storks foraged in shallow open water; therefore, in road side ditches and retention ponds
- U. S. Wildlife Service regulated activities that affected the roosting areas of wood storks as opposed to where they foraged
- Mr. Brown had often been involved in the permitting of bulkheads
- Bulkhead were required to have the softening of rip rap and be placed waterward of the rip rap by the DEP

Mr. McClure stated that he objected to the quoting of law that was extracted out of context. He pointed out that the statute Ms. Andrew read pertained to seawalls, which required permits from the state. He noted that the state tended to discourage seawalls except in certain cases such as marinas. He said that the statute did not deal with uplands that were not adjacent to open water and that was why Mr. Ford did not require a permit from the state. He suggested that Ms. Andrews was trying to trick the Commission. He encouraged the Commission to approve the bulkhead as it would provide a permanent improvement supporting the goals and objectives of the City Code. He said that according to the PZB minutes error had been demonstrated, and his client had abundantly established that he met the criterion for the issuance of the permit.

Ms. Andrews expressed offense at Mr. McClure's suggestion that she was trying to mislead the Commission. She assured the Commission that the law she read to them was pertinent to her argument, as the San Sebastian was an estuary. She stated that the proposed bulkhead was to be on the edge of the jurisdictional line and in Conservation Zone Two, which was intended to be a vegetative natural buffer. She said the City Code referred to softening with rip rap for existing bulkheads; it did not say they had the authority to permit bulkheads. She submitted that the Commission had the authority to deny the appeal with sufficient and substantial evidence to uphold the PZB decision.

Mayor Gardner questioned whether Mr. Ford required a DEP permit for a bulkhead in the proposed location, and if not, was the City Code stricter for requiring a permit.

Mr. Knight responded that generally anything waterward of the jurisdictional line was handled by the DEP and anything landward of that line was a City issue; therefore, a bulkhead approval from the City would not require DEP approval. He said that DEP had only become involved, because it had been the City's perception that the area was wetlands. He agreed that the proposed bulkhead was in Conservation Zone Two and required approval from the PZB. He added that the City required more regulation of the uplands and the DEP required more regulation of the wetlands.

Mayor Gardner questioned whether the interaction with the DEP regarding fill and its removal was accurate.

Mr. Knight said the fill in the upland portion would have to be removed if Mr. Ford did not get bulkhead approval

Commissioner Burk questioned whether Mr. Ford intended to build the bulkhead in the 20-foot buffer.

Mr. Knight replied that it was not and it would run from 1-10 feet from the jurisdictional line.

Commissioner Burk noted that she had been strongly opposed to the project, because of the 50-foot lots backing up to the wetlands. She referred to the lot on the map and suggested that there was not enough space to build a house. She said that in order to get approval for the project Mr. Ford had agreed to maintain a 20-foot buffer between the wetlands and the building. She said that currently Mr. Ford was trying to get out of that agreement by putting a bulkhead within the buffer. She referred to the minutes from the PZB meeting and stated that the berm along the rear of the property had been required by the City. She said the option of a bulkhead had been discussed, but the Commission had chosen the natural berm. She questioned how the City could be certain that Mr. Ford maintained the berm, and what had happened to the berm if Mr. Ford was putting in fill dirt. She stated that what Mr. Ford was doing was not right.

Commissioner Crichlow questioned why Mr. Ford had added fill to the lot when it was not in the site plan and the reason Mr. Ford had been cited.

Mr. Ford replied that he had filled the lot to just below the grade of road to establish the swale area in front and reach the nine foot elevation for the house. He said he

filled a triangular piece around the house to avoid a disproportionate lot. He added that he had not filled above the natural grade, but a foot lower than the closest natural grade to get closer to the road and driveway grade and above the front yard swale to maintain retention. He admitted that it had been his error, but one side of the lot had been filled and the other side had not.

Commissioner Burk stated that Mr. Ford had been aware of the situation when he had agreed to the urban berm. She questioned how he had intended to build the berm

Mr. Ford agreed, but added a certain amount of fill was allowed. He said the berm he had agreed to build was a one foot by one foot skirt along the back of the property along the natural grade to slow running water into the wetland.

Commissioner Burk questioned where the berm would be if the bulkhead was approved.

Mr. Ford stated that if the bulkhead was approved it would serve as the berm. He noted that the other houses had the specified berm. He added that six of the twenty three lots would benefit from a permanent retaining wall.

Commissioner Burk said that Mr. Ford was simply trying to break his agreement.

Mr. McClure objected that his client was entitled to have the hearing based on the evidence presented, and Commissioner Burk was introducing additional evidence. He stated that his client was not trying to put a structure within the 20-feet, he was trying to prevent erosion into the wetlands which would be better served by the bulkhead than the berm; therefore he was not trying to avoid the City's laws

Commissioner Burk noted that the erosion was being caused by the fill Mr. Ford had brought in.

Mr. McClure pointed out that his client was allowed to bring the fill in.

Commissioner Burk agreed; however, it was not supposed to run into the wetlands.

Mr. McClure stated that even if Mr. Ford did not bring in the fill, whoever bought the property would landscape and affect the wetlands. He concluded that Mr. Ford met the criterion for the permit he had applied for.

Commissioner Jones questioned whether Mr. Ford intended to develop all 23 lots.

