

CITY OF ST. AUGUSTINE

Regular City Commission Meeting

April 28, 2003

The City Commission met in a formal session Monday, April 28, 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

Timothy A. Burchfield, Director, General Services/Acting City Clerk

Mark Knight, Director, Planning and Building Department

Mark Litzinger, Director, Financial Services

Paul Williamson, Director, Public Affairs

William H. Harding, Director, Public Works

John Regan, Director, Utilities

James Whitehouse, Staff Attorney

David Shoar, Chief of Police

James Owens, Fire Chief

Orfeo Paolini, Sound Technician

Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF

ALLEGIANCE

Pastor Ronald Stafford, New Mt. Moriah Missionary Baptist Church, 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 April 14, 2003 were approved as presented.

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

Bob Jones, 45 Carrera Street, acknowledged the public meeting conducted by Commission Jones, and stated that it was good to hear the public speak without a time limitation.

Mr. Jones said that as good as the City was it was not very good to the young, senior citizens or the disabled. He suggested game tables in the Plaza for people to play checkers or chess. He also noted that the Plaza was too dark at night. He concluded that the City was way behind regarding ADA regulations.

Mr. Harriss stated that he had been working with Mr. Jones for years making the necessary adjustments as Mr. Jones reported them. He noted that business owners were not policed to be ADA compliant, but when they applied for permits for renovation they were required to comply with Federal Law.

Mr. Harriss stated that the City had purchased replacement lights for the Plaza that were higher wattage similar to those at the VIC parking area.

Julie Parker, 290 Palmetto Road, stated that she was the St. Johns County Sierra Club Coordinator. She said that she wanted to make the City aware of a program featuring Dr. Lewis Gillette Jr., a Zoologist from the University of Florida who would be speaking about *Lessons from Florida Wetlands, Contaminants and Wildlife* on May 15th at 7:00 p.m., at the Council on Aging. She read a short biography regarding Mr. Gillette's accomplishments. She presented three films produced by George Sibly to the Commission to make available for the public.

Mayor Gardner suggested that Ms. Parker investigate Channel 53, the public library, and the City would make the films available to the public through the NCO office.

Roger Van Ghent, 4005 Moultrie Foreside Boulevard, representing the County Land Acquisition Management Program distributed a handout and offered the City the opportunity to take part in the *Blueway* along the Intracoastal Waterway. He referred to the map including Duval County through to Flagler County on page two, which indicated in blue the properties that had been designated part of the *Blueway*. He explained that *Blueway* was an opportunity for landowners that might be willing to sell their property, and the State would be happy with the acquisition. He said that the program had recently purchased 8,000 acres of the Matanzas marshes purchased by the Water Management District with *Blueway* funds. He referred to page three indicating some land in St. Augustine being added to the *Blueway*. He explained that property owners were added to the *Blueway* upon request and when they were ready to sell the State would try to purchase the property. He encouraged the City to participate in the program. He stated that in the past the City had been invited to send a representative to participate on the board, but the City had declined. He said that currently there were openings on the board should the City reconsider. He added that with a representative on the board the City would have the opportunity to influence decisions concerning land acquisitions for sensitive lands that the County and City might be interested in purchasing. He noted that LAMP met monthly, from 4-6 p.m. approximately ten months of the year.

Leslie Garcia, 205 West King Street, suggested that Commissioner Lennon's comments and actions were negative regarding the vendors in the Plaza.

Mayor Gardner suggested that they focus on matters at hand and not individuals.

Mr. Garcia noted that he could not afford to pay more for vendor permits.

Wilton Rooks, 151 Santa Monica Avenue, reported that the NCO program had enjoyed favorable press in the St. Augustine Record. He said the coordinator position had been advertised and posted on the City web site and the government TV channel. He said that currently they had 14 applications for the position, and they anticipated more. He said there had been a gathering of 60 people in a neighborhood the previous night, which they anticipated to be the first official neighborhood association. He said the challenge was to get the word out to other neighborhoods. He thanked the Commissioners for their support.

Judith Fox, 290 St. George Street, president of the Citizens for the Preservation of St. Augustine, Inc., read a letter from the members of the group requesting that members of the City boards and committees consist of people who were free from conflict of interest. The letter asked that no appointee receive private gain from their position, the Commission initiate a review of all current members to determine whether they benefited from the board or committee recommendations, and that any members whose presence represented potential conflict of interest be asked to resign. She said that they also asked that all nominees for boards and committees be screened for such conflicts of interest.

Mr. Wilson replied that on any board a conflict of interest could arise, at which time the person in conflict was required to abstain from voting on the matter at hand. He said that one was expected to avoid membership on a board if conflicts of interest

occurred on a frequent basis, thereby affecting the member's ability to serve. He said it was anticipated that at one time or another all members would experience a conflict of interest.

Mayor Gardner questioned the situation of a board member who was an engineer that after approving a project submitted a bid for that project.

Mr. Wilson replied that would not be a legal conflict of interest, as there would be no guarantee of getting the project after submitting a bid.

Commissioner Crichlow said the matter was the public's perception of such a situation. He suggested amending the ordinance to see what could be done to avoid that perception, because a board member was not supposed to benefit financially from any item that went before the board. He suggested that in such a situation the board member might recuse themselves from discussion as well as voting, because they could influence the board through discussion.

Commissioner Jones questioned what happened in other cities.

Mr. Wilson stated that generally cities followed state statutes, but they could adopt additional codes of conduct. He said that it was difficult to determine the future, as sometimes board meetings created opportunities that one could not anticipate upon joining a board.

