

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
May 12, 2003

The City Commission met in a formal session Monday, May 12, 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
Dr. William Adams, Director, Heritage Tourism
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 James Lee, New Jerusalem Worship Ministries, presented the invocation, and Commissioner Lennon led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

Completion of the April 28, 2003 Agenda Items:

RESOLUTIONS

3.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.

Commissioner Crichlow stated that the resolution would allow the listed styles of architecture in HP-1, which currently allowed only Spanish Colonial Architecture. He explained that HP-1 was composed predominately of styles other than Spanish Colonial. He clarified that any style chosen would have to be

from the list included in the resolution and in the style of the predominant architecture that was *immediately adjacent* to the proposed new building. He said that *immediately adjacent* was defined as along the same street or when considering corner lots, the opposite corners. He said that the resolution had been remanded to HARB for reconsideration, and the board had agreed unanimously to move the resolution to the Commission.

Dana Ste. Claire, Chairman HARB, said the board felt strongly that other types of architectural styles should be allowed in HP-1, because a Spanish Colonial home would be out of place in a neighborhood of bungalows and framed vernacular buildings. He added that the board still felt that it would be necessary to review each new construction.

Commissioner Lennon stated that he had received quite a few complaints from citizens who did not believe the guidelines should be amended.

Mr. Ste. Claire replied that the topic had been opened to public hearing, and the only person that disagreed with the resolution had been Hildegard Pacetti. He added that the board had extensive discussion prior to voting in support of the resolution, and Ms. Pacetti had taken part in the discussion. He stated that the board felt strongly that the resolution was in the best interest of the HP-1 community and the architectural landscape of St. Augustine.

Commissioner Lennon questioned whether a year after demolition a property owner had to build the pre-existing architectural design.

Mr. Ste. Claire replied that the property owner could choose from the list of styles. He noted that Spanish Colonial

was still allowed; moreover, the HARB was not trying to prevent construction of Spanish Colonial style architecture. He said that the resolution would allow a broader range of architectural styles that would be more compatible with the surrounding landscape.

Commissioner Jones questioned the definition of *immediately adjacent*.

Mr. Ste. Claire replied that it was a general context, but there could be legal parameters included.

Commissioner Jones questioned whether he foresaw any problem with the wording.

Mr. Ste. Claire replied that he did not believe there would be a problem, as the City had evolved architecturally with pockets of different architectural styles

A brief discussion resulted in which Commissioner Crichlow read the details of the resolution to clarify *immediately adjacent*.

Mr. Ste. Claire pointed out that construction required HARB's review for an Opinion of Appropriateness prior to a Certificate of Appropriateness.

Mayor Gardner questioned what framed vernacular meant.

Commissioner Crichlow replied that it meant architecture that was common to the area.

Dr. William Adams, Director, Heritage Tourism, explained that framed meant wood and vernacular meant of, from or by the people. He said the style would not be associated with a particular school or architect, but a building designed and constructed by a person

without reference to a formal architectural style.

Mayor Gardner noted that he had received an e-mail from Nancy Sykes-Kline opposing the resolution, because HP-1 was part of the National Historic Landmark District watch list with a threatened status for new and incompatible construction. He said that Ms. Sykes-Kline's idea was that if any area should be Spanish Colonial it was the walled City areas; therefore, the architecture should evolve in that direction over the next 100-years.

Dr. Adams stated that the Colonial Historic District encompassed HP-1-2-3; furthermore, he had no idea why it was on the so called watch list, because he could not think of a single contributing structure in those districts that had been demolished since 1971. He suggested that the watch list was manufactured, artificial and produced by someone, which he had argued with the people in the National Park Service about.

Dr. Adams said that although he was not totally familiar with Commissioner Crichlow's resolution he would agree with it philosophically, because there were areas of the Colonial Historic District with contributing buildings that were constructed in the 19-20th century; therefore, the colonial period extended from 1565 until 1935.