Mr. Ford said that he no longer owned all the lots. He added that out of fifteen buyers, six had bought additional property.

Commissioner Jones suggested that Mr. Ford had filled more than a half of one lot considering the amount of fill he had used.

Mr. Ford attempted to disprove the Commissioner's suggestion with his calculations.

Commissioner Jones suggested that the next lot was partially under water as a result of Mr. Ford's fill.

Mr. Ford replied that the next lot was at its natural grade, and it was not under water.

Commissioner Jones referred to the photographs and questioned the survey related to the amount of the fill and the placement of the flags.

Mr. Ford said that the man who had conducted the survey for the original plat had designated where the fill would be distributed. He said that the flags were installed by the DEP to indicate where the fill had to be moved.

Mr. Jones questioned whether the bulkhead would be where the flags were and the response was affirmative.

There was a brief discussion regarding the water running toward the front of the property and the grading of the property.

Mr. Ford noted that much of the fill washout the Commission saw in the photographs was the result of the torrential rain experienced during the past three weeks. He said that it was his responsibility to go in and clean it up and the DEP monitored the situation.

Commissioner Burk questioned whether there were other ways to build at a nine foot elevation.

Commissioner Crichlow said a stem wall could be built.

Commissioner Burk noted that the letter from the DEP had not recommended a retaining wall.

## **MOTION**

**Commissioner Burk MOVED to deny the appeal. Commissioner Jones SECONDED the motion.**

## **VOTE ON MOTION**

**AYES: Burk, Jones, Crichlow,**

**Gardner**

**NAYES: Lennon**

**MOTION CARRIED 4/1**

## **11. RESOLUTIONS AND ORDINANCES**

**(To include public hearing)**

## **11. A/ Resolutions**

**11.A.1/ Consideration of Resolution 2003-03, to Vest all Right, Title, Easement, and Appurtenances in and to Davis Street and Lewis Boulevard.**

### **MOTION**

**Commissioner Burk MOVED to approve Resolution 2003-03. Commissioner Lennon SECONDED the motion.**

### **VOTE ON MOTION**

**AYES: Burk, Lennon, Jones,**

**Crichlow, Gardner**

**NAYES: None**

### **MOTION CARRIED UNANIMOUSLY**

**11.A.2/ Consideration of Resolution 2003-04, supporting the creation of a new Metropolitan Planning Organization (MPO) for St. Johns County incorporating the newly designated St. Augustine urbanized area.**

Mayor Gardner noted that St. Johns County and the City of St. Augustine Beach had approved the resolution. He said the FDOT favored a Regional MOP; however, he was not certain.

Mr. Harriss recommended approving the MOP. He noted that the City would not have the final say if the City opted for its own MOP. He said the FDOT wanted to make a presentation to the Commission to convince the City of their recommendation.

### **MOTION**

**Commissioner Burk MOVED to table Resolution 2003-04 until after the presentation from the FDOT. Commissioner Lennon SECONDED the motion.**

### **VOTE ON MOTION**

**AYES: Burk, Lennon, Crichlow,**

**Jones, Gardner**

**NAYES: None**

### **MOTION CARRIED UNANIMOUSLY**

## **11.B/ Ordinances — First Reading**

(None Scheduled)

**11.C/ Ordinance — First Reading — Public Hearing Required**

(None Scheduled)

**11.D/ Ordinances — Second Reading — Public Hearing**

**11.D.1/ Public Hearing - Ordinance 2003-09, concerning terms of office for the General Employees Retirement Board of Trustees.**

Mayor Gardner opened the public hearing, but there was not response.

**MOTION**

**Commissioner Jones MOVED that Ordinance 2003-09 be placed on second reading, read by title only and approved. Commissioner Lennon SECONDED the motion.**

Mr. Wilson read the title as follows:

ORDINANCE NO. 2003-09

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 20-128 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO THE CITY EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES TO PROVIDE FOR FOUR-YEAR TERMS FOR APPOINTED MEMBERS AND TO EXTEND THE TERMS OF ELECTED MEMBERS FROM TWO YEARS TO FOUR YEARS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

**VOTE ON MOTION**

**AYES: Jones, Lennon, Circhlow,**

**Lennon, Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

**12. GENERAL PUBLIC PRESENTA-**

**TIONS AND COMMENTS (15 minutes per presentations)**

David Thundershield Queen, 16 Fountain of Youth. Boulevard, addressed the Commission with his opinion regarding the Monson Motor Lodge renovation and suggested that the City preserve the historic structure. He noted that the country was a multicultural multiracial society and everyone should respect the diversity of the community.

A brief discussion revealed that short of a court order there was nothing the City could do to preserve the property, but it was suggested that some recognition be exhibited on the renovation.

Mr. Queen revealed that the owner of Lynches Pub was furious with Mr. Patel, because he had signed a 3-5 year contract with him in January of 2002; therefore he had invested over \$100,000 into improving the structure, and then he had to shut down a year later. He said that the City could not trust Mr. Patel regarding the property.

Commissioner Burk noted that Mr. Queen's argument was too late and his only other option would be to get a court injunction to stop the demolition.

### **13. Adjournment**

There being no further business, the meeting was adjourned at 10:58 p.m.

---

MAYOR

---

CITY CLERK