Commissioner Jones requested that the City Attorney research the matter and report the results during the subsequent meeting.

Amy Barnes, 51 Cordova Street, stated that she could not stay for the entire meeting, and she wanted to voice her opinion that an increase in vendor permits would be discriminatory. She said that it was also wrong to require one to have a business address to apply for an occupational license, because those with post office boxes would not be able to work. She stated that students with post office boxes could not paint in the Plaza. She continued that they needed proper lighting in the Plaza and electrical outlets for lighting and equipment.

A discussion resulted regarding occupational licenses, and it was determined that Ms. Barnes had misunderstood the terms and requirements for an occupational license.

David Thundershield Queen, 16 Fountain of Youth Boulevard, stated that he would like to see some fair and friendly rules for vendors in the Plaza. He said that he did professional chair massage and would prefer to work in the covered market area. He said that he would be willing to pay a few more dollars to work under cover and for electricity. He said that he served the need of visitors, and they raved about his service. He said that he would like to see the prices remain reasonable to allow artists and crafts people to work in the Plaza and not be discriminated against. He concluded that the current rotating situation for the vendors was bad for their business.

5. PRESENTATIONS AND STAFF REPORTS.

Non Agenda Item — Proclamation for the Annual Letter Carriers' Food Drive

Mayor Gardner read and presented the proclamation to Julie Gustafson and (inaudible).

Ms. Gustafson encouraged the public to participate in the food drive.

5.A/ Presentation of a Proclamation for National Historic Preservation Week.

Mayor Gardner noted that he had delivered a proclamation for National Volunteer Week at the Lighthouse where they had 125 volunteers serving.

Mayor Gardner noted that it was the 30th anniversary of the Lightner Building becoming St. Augustine's City Hall. He said that the Lightner was a tremendous example of adaptive reuse from a hotel to museum and City Hall.

Mayor Gardner announced that the City would receive a historic tourism survey from the southern office of the National Trust in June.

Mayor Gardner read and presented the National Historic Preservation Week proclamation to members of the Citizens for the Preservation of St. Augustine.

5.B/ Presentation by Tom Crawford regarding county-wide housing.

Mr. Crawford presented a power point presentation regarding affordable housing.

Mr. Crawford stated that it was a good time to bring the public up to date regarding the County's affordable housing efforts. He said that the SHIP Program, State Housing & Issues Partnership Program, which was a key program, had been in existence since 1993. He said the program dealt with down payment assistance used for housing rehabilitation through the St. Johns Housing Partnership, and a lot of those funds had been spent within the City limits, as well as the County. He said the program received approximately \$1.3 million dollars annually, but currently there was a move by the Governor to eliminate direct funding through the document stamp tax. He said that between the House and the Senate it had not been determined whether the program would be funded through the tax or funded out of the General Fund, which would constitute an annual battle. He said that the County hoped to reopen applications for the next cycle sometime in May, 2003.

Mr. Crawford stated that the housing division had been created three years earlier with three mechanisms as follows:

- Housing Community Services Division
- Housing Finance Authority
- Community Redevelopment Agency

Mr. Crawford said their mission was as follows:

- Determine affordable needs
- Federal, State, and local resources
- Promoting revitalization and economic development

Mr. Crawford said that there were three redevelopment areas within the agency as follows:

- West Augustine CRA
- Flagler Estates CRA
- Vilano Beach CRA

Mr. Crawford explained that each area had particular needs. He said some of the projects they had worked on were as follows:

- Flagler Village Apartments
- Ravenswood Forest
- Hancock Place

Mr. Crawford said the Flagler Village apartment's complex was approximately 30-years old, but it had been sold and approved for a \$4.5 million dollar Federal Home Rental Program Rehabilitation Loan; therefore a significant change should be seen within the next year in the West Augustine area. He said that Ravenswood Forest and Hancock Place were new subdivisions in the West Augustine area that had been funded at the State level where the home buyers could receive up to 25% in down payment assistance. He said the aforementioned funding complimented the SHIP program.

Mr. Crawford acknowledged Mr. Regan for his assistance in West Augustine, and explained that they had spent \$475,000 in the past year to get the lift station from behind the Fire Station off King Street and created the first new sewer in West Augustine, and currently they were working to implement an \$850,000 further expansion. He added that part of the aforementioned \$850,000 was \$470,000 in Federal EPA funds. He said that they were in the process of putting together a \$4.2 million dollar application to further expand water and sewer in West Augustine. He said that the County had purchased 388 lots, of which 285 were buildable for affordable housing in the West Augustine, which represented a tremendous economic boost to the community.

Mr. Crawford said the County had created a Fast Tract Housing Abatement Program for low income property owners who could not afford to take their houses down, and the initial pilot program cost \$50,000, and there would be no lien placed on the property. He said that the primary goal was to remove the blight. He said that six of the houses were down, and they intended to take ten houses down.

Mr. Crawford said that Northridge Lakes, a new subdivision on Woodlawn off Lewis Speedway, had also applied for 61 new homes under the State Housing Assistance Program, also a down payment assistance program, and they had received the funding.

Commissioner Lennon questioned what affordable housing currently cost.

Mr. Crawford replied that the SHIP loan sale price was \$125,000; therefore, any amount below that was considered affordable, and in a situation where people could pay 30% of their income toward mortgage or rent.