Mr. Ste. Claire pointed out the newest member of HARB, Paul Weaver, was involved with the original and rewriting of the National Register of Historic Places; moreover, he was in favor of the amendment to the ordinance. He said the archeological dig revealed the original Spanish Colonial walled city, and south of Bridge Street there was less of the original 1572 town plan. He said that the resolution also recognized the

architectural evolution and diversity of St. Augustine. He pointed out that the varied historic architectural styles were just as important to the contribution of the architectural history of the City as Spanish Colonial. He said that although it was a good idea to develop a Spanish Colonial landscape in residential areas, he was not sure how feasible the idea was for some of the residential communities that were currently bungalows and framed vernacular styles etc.

Commission Crichlow said that although there was concern that the resolution would permanently alter the visual character of HP-1, it had been his intent to do the opposite by assuring that the character of the neighborhoods remained the same.

Mr. Ste. Claire agreed that allowing the architectural styles would improve the architectural landscape through compatibility.

Mayor Gardner expressed concern about the definition of *immediately adjacent*, and he suggested using the language *buildings in the vicinity*.

Mr. Ste. Claire said that language had not been discussed, but the language used would be opened to interpretation and discussion.

Hildegard Pacetti, 305 St. George Street, stated that she had spoken on the issue several times and written two letters to the Commissioners and to the HARB members, but she felt that her concerns had been completely ignored. She questioned whether the Commission wanted HP-1 to look like the oldest city in the United States. She said that there were few Spanish Colonial homes remaining in St. Augustine; therefore, by requiring new development to be

constructed in the Spanish Colonial style a balance could be achieved toward the City's history. She stated that the resolution would make St. Augustine look like any other city in the United States. She said that the resolution was a waste of time, a stupid proposal for the benefit of Commissioner Crichlow.

Henry Whetstone, 282 St. George Street, delivered background regarding HP-1 and pointed out that there were many Spanish Colonial structures both old and new. He said that when the HARB guidelines were created in 1984 the focus had been on Spanish Colonial development. He said at that time the board had some authority regarding density, but the board no longer had authority regarding mass, scale and density, as the authority had been given to the PZB. He stated that by instituting another type of architecture there would be no guidelines and each development would have to be handled on a case-by-case basis. He indicated that could result in an unfair system where a friend could get a project approved but someone else could not. He stated that guidelines were necessary for the architect to do his/her job.

Mr. Whetstone said that he would like another set of guidelines for HP-2 also, because he did not want to build in the Spanish style when he built the office on his motel. He added that he did not want to build in the Spanish style, because he would have to use wood windows which could not be double paned for insulation and a wood shingled roof.

Mr. Whetstone stated that there was a 22-foot lot that Commissioner Crichlow was the architect for, and that situation had generated the resolution. He said that the property owner in question wanted to build a garage, which was not

allowed in the Manucy Spanish style architecture; therefore, another architectural style would allow the property owner to have a garage. He suggested that the resolution represented a conflict of interest for Commissioner Crichlow.

Mayor Gardner questioned who would be best suited to review and set updated guidelines.

Mr. Whetstone said that power had been removed from HARB, which had lead to over extended lot coverage and density throughout the City. He suggested a solution to Commissioner Crichlow's problem for the 22-foot lot that would not alter the HARB guidelines.

Mayor Gardner stated that he was not quick to judge Commissioner Crichlow, as the resolution had withstood a thorough examination by the Commission and HARB. He questioned whether there was a conflict.

Commissioner Crichlow noted that he had brought the property at 103½ Marine Street before the HARB to get HARB's perspective regarding demolishing the existing structure and to determine whether the structure was in fact historical. He said that HARB had determined that the structure was contributing; therefore, the owner decided not to pursue demolition and sold the property. He explained that that new owner had no intention of demolishing the structure, but planned to restore the building in the existing style. He maintained that he had nothing personal to gain from the proposed resolution, except that if his house burned down he would not have to build in the Spanish Colonial style. He added that he had the best interest of St. Augustine in mind when introducing the resolution, as there were no Spanish Colonial buildings in HP-1, and the

appearance would be of a fake historical development.