Mr. Crawford continued that the Oaks of St. Johns was a federal tax credit development that was starting construction of 160 apartments by Nease High School. He said that Stratford Mills was a state funded project with 241 apartments by the Belz Outlet Mall. He noted that the rents would be controlled under federal programs at \$550.00 a month for a two bedroom apartment, but as time passed the rents would be more affordable.

Mr. Crawford said they had a new Community Service Building at Calvin Peete Park, and Halback & Associates had recently completed the preliminary design for a new Community Center.

Mr. Crawford stated that they had a good partnership with St. Johns Housing Partnership, a non profit organization, and they provided SHIP funds to Habitat for Humanity for first time home buyers. He noted that they had increased law enforcement significantly the past year, and the communications and working relationship with the community had improved. He showed some of the buildings that had been and would be demolished.

Mr. Crawford said that the Housing Finance Authority issued tax exempt bond financing and taxable bonds. He said that the board had expanded and acted as overseer for the SHIP program. He said that Ponce Harbor on Old Moultrie Road was currently opened with 144 units, which constituted a tax credit of \$11,146,000. He said that Whispering Woods at SR 312 and SR 207 was in the second phase and financed at \$17,655,000 for 200 units. He said they had worked with a local individual concerning Maxwell Manner, located off Whitney Street, to enhance and refinance the property, and an excellent job had been done. He said that Summerset Village on US 1 would have design features for the deaf and blind, and it would be a combination of elderly and family with a total development cost of \$17,475,000.

Mr. Crawford said the needs study had revealed that by 2015 there was a projected need of 11,626 units of home ownership housing and another 8,000 rental units. He introduced two staff members and offered to answer any questions.

Commissioner Lennon questioned whether the SHIP regulations were as strict as Habitat for Humanity.

Mr. Crawford replied that Habitat had its own financing but with SHIP the assistance was written off over a ten year period. He explained the working relationship with Habitat regarding help getting the elderly into decent housing.

Non Agenda Item — Resolution 2003-07 to Support Efforts to acquire the Ponce De Leon Resort Site.

Mayor Gardner stated the he proposed the resolution as the result of many citizens indicating that they wanted to save the Ponce De Leon Resort Site. He said those citizens were serious about acquiring funding through Conservation Easement Tax Credits, and they had been in contact with the property developer. He said they had hired Fred Halback & Associates to look at the site for historic and environmental resource areas, and public/private partnerships. He noted that the City had annexed the property to increase the tax base. He stated that as of that afternoon there were petitions with over 1,500 signatures including approximately 1,300 residents of the

City who wanted the resolution approved. He said that the resolution did not represent a financial impact to the City.

Commissioner Lennon questioned who would maintain the property should the City be able to acquire it.

Mayor Gardner replied that he had heard two stories regarding the golf course, one that it was losing money but he understood that in 2001 the golf course had made \$1.6 million dollars with \$1.1 million dollar in expenditures. He said that currently the City was not in jeopardy in that regard.

Commissioner Burk pointed out that the resolution stated that the City would support efforts to preserve the property, it did not commit the City financially.

MOTION

Commissioner Burk MOVED to adopt Resolution 2003-07. Commissioner Lennon SECONDED the motion.

MOTION CARRIED UNANIMOUSLY

VOTE ON MOTION

AYES: Burk, Lennon, Jones,

Crichlow, Gardner

NAYES: None

Commissioner Jones said that having adopted the resolution should they consider approaching the citizens with a referendum to purchase the property.

Commissioner Burk stated that the suggestion was premature for discussion, as currently the matter was in the hands of the people.

Commissioner Jones suggested that the citizens consider the idea.

A brief discussion resulted when it was determined that an insert could be added to City water billing to make all the citizens aware of the matter

5.C/ Status report by the Parking and Traffic Committee.

Dan Sullivan, PAT, Chairman, distributed a handout and stated that during the April 24, 2003 PAT meeting Vice-Chairman Henry Whetstone had motioned and the committee had unanimously approved recommendations as follows:

- Develop surface parking at the San Sebastain project
- Remodel the Lightner parking lot
- Plan, design & build parking garage at VIC
- Implement signage program

- Develop parking disincentives for downtown historic area
- Develop residential parking decal plan for neighborhoods

Mr. Sullivan said that a preliminary timeline had been developed, and the committee believed that action by the Commission to initiate the aforementioned would be a significant step. He said that the committee wished to continue their involvement in the development of the proposed plans, and they looked forward to assisting the Commission with the undertaking.

Mr. Whetstone stated that the motion he made was the result of the entire committee's knowledge and input. He stated that the committee was working well together with five prior committee members and five new members, and they all had the best interest of the City in mind.

Mr. Whetstone said that in the historic district a business did not have to provide parking for customers, because the City had not wanted to demolish historic buildings to build parking lots; therefore, it was the responsibility of the Government to provide parking. He said that the Mayor had emphasized the time element to get something done, and the committee had obliged. He said the Mayor wanted traffic out of the downtown area because it was congested from 9:00 a.m. to 10:00 p.m., and that was exactly what the committee was trying to do. He said that with the surface parking and as tourism grew the City would require a garage. He said that currently the San Sebastian property could provide surface parking, and in the future a garage could be built at the location and shuttle service implemented.