Mr. Whetstone stated that there appeared to be more interest in the airport authority than in restoration in St. Augustine. He said the residents were being taxed for the airport when that money could be used for the preservation and restoration of existing homes in the City or incentives for preservation and restoration.

Commissioner Jones stated that he had been prepared to support the resolution; however, public comment had disturbed him; therefore, in light of the new information he would not support the resolution. He said the perception weighed far more than what was actually occurring.

Commissioner Crichlow further defended his position regarding the resolution.

Commissioner Burk stated that Commissioner Crichlow would have to deal with the perception, and she was certain that he was prepared to do so. She said that she had lived in HP-1 and seen an example of a new Spanish Colonial structure built in the district, which proved ridiculous considering the surrounding architecture. She stated that the resolution solved that problem.

Mayor Gardner supported the resolution with the consideration of creating an urban design review board composed of architects, planners, developers and living city experts to advise the Commission and update the guidelines.

MOTION

Commissioner Crichlow MOVED to approve Resolution 2003-01. Commissioner Burk SECONDED the motion.

Commissioner Lennon requested the Commission's input regarding Mr. Whetstone's suggestion of including HP-2 in the resolution.

Commissioner Burk said that was a whole other can of worms that could be addressed at a later date.

VOTE ON MOTION

AYES: Crichlow, Burk, Gardner

NAYES: Jones, Lennon

MOTION CARRIED 3/2

Ordinances – First Reading

3.A.2/ Introduction and consideration of Ordinance 2003-15, relating to utility deposits and utility service charges.

Mark Litzinger, Director, Financial Services, stated that the ordinance was a request by the City Commission to analyze the method of utility deposits for improvement and to reward good standing customers. He said by further request of the Commission his staff had worked with a community member regarding the matter.

Dan Sullivan, 60 Water Street, stated that often citizens gave and gave while government took and took, but in the current instance he had been honored to work with City Staff. He said the ordinance was well deserved by the residents and commercial businesses.

Mr. Litzinger explained that currently the City collected residential deposits of \$125 and non-residential deposits based on usage. He said the City remitted interest on the deposits annually and held the deposit until the account was closed. He said the ordinance would reward new and existing customers both residential and non-residential for establishing a good credit history with

the City. He read the highlights of the ordinance as follows:

- All existing residential utility customers without termination of service within the past two years or new residential customers with established good credit would not be required to make a utility deposit.
- All existing customer deposits, residential and non-residential, would be returned with interest when the customer had established a good payment history with the City of St. Augustine.
- All customers that did not pay a deposit and were disconnected twice within a two year period would be required to pay a deposit.

Mr. Litzinger stated that the approximate cost of the program would be \$4,500 fixed cost, and it would take two months to get the program in place, as the change involved some program changes. He requested that the Commission adjust the administrative set-up fee by \$5.00 to cover the cost of the program and bring the City in line with other utilities.

Commissioner Crichlow questioned the amount the City collected annually in utility deposits.

Mr. Litzinger replied that currently there was approximately \$1.2 million dollars in deposits. He said that on average there were approximately 150 plus accounts monthly.

Mayor Gardner noted that the deposits would be returned by credit to the residents account.

Mr. Harriss noted that the amount would be a large portion of the \$1.2 million dollars.

Commissioner Lennon questioned the status for small businesses.

Mr. Litzinger responded that new small commercial accounts would still be required to pay a utility deposit, as the majority of the City write-offs were for small businesses that went out of business within the first year. He said that small businesses had the option of putting up a surety bond or a letter of credit as a bank guarantee that payments would be made.

MOTION

Commissioner Jones MOVED to place Ordinance 2003-15 on first reading, read by title only and approved. Commissioner Burk SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2003-15

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, REPEALING SECTION 26-54 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO WATER AND WASTEWATER UTILITY DEPOSITS; CREATING SECTION 26-54 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO WATER AND WASTEWATER UTILITY DEPOSITS; AMENDING SECTION 26-57 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO WATER AND WASTEWATER UTILITY SERVICE CHARGES AND METER TESTS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST.

AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Jones, Burk, Crichlow, Lennon, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

3.A.3/ Introduction and consideration of Ordinance 2003-16, relative to the certificate of health of animals for horse drawn carriages.

Mr. Litzinger said the ordinance was to better certify to the public that the horses in the horse and carriage industry were in good health. He explained that the veterinarian would work for and be paid by the City, and the permit holders would be required to reimburse the costs to the City.

Commissioner Jones requested to amend the ordinance for inspection of the horses from every 30-days to every 90-days, which could eliminate harsh objections to the ordinance.

MOTION

Commissioner Jones MOVED to amend the ordinance to read ninety (90) days rather than thirty (30) days. Commissioner Lennon SECONDED the motion.

VOTE ON MOTION

AYES: Jones, Lennon, Burk, Crichlow, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

MOTION

Commissioner Jones MOVED to approve Ordinance 2003-16, as amended, on first reading, read by title only and approved.

Commissioner Lennon SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2003-16

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 27-133 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO CERTIFICATE OF HEALTH OF ANIMALS REQUIRED FOR OPERATION OF HORSE-DRAWN HACK OR CARRIAGE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

VOTE ON MOTION

AYES: Jones, Lennon, Crichlow, Burk, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

3.B/ Approval of minutes

The minutes of the Regular City Commission meetings of April 28, 2003 were approved as presented.

4. General Public Presentation and Comments (3 minutes per presentation) ¹

Betty Lippold, 54 Cuna Street, distributed a hand drawn map of the Cuna Street area and an old signed petition. She stated that she was making an urgent request for resolution at the intersection of Cuna and St. George Streets. She said the intersection was unique, as there was one-way traffic on Cuna Street to the dead-end intersection with a truck loading zone.

¹ Item 4. was heard after Item 5.C.

She explained that the trucks had gotten larger and posed a safety hazard, blocked the intersection, interfered with visibility to her business, represented danger to pedestrian traffic, and the trucks had caused damage to her property. She suggested keeping the large trucks off the street, and instruct companies to use the loading zone on Spanish Street.

Commissioner Lennon questioned whether she had shared her thoughts with the merchants on St. George Street who depended on truck deliveries. Ms. Lippold responded that she had spoken with the owner of the ice cream store and other merchants on Cuna and Spanish Streets.

Commissioner Lennon stated that he foresaw a problem regarding the St. George Street merchants. He noted that Ms. Lippold had been before the Commission in the past, and he suggested that she discuss the matter with the St. George Street merchants to find a solution. He indicated that stopping the trucks from making their deliveries would cause problems for the merchants on St. George Street.²

Mayor Gardner stated that they needed two solutions. He suggested they should allow the new Parking and Traffic Committee to address the matter and ask the City Manager what could be done as far as signage and what the City Code indicated for oversized trucks.

Mr. Harriss stated that the problem had existed since Ms. Lippold had started her business; however, he had not been able to solve the problem. He said that oversized trucks and ignoring driving regulation required the City's attention, as the violators should be cited.

² End of audio tape one

Mayor Gardner questioned whether it was feasible for the trucks to park during schedule times at the City carpentry facility, which was adjacent to Ms. Lippold's property.

Mr. Harriss said the City could dedicate some property for the trucks, but it would block the driveway for City vehicles. He noted that timing could be tricky, as deliveries were made at different times throughout the day.

Mayor Gardner questioned how active the City traffic was at the facility. He said that he had the impression that City traffic was minimal during the day.

Mr. Harriss replied that it was more than City use of the area, as there were parking spaces leased to tenants of the historic buildings. He said that he would look into the situation.

Ms. Lippold expressed gratitude and noted that the matter should be looked into before someone was hurt.

Commissioner Jones instructed the City Manager to work with Ms. Lippold toward a resolution.

Mayor Gardner reiterated that Ms. Lippold should address the matter with PAT.