Mr. Whetstone stated that the key would be disincentives implemented in the downtown area. He said that the cost of building a parking garage was approximately \$11,000 per parking space. He suggested that some of the parking spaces downtown were worth more than the cars parked in them. He said that if they thought \$1.00 an hour was too much to charge for parking, they should consider Toronto, a city that charged \$5.00 an hour and their parking garage charged \$4.00 an hour. He suggested possibly eliminating some of the parking around the Plaza. He noted that the City had some off street parking, and a shuttle service. He said customers were the people who used the restaurants, retail shops, as well as the college students. He acknowledged City Staff for their assistance in determining the financial directions.

Mayor Gardner acknowledged the committee's productivity within a short period of time.

Commissioner Crichlow agreed that the committee had gone a long way in a short time. He said the vision had been established, and now it was time for the Commission to take action. He recommended a feasibility study of how the logistics would work, and he directed the City Manager to assume the effort based on the outline for implementation provided by PAT.

MOTION

Commissioner Lennon MOVED to accept the Parking and Traffic Committee's recommendation and move forward. Commissioner Burk SECONDED the motion.

Commissioner Jones acknowledged PAT and recommended that after the feasibility study was conducted a public meeting should be held to allow the citizens exposure and input, at which point the City should take action quickly.

VOTE ON MOTION

AYES: Lennon, Burk, Crichlow,

Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

Commissioner Jones stated that he saw the recommendations as a package that required coordinating.

Mr. Sullivan acknowledged the professionalism of the Assistant City Manager, Jack Cubbedge, and Mark Litzinger.

Mayor Gardner noted that the timeline brought the project to January of 2005, and approximately a month before the Jacksonville Super Bowl; therefore, he suggested that the timeline be shortened. He questioned whether the Commission wanted to provide PAT with any further direction. He questioned whether the City Manager could provide the analysis for the subsequent meeting.

Mr. Harriss replied that based on the timeline he would endeavor to provide as much as possible for the next meeting.

Mayor Gardner noted that PAT member John Marples had researched signage and discovered that the State took years to make changes to State signage, but it was discovered that the City owned the brown and white heritage signs and the green and white signage along State highways. He said the City had permission to place and replace those signs in there location with notification to the State; therefore, they could begin with signage

Commissioner Crichlow noted that they could not currently direct all traffic to the VIC, as it would fill quickly and early; therefore, the effort had to be coordinated.

Mayor Gardner questioned whether the committee could be charged with research for a trolley system or whether that was a staff function.

Mr. Harriss replied that although some decisions would be technical in nature, staff would require the input of the committee.

Mr. Sullivan reported that Cathy Brown of the Council on Aging would give a presentation regarding shuttle systems, because of her experience with developing the Sunshine Bus Company.

Commissioner Lennon stated that charging a dollar an hour for the parking meters would not prove to be a disincentive.

6. ITEMS BY CITY ATTORNEY

(None Scheduled)

7. BY CITY CLERK

Timothy A. Burchfield, Director, General Services/Acting City Clerk, reported that the City Clerk had returned and was able to work four hours a day. He said that he was hopeful that she would be able to attend meetings in the next month.

8. ITEMS BY CITY MANAGER (Includes Consent Agenda)

Mayor Gardner requested an update regarding the situation with the Florida School for the Deaf and Blind.

Mr. Harriss reported that the D&B had been working with the Commissioners individually, and they had demonstrated a more sympathetic public program. He said that he had seen the school's attorney who would make a presentation during the subsequent meeting, at which time it would be good to have public comment.

Mayor Gardner questioned the status of the Commission priority list.

Mr. Harriss stated that he had just received the last list that evening, and staff would compile all five lists to create one.

8.A. Preview of upcoming Commission meetings.

8.B. Determination of legal sufficiency and acceptance of an application to appeal a Historic Architectural Review Board's decision relative to property located at 231 San Marco Avenue.

8.C. Authorization to negotiate a contract relative to the Avenida Menendez Seawall project.

8.D. Report concerning Vendor Permits at the Plaza de la Constitucion.

MOTION

**Commissioner Burk MOVED to approve Item 8.C. on the consent agenda.
Commissioner Lennon SECONDED the motion.**

VOTE ON MOTION

AYES: Burk, Lennon, Jones,

Crichlow, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

8.A. Preview of upcoming Commission meetings.

Mayor Gardner read the preview of upcoming Commission meetings to remind the public that on Wednesday, May 7, 2003 the Commission would conduct a public workshop regarding the street performers or busking. He said that copies of his plan were available in the NCO and on the City web site. He said that on Tuesday, May 13, 2003 there would be a shade meeting concerning Mr. Burns vs. the City followed by a workshop regarding the San Sebastian project to allow discussion amongst the Commission.

Commissioner Lennon questioned whether the Commission would receive packets including the prior contracts for the San Sebastian project and the response was affirmative.

MOTION

Commissioner Lennon MOVED to approve Item 8.A. on the Consent Agenda. Commissioner Burk SECONDED the motion.

VOTE ON MOTION

AYES: Lennon, Burk, Crichlow,

Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

8.B. Determination of legal sufficiency and acceptance of an application to appeal a Historic Architectural Review Board's decision relative to property located at 231 San Marco Avenue.

Mr. Harriss stated that most of the time appeals were legally sufficient; however, in the case of the aforementioned appeal there was a time conflict.

Mr. Wilson stated that it was the first time that particular situation had occurred. He explained that an appeal to a HARB case had to be submitted in 15-days from the day the order was rendered, and in the current case the time limit had expired before the application was submitted; therefore, he recommended that the appeal be dismissed. He added that there was nothing in the Code to allow the extension of the 15-day period. He noted that Gina Burrell had another appeal pending regarding a parking lot on the same property.