Bob Jones, 45 Carrera Street, stated that he wanted the City Government to raise the priority for meeting the needs of handicapped citizens. He said that he was a member of Access Now, an organization that had successfully sued the Columbia Restaurant, Bank of American, Great Western, and there was a case pending for A1A Aleworks. He noted that most of the buildings on St. George Street were not ADA compliant. He suggested that all new buildings be inspected by professional ADA

inspectors. He questioned why brail signs were not installed on the public restrooms or why there was no interpreter for the deaf during the Commission meetings. He suggested that the City was insensitive to the handicapped.

Mayor Gardner questioned whether ADA compliancy was required in new construction.

Mr. Harriss replied that compliancy was a requirement for new construction and large renovations. He noted that unless there was a large renovation the City could not require that the businesses on St. George Street be ADA compliant.

Mr. Jones suggested that builders hire ADA inspectors, as it was not the City's jurisdiction, but the City could insist that a professional ADA inspector be used by builders.

Commissioner Crichlow stated the situations in which ADA compliancy was required. He said that the state granted some leniency when considering historical buildings. He questioned whether the ADA had made a law requiring all public buildings to comply within a specific timeline.

Mr. Harriss stated that the City had an ADA designated coordinator, and the City Building Inspector was the expert for the public properties. He noted that the City tried to comply with Mr. Jones complaints; however, that was not possible with private property. He pointed out that not all sidewalks belonged to the City.

George Edwin Taylor, 3665 Crazy Horse Trail, expressed pride for the tremendous support the City had demonstrated for veterans. He invited the Commission

take part in the Memorial Day service in the National Cemetery. ³

5. PRESENTATIONS AND STAFF REPORTS.

5.A/ Presentation of a Proclamation for Hugh Balboni Day.

Mayor Gardner read and presented the Proclamation to Superintendent Hugh Balboni.

5.B/ Presentation of a Proclamation for National Nurses Week.

Mayor Gardner read the proclamation.

5.C/ Presentation of Citizenship Awards.

Paul Williamson presented plaques and a check in the amount of \$100 to the following high school seniors:

- Elizabeth Frostenson – Allen D. Nease High School
- Adam Spalding – Bartram Trail High School
- Mitchell Curtis – Florida School for the Deaf and the Blind – Deaf Dept.
- Kim Loderhose - Florida School for the Deaf and the Blind – Blind Dept
- Tracey Wrenn – Pedro Menendez High School
- Sarah Vose – St. Augustine High School
- Megan Moubray – St. Joseph Academy

Mayor Gardner acknowledged the students achievements. He suggested that a youth advisory committee be formed by, for and of the youth. He distributed City Crest lapel pins to the students.

³ A brief recess from 6:52 until 7:07 p.m.

5.D/ Presentation by the Florida School for the Deaf and Blind.

Mayor Gardner suggested that the presentation not be opened to public hearing, as there would be at least three public hearings in the future.

Wilber Dillingham Jr., President for the Florida School for the Deaf and Blind, reported that the school had operated at the current site since 1885. He said that the school had grown and expanded from time to time, and attendance had peaks and valleys during the 118 years of existence. He said the school served specific populations with disabilities. He said the school had a residential component and served students from all over the state of Florida.

Mr. Dillingham stated that the school had been a part of the City since the 1800's, providing employment opportunities and attracting highly skilled and well educated individuals to the City. He said that historically the school and enjoyed a positive relationship with the community and City. He said that the school did not want an adversarial relationship with the City or the neighborhood, and they wanted to continue to be a positive influence in St. Augustine while meeting the needs of the children that the school served.

Mr. Dillingham stated that the schools effort to purchase the property on Genopoly and Alfred Streets was to use the land in a positive manner. He said the school had to provide a safe and secure environment for the students and control access to the campus, which was an ongoing and serious task. He said that in effort to resolve the existing concerns the school wanted Tracy Upchurch, Attorney, to make a proposal.

Mr. Upchurch said that the Florida School for the Deaf and Blind was an instrumentality of state government, was supported by the taxpayers of the state of Florida and was governed by state law. He said that every child attending the school was governed by federal law; therefore the school was dictated by the Legislature and Congress. He said that in an attempt to resolve all the issues the school proposed to move the fence in front of the Collins House back 20-feet and conform to the City Zoning Code. He said the school would file a petition to vacate the unopened alleyway currently existing between the president's home and the Collins House. He said the alleyway had never been opened or used for vehicular traffic and it was not necessary for City services nor did it provide access to private property or the public waterway. He said that the school was also willing to enter into a contract with the City for the collection of stormwater utility and the fire services assessment fees.

Mr. Upchurch said that after environmental services assessment it had been determined that the house at 2 Alfred Street had no historic value. He said that the school had submitted a request for proposal to entities and individuals that might be willing to purchase and relocate the houses in the block, but there had been no response. He said that the house at 2 Alfred Street made the other houses on the street inaccessible for relocation; therefore, the school would go before HARB requesting demolition. He said the house at 4 Alfred Street had the most historical significance and it was attractive; therefore the school would retain the house for sale and relocation or rehabilitate and relocate the structure for school purposes. He said the school would prepare a new RFP for the other properties on Alfred Street, and if they

were not relocated he would submit for demolition. He stated that the school was optimistic that removing the houses at 2 and 4 Alfred Street would encourage buyers to purchase and relocate the other homes.

Mr. Upchurch explained that the school wanted to use the property to construct four houses with a 3,000 square foot footprint used to provide an independent living experience for older students. He pointed out that federal law had changed obligating the school to provide education services to students until their 22nd birthday. He said a part of that education was to prepare the students to live independently, which was not practical in a traditional dormitory. He said the school would make that proposal in the form of a PUD to allow for City and community input. He said the area could serve as a transition between the institution and the neighborhood. He said that the western portion of the block was commercially zoned and the eastern portion was zoned RS-2. He pointed out that the school did not own the entire block, as there were two lots that were not under contract for purchase. He said that the school was prepared to move forward, and he requested support from the Commission.

Commissioner Crichlow stated that the western part of the site would be used for a large dry landscaped retention area.

Mayor Gardner referred to the draft agreement in the agenda packet and questioned whether it was the time to execute the agreement.

Mr. Upchurch stated that the school was not expecting the City to take action at that time, but they were interested in whether the Commission considered them to be on the right track.

Commissioner Crichlow questioned whether the City had any authority to influence the school regarding the property.

Mr. Wilson replied that when schools expanded off their existing campus they were more subject to local government regulations. He said the extent of that regulation had been a source of contention, but as two governmental agencies they were supposed to cooperate with one another for the interest of the public.

Commissioner Crichlow questioned whether the City had the power to stop the schools plans.

Mr. Wilson replied that the City had the power to regulate the schools plans, but he would have to research whether the City had the power to stop them.

Commissioner Jones noted that there were residents with serious concerns regarding the school's encroachment on the neighborhood. He suggested that the school take the opportunity to talk with the citizens as they worked through the City permitting process.

Mayor Gardner acknowledged the school's effort for compromise. He suggested that the school proceed with the City process.

Mr. Upchurch pointed out that the school had legal rights authorized by the federal and state government that they were putting aside in effort to achieve agreement with the City on all issues. He said that the school would return to the Commission in the future to verify that the plan was workable. ⁴

⁴ A brief recess from 7:59 until 8:07 p.m.

5.E/ Presentation by Christopher H. "Toby" Smith concerning the Ponce Golf property.