Commissioner Crichlow stated that in order to acquire a demolition permit the property owner had to stop all services, to the property such as utilities, power, sewer and water. He said that if it was a business the revenue flow would be stopped; therefore, it would be unfair to the property owner to cause further delay.

Commissioner Lennon objected to refunding the application fee, because the appeal had held up the demolition causing a major expense to the property owner.

Mayor Gardner stated that he had questioned why the City had accepted the application after the fifteen day time limit, and the City Attorney had explained that staff could not deny an appeal application, as only the Commission had that authority. He said that he appreciated Ms. Burrell's concern, and he added that the way the Code was written made the situation inconvenient for the property owner and Ms. Burrell.

Commissioner Jones said the owner was ready to move on with the project. He said that he understood what Commissioner Lennon was saying; however, he was not interested in being punitive at that time.

Commissioner Lennon suggested that the situation could be repeated.

A brief discussion determined that it was the first time the situation had come up, and it was not likely to occur again.

MOTION

Commissioner Crichlow MOVED to deny the appeal for Items 8.B. on the Consent Agenda based on the submittal time of the application and the application fee would be refunded. Commissioner Jones SECONDED the motion.

VOTE ON MOTION

AYES: Crichlow, Jones, Burk,

Lennon, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

8.D. Report concerning Vendor Permits at the Plaza de la Constitucion.

Mr. Harriss said that upon review of rates for vendor permits it had been determined that cost directly related to the program was approximately \$500 a month and the amount collected for permits was approximately \$600 a month. He said maintenance of the Plaza could not be directly attributed to a particular program or event.

Mayor Gardner questioned how the grass on the Special Events Field was able to withstand abuse.

Mr. Harriss said that the City was able to design the field with drainage etc., and they had used a hardy strain of grass designed to withstand abuse.

Commissioner Lennon stated that he wanted to move forward with his suggestion considering how much damage was waged on the Plaza, because grass could not grow in some areas of the Plaza. He recommended that the Market area be used and vendors be charged \$15 a day or \$2 an hour to use the space, and charge \$25 a day for vendor use of the grass area. He said that would help the City to maintain the

Plaza without using tax payer's money. He stated that if the vendors were not making \$2 an hour why would they be there.

Commissioner Crichlow stated that he had received complaints regarding the vendors in the Plaza. He said the complaints were not concerning the craftsman but about the professional vendors selling sunglasses etc. He said that those types of sales did not fit into a historical park. He wondered whether certain areas of the Plaza could be paved for the vendors in order to save the grass, plus it would restrict the number of vendors. He suggested eliminating the non-craft vendors or charge them a different permit fee.

Mr. Wilson stated that the Plaza had been designated for vendors to provide a reasonable alternative for people practicing First Amendment activities. He said that when the City excluded them from St. George Street they had allowed the entertainers to go any place else they wanted besides St. George Street. He said that vendors on the other hand had been restricted to the Plaza. He said the City had to differentiate between first amendment speech related type of sales and sales that were not related to expression by charging a permit fee; therefore the City was allowing everyone to vend. He said that to exclude particular types of sales could lead to lawsuits, and it would be difficult to draft an ordinance that could withstand challenge. He used the example of the Hari Krishna vendors.

Commissioner Crichlow questioned the possibility of charging different rates for different types of sales.

Mr. Wilson said the City was doing that, because speech related sales did not require a vendor permit. He said that they could raise the permit fee, but there was a risk of crossing the safe line.

Commissioner Crichlow questioned whether designated areas to save the grass and limit the number of vendors was also risky.

Mr. Wilson replied that the City rotated vending areas to preserve the grass, which the City could do as there were not that many vendors; however, if vendor sales were to increase there could be a problem.

Mayor Gardner stated that he wanted to give the public the opportunity to speak.

Commissioner Jones expressed concern that any action would create another St. George Street situation, and the City would end up with a lawsuit. He clarified that the City could not make money from selling vendor permits. He assured the audience that the Commission had not yet determined whether they would raise the permit fees. He suggested that paving certain areas would create a mess in the Plaza. He agreed that using the market could be an asset. He suggested broaching the subject during the street entertainer workshop. He said that the vendors were not following the rules for the amount of space they were allowed to use, which became an enforcement issue. He said that he would support a reasonable increase in the fees and using the market. He suggested that they look at the Plaza as a whole to determine what to do with it for the future and whether it would be a people Plaza or a park with grass. He stated that they had to make a decision that would be held up in court, as well as the potential for an increased number of vendors in the future.

Mayor Gardner questioned the subject of electric provision for the vendors.

Mr. Harriss stated that the City was improving the wattage of the light source for the Plaza; however, it was the City's policy that vendors did not require electricity.

Commissioner Lennon pointed out that many of the vendors in the Plaza had never been on St. George Street. He said when the Commission moved the vendors to the Plaza people jumped on the opportunity. He pointed out that some of the merchants in the Plaza owned stores on St. George Street. He said the Commission created the situation, but the City should be able to recoup the cost of maintenance and enforcement. He stated that the vendors, and not the taxpayers, should be absorbing the cost. He questioned the cost of renovating the Plaza.

Mr. Harriss replied that sod had cost approximately \$8,000 but with the sidewalks and irrigation etc. the cost had been in excess of \$50,000. He noted that the idea of surfacing the entire Plaza would go before the HARB for an opinion.

Commissioner Crichlow questioned whether they could regulate number and location of the vendors.

Mr. Wilson said that the rotation limited the vendors, and he was not certain how much further they could go. He noted that they had never had a large number of vendors to interfere with rotating them around the Plaza.

Commissioner Jones stated that if they tried to limit the number of vendors they would have to resort to a lottery system.

Commissioner Jones again suggested addressing the subject further during the street entertainer workshop, because the issues were intertwined. The suggested gained the consensus of the Commission.

Mayor Gardner invited public comment.

Leslie Garcia, 205 West King Street, stated that he was in the Plaza daily doing hair wraps. He displayed his occupational licenses and said the cost of the permits was \$1,000, and he lived on a disability pension; therefore, raising the cost of the permits would prohibit him from working. He claimed the grass would not grow under the Southern Oak Trees. He further claimed that the rotation process was ruining his business. He suggested that working in the Slave Market would be too cold in the winter. He agreed that crafts people should be vending in the Plaza.

Charles Dickinson, 1356 Grant Street, said he and one other artist were currently working in the Plaza, and any increase in the permit fee would hurt or eliminate the people working in the Plaza. He said the dynamic had changed when they were moved to the Plaza and retail activity began. He read from a New York City lawsuit where the distinction between what was First Amendment protected and was not had been established. He said that painting, photographs, prints, and sculptures were entitled to First Amendment protection. He suggested that the retail sales be moved into the Slave Market and allow the artists to have the rest of the Plaza.

David Thundershield Queen, 16 Fountain of Youth Boulevard, stated that he was totally opposed to being charged an exorbitant fee to work at the Plaza. He said that he had a massage chair and did not want to work on the grass, but he would like to work in the Slave Market when it was hot. He said that he would also like to work on the paved area close to the cannon; therefore he asked for a variance for himself.

Mayor Gardner closed the public comment time.

9. ITEMS BY MAYOR AND COMMISSIONERS

Commissioner Lennon — Honor Guard

Commissioner Lennon congratulated the City Police and the Honor Guard for making the front page of the newspaper. He thanked those who had sent acknowledgement of his mother's death.

Commissioner Burk — Salary Increase

Commissioner Burk said it had been 4-5 years since the Commission had received a raise; therefore, she offered the topic for discussion. She pointed out that the activities of the Commission had greatly increased with more community involvement and workshops.

Mr. Harriss replied that he had already discussed the matter with the Financial Service Director, and they planned to make a short presentation regarding an increase during the budget process. He said they were going to recommend an amount that was comparable with surrounding cities.

Commissioner Burk noted that the budget process would not be held for a number of months. She said that an increase in their salary could open the door for more citizens to participate by running for the Commission. She noted that the Commission determined whether they received a salary increase, which was a unique situation; therefore, she requested that an amended ordinance be brought before the Commission during the subsequent meeting. She also requested a copy of the existing ordinance for further discussion.

Mr. Harriss stated that Palatka was a City that he had looked at for mirroring salary.

Commissioner Jones — Condolences

Commissioner Jones extended his condolences for Commissioner Lennon's loss.

Commissioner Crichlow — Cathedral Parrish Festival.

Commissioner Crichlow announced that the Cathedral Parrish Festival would be held from May 23rd until the 26th at the Mission de Nombre Dios grounds. He said all the proceeds benefited the Cathedral Parrish Building Fund and the Cathedral Youth Program. He encouraged volunteers to donate their time to benefit the festival or purchase raffle tickets for the event. He pointed out that it was a notable event for the City.

Commissioner Lennon reported that his business would donate a motorcycle; therefore he encouraged the public to buy raffle tickets.

Mayor Gardner announced that he had volunteered for a half hour in the dunking tub.

Mayor Gardner — Cancer Relay

Mayor Gardner invited his fellow Commissioners and City Staff to participate in the cancer relay with him on May 9th and 10th, at the Florida School for the Deaf and Blind. He asked that they join his team for a lap around the track on May 10th at 10:00 a.m.

Mayor Gardner acknowledged Rene Morris for being selected the St. Augustine Police Officer of the year.

Third Annual American Youth Character Awards Ceremonies

Mayor Gardner congratulated 88 county wide high school students for being honored for serving as good role models.

Mayor Gardner noted that Carrie Johnson was recovering from heart surgery.

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 property located at 21 Milton Street.

Mr. Knight was sworn and stated that on February 4, 2003 the PZB reviewed an application for a use by exception to construct an addition to an existing church in Conservation Overlay Zone and approval for the removal of a tree in excess of 30-inches. He said that the PZB had denied the request and an appeal was filed on March 3, 2003, which was found legally sufficient on March 10, 2003. He said it was the position of the Commission to determine whether the PZB had erred and to affirm, reverse, or remand the PZB decision.

Mayor Gardner stated that he had exparte communication. He noted that since the PZB denial the applicant had revised the foot print of the plan; therefore, he questioned the process considering the revision.

Mr. Wilson replied that the Commission was allowed to find error or adapt the plans to meet the Commission requirements; therefore the matter did not have to be remanded to PZB.

Commissioner Jones stated that he had spoken with people on both sides of the issue.

Commissioner Crichlow agreed that he had also spoken with people on both sides of the issue. He said the application was for an expansion of a use by exception, but judging from the minutes of the meeting, the PZB decision had been made primarily on the matter of a tree.

Mr. Knight replied that the focus had been on the tree, and the secondary issue was the encroachment of nonresidential uses into a residential area.

Commissioner Burk noted that the PZB had voted unanimously to deny the request.

All people present to speak on the matter were sworn in simultaneously.

Dan Human, Architect, 412 Oceola Avenue, Jacksonville, put a rendition of the new site plan on the easel for the benefit of the Commission. He said that he specialized in Lutheran Church architecture all over the State of Florida. He said that he had been charged with providing compliant handicap accessible parking, restrooms, expanded kitchen, fellowship hall, and church offices. He said the current offices were approximately eight feet wide, and the kitchenette provided approximately the same space. He pointed out that the addition would not increase the size of the sanctuary. He said the proposed addition was for approximately 2,500 square feet, and the plan was to remove an existing metal storage shed and a lean to; therefore, they were actually replacing the undesirable aspects of the campus with a compatible construction.

Mr. Human noted that the blue areas on the site plan were intended to be removed and the red areas indicated the new 2,500 square foot addition. He said the site plan revision saved the pair of major oak trees, which had caused concern for the PZB. He said that the church had talked with a tree surgeon who indicated that two diseased trees and one healthy tree would require removal to accommodate construction.

Commissioner Burk reported that she had spoken with Linda (inaudible) and she had visited the site.

Mayor Gardner opened the public hearing.

The following people spoke in support of the appeal:

- Millard Surratt, 3400 Kings Road South
- Cliff Skarr, 708 Standish Drive
- John P. Hamel, 117 Marsh Island Circle
- Lee Bicknell, 19 Milton Street
- Cathy Skarr, 708 Standish Drive

Some of the comment in support of the appeal were as follows:

- The church held approximately 84 chairs, and to share a meal they had to dismiss the congregation to remove the church chairs, then tables and chairs had to be brought in and set up, and after the meal the process had to be reversed.
- The existing kitchen was the size of a galley, the offices were tiny and the current wash rooms were not handicapped accessible.

- The church was involved in local events, such as annual neighborhood yard sales, fund raisers, fall festival, Christmas caroling.
- The public was allowed to use the church for meeting rooms.
- The church kept the property clean and well maintained.
- The church was a safe place for the neighborhood children.
- The property was heavily treed, and they all appreciated the beauty of the surroundings and intended to preserve it.
- Due to root disease the church had recently been advised by a local arborist to remove two trees to protect the remaining canopy.
- By shifting the proposed addition to the east they would only have to remove one additional tree; thereby, saving the 200-year old tree that PZB expressed concern about.
- The addition would not add one seat to the sanctuary, or add one car to their parking, nor would it increase the traffic in the neighborhood.
- Functions would not be increased.
- Staff had recommended the application for approval.
- The church owned the property.
- The church had met all the requirements to carry out the addition.
- The church could sell the property to the Florida School for the Deaf and Blind.
- The church had been a good neighbor to the community.
- The church needed larger appliances and a kitchen to accommodate them, to allow more people to share in the preparation.

The following people spoke against granting the appeal:

- Melinda Rakoncay, 86 Magnolia Avenue
- Harry Hutton, 82 Magnolia Avenue
- Mary Dunlap, 4 Milton Street
- Virginia Danford, 84 Magnolia Street

Some of the comments against granting the addition were as follows:

- Residential zoning had to be protected.
- The church was a non conforming use allowed only by exception.
- The church members were not residents of the neighborhood.
- A 2,500 square foot addition represented a larger non-residential structure in the neighborhood.
- Should expansion be granted and the church sold in the future a new church could insist on further expansion.
- Florida School for the Deaf and Blind had purchased the property 20-years earlier, but had to re-sell at a loss, because they could not make use of it due to zoning.
- The church and the members were good neighbors, but there were concerns.
- The diameter of the trees the church intended to remove was debatable.
- The trees said to be diseased were healthy, and there had to be a good reason to remove the trees.
- Construction could impact the root structure and damage one of the old trees.
- There was a question regarding the setbacks in relation to the adjacent property.
- Fear that the impact of the addition would change the neighborhood.

Mayor Gardner closed the public hearing.

Mr. Human stated that the footprint fell within the zoning guidelines and the setbacks were maintained at 20-feet. He noted that the church could not afford to purchase a new home.

Mr. Skarr stated that there were 29 mature trees on the site and the church was asking for removal of one tree. He said the modified addition had been scaled down from 2,700 square feet to 2,500 square feet. He said the structures that they intended to remove used over 1,000 square feet; therefore, the church was actually requesting an additional 1,400 square feet. He corrected Mr. Human's statement saying that the setbacks were 24-feet.

Mayor Gardner questioned the number of the trees requested for removal and the number of sick trees.

Mr. Human responded that the arborist had told them that two of the three trees were diseased.

Mayor Gardner questioned whether a considerable amount of canopy would be lost.

Mr. Knight replied that the loss of canopy would not be significant. He clarified that the PZB had been concerned about one tree, but the site plan revision solved that problem, and the other two trees were less than 30 inches in diameter and did not require PZB approval for removal.

Mayor Gardner questioned whether approving the addition would affect future expansion. He questioned the parking requirements for a church.

Mr. Knight responded that parking was based on the congregation, which the church had no plan to expand, and there was sufficient property to expand parking without removing trees.

Commissioner Burk stated that should another church take over they could potentially double the congregation.

Mr. Knight pointed out that the Commission could add a condition that in the event of a new church taking over the property the buyer would have to seek approval from the City. He said that normally a use by exception would run with the applicant and not the land, but with construction it ran with the land.

Mayor Gardner questioned the status of the exception should the church be sold.

Mr. Knight said that theoretically it would be discontinued, but the City would not require that the addition be removed.

Mayor Gardner questioned whether a new church would have to seek a renewal of the exception, and the response was affirmative.

Commissioner Burk stated that the standard on an exception was that it could not be unreasonably withheld; therefore, if they allowed the expansion and a new church

took over, the City could not unreasonably withhold the use of a church or the expansion of the congregation. She said the reality was that the church would not be there forever and allowing the addition was gradually chopping the neighborhood up. She said the addition would increase traffic and parking and with a larger kitchen they would increase their events, which would lead to increased traffic in a residential neighborhood. She stated that she understood why the PZB had declined the application unanimously.

Commissioner Jones questioned the zoning categories that allowed churches without exception.

Mr. Knight replied that churches were a use by exception in every zoning category.

Commissioner Lennon questioned whether they had considered building a second story.

Mr. Human replied no, as the cost of an elevator and two stairways would be prohibitive.

Commissioner Crichlow suggested that if a different church in the future applied for exception with an increased population it could serve as a red flag for the PZB. He pointed out that if the current congregation so desired they could triple the size of their congregation. He stated that he did not view the addition as an increased intensity for the site, but he understood the concern regarding the trees. He suggested that it was easy to find someone to say that the trees were diseased, but they looked healthy to him. He said that as an architect he could visualize three or four different ways to change the footprint to save all the trees and have the original 2,700 square feet that the church had applied for. He stated that he did not like to go against PZB decisions, but the site revision had addressed the issue of the trees and further modification could solve the situation. He added that the addition would not have a negative impact on the neighborhood; therefore, he would approve the expansion with a different floor plan.

Mayor Gardner noted that during the original PZB meeting the church had been totally unprepared for opposition. He said that since that time the plan had been revised, and he had not heard strong opposition to it; therefore he would support the appeal. He questioned whether the Commission could add a condition to alleviate the fears of the neighborhood.

Mr. Wilson replied that every exception was different, and if the current exception was allowed it would change the existing circumstances on the property. He said that whoever acquired the property in the future and applied for an exception meant that circumstances would once again be altered. He stated that granting or denying an exception would not create a precedent.

Commissioner Burk emphasized that she had heard strong opposition from the neighborhood. She expressed surprise at Mayor Gardner and Commissioner Crichlow's decision. She suggested that if there was a whole new site plan they remand it to the PZB for review.

Mayor Gardner agreed that the change in site plan warranted remanding to the PZB.

Commissioner Burk pointed out that the neighbors had not seen the revised site plan.

Commissioner Crichlow agreed with remanding the matter, and stated that he would like to see a different footprint in which the trees could be saved.

Commissioner Jones questioned the church's timetable, and the response was they were flexible. He said that he was concerned with the need for ADA compliance in the restrooms. He said the addition did not represent expansion of the congregation. He said that wherever the church moved would require an exception. He noted how he would feel if his church was not allowed to expand. He suggested that a church was a good neighbor in a residential area. He said that his feelings were mixed as the church was in a tight box, and they needed some flexibility; therefore, he would like to work with them. He supported the idea of remanding the matter to the PZB and suggested preserving the trees to remove some of the community concern, and suggested that the church involve the neighborhood in the plans so they could all work together.

MOTION

Commissioner Jones MOVED to remand the application to the PZB with a new plan changing the footprint to preserve all the trees of concern. Commissioner Crichlow SECONDED the motion.

Commissioner Lennon stated that he had also heard the neighbors concern about encroachment. He reiterated that building up would relieve the concerns of the neighbors. He agreed with remanding the matter to the PZB.

Commissioner Crichlow stated that he did believe that PZB had erred, because he just did not see the addition generating more traffic or increased activity. He pointed out that the addition was also not commercial encroachment. He stated that he supported remanding the matter to the PZB.

Commissioner Jones indicated that he would not approve building a second story, as it would look more like an institution.

VOTE ON MOTION

AYES: Jones, Crichlow, Burk,

Lennon, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

Commissioner Burk questioned whether the City retained an arborist.

Mr. Harriss replied that there was not an arborists on staff.

Commissioner Burk suggested that the City had an obligation to obtain an alternate opinion regarding the trees.

Mr. Harriss replied that he would add that into the equation.

Mayor Gardner questioned whether the remaining items could be tabled.

Mr. Harriss replied that there was nothing crucial in the remaining items.

MOTION

Commissioner Burk MOVED to table the remaining items until the next meeting. Commissioner Lennon SECONDED the motion.

VOTE ON MOTION

AYES: Burk, Lennon, Jones,

Crichlow, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

11. RESOLUTIONS AND ORDINANCES

11. A/ Resolutions

11.A.1/ Consideration of Resolution 2003-01, amending the Architectural Guidelines for Historic Preservation to allow new construction in HP-1 an alternative to colonial architectural design.

11.B/ Ordinances — First Reading

11.B.1/ Introduction and consideration of Ordinance 2003-15, relating to utility deposits and utility service charges.

11.B.2/ Introduction and consideration of Ordinance 2003-16, relative to the certificate of health of animals for horse drawn carriages.

11.C/ Ordinances — First Reading — Public Hearing

(None Scheduled)

11.D/ Ordinances — Second Reading — Public Hearing

(None Scheduled)

12.A. General Public Comments (5 minutes per individual).

12.B. Presentations (15 minutes per presentation.)

(None Scheduled)

13. Adjournment

There being no further business, the meeting was adjourned at 9:57 p.m.

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MAYOR

CITY CLERK