Toby Smith, Ponte Vedra, stated that the Ponce was a unique and useful piece of property that should be preserved. He said that he represented all the people of St. Johns County interested in preserving the property for public use while maintaining and supporting a substantial opportunity for return on investment, and he wanted to present an alternative solution for the Ponce. He noted that he had been the president and chief executive of the Wildlife Conservation Society. He said that there were some final moves that could be taken with respect to the property, and the proposal was to preserve the environmentally sensitive and incredibly beautiful property for all time and all generations. He introduced some of the people who had worked on the project with him and stated that it was not a small matter for the City, and he added that he took the project seriously. He said that the goal was to preserve the open space covering the golf course, because it was historically and culturally important to restore it to the original Donald Ross grandeur. He said that the second goal was to restore the course to its historic design and routing to underscore the status of the course as an attraction to the City. He said that they also sought to protect the open spaces that were integral to the course near Kurths Island and Robinson Creek. He stated that the great salt marshes of the southeast were the cradle of life itself. He said the last goal was to establish a genuine self sustaining revenue source with a golf facility that was open to the public. He said they were requesting a resolution to proceed with negotiations to acquire and rehabilitate the golf course and surrounding environs, subject to further

negotiations with the Stokes Organization and restoring it to its historic layout using appropriate public and private financing initiatives. ⁵

Fred Halback, 287 St. George Street, began the power point presentation and stated that there were three important elements concerning the property in question as follows: ⁶

- Was it environmentally appropriate to preserve
- Was there a historic influence and opportunity as related to the Donald Ross golf course
- Was it financially feasible

Mr. Halback stated that the Stokes Organization intended to develop the marsh front property, because they knew the value of the opportunity. He said they recognized environmental issues related to the golf course considering the sensitive wetlands, abundant wildlife, abundant tree canopy, and extensive shoreline and shoreline habitat. He said there was some question regarding contaminated soil on the golf course and notations about archeological sites.

Mr. Halback said that he was most interested in the historic opportunities connected to the property. He noted that historic preservation was more than the preservation of buildings, as it was also the preservation of landscape, place, culture and the historical elements that occurred within those areas. He added that the St. Augustine street grid was on the National Register of Historic Places. He said that in the proposed project he was interested in the Donald Ross element, as he had been a renowned golf course and landscape architect. He said Donald Ross had created many well

⁵ End of audio tape two

⁶ Power point presentation attached to original minutes

know golf courses throughout the country that fit into the natural environment. He showed original drawings, travel brochures, and an aerial photo of the golf course a year after it was constructed. He pointed out that the links design was in the grand style of golf course design.

Mr. Halback stated that they had spent a lot of time on the site determining the historical layout, how it fit into the current course, and what it would take to bring the course back to its historic status. He said they felt comfortable that the course could be rehabilitated to its original form to be included on the National Register of Historic Places. He demonstrated the new routing indicating the changes that would be required. He said they had contacted Bobby Weed, a local golf course architect who had restored some significant historic Donald Ross golf courses.

Mr. Halback stated that the fund strategy would require a myriad of funding opportunities. He said that they would look for federal and state grants, and private sources such as:

- Florida Communities Trust
- Northeast Florida Blueways
- Water Management District and FDEP
- USGA and other golf related sources
- 501(c)(3) "The St. Augustine Links"
- Donald Ross Society and Foundation
- Corporate and Individual Sponsors
- National and Regional Foundations

Mr. Halback said that conservation easement and tax credits were also opportunities, as well as public funding initiatives such as:

- Municipal Services Taxing Unit
- Community Development District
- User Fees

- General Obligation Bonds by voter referendum
- Community Redevelopment agency with tax increment financing

Mr. Halback said that the real purpose for creating a CRA was as follows:

- Remove blighted or sub-standard conditions
- Create a vehicle which allowed sustainable economic development and health
- Provide a concentration of resources to solve specific community needs

Mr. Halback stated that they felt confident that a CRA could be created out of the area that would meet the test of standard. He described the process for a CRA and noted that recent legislation had toughened regarding proof of the conditions for a CRA. He said that they had to prove preponderance of deteriorated buildings, which there was when considering the deteriorating resort. He said they would have to meet at least two of fourteen other listed conditions, which they could comfortably do. He said that tax increment financing was a popular method of paying for a CRA. He said that the TIF would freeze the non-exempt ad valorem tax base at the year the district was created. He said that incremental increases of the property taxes from that time forward and for the life of the sunsetted legislation would go back to the district to solve the blighted conditions. He explained that it did not create a new tax but redistributed the existing tax money. He said the theory was that by directing money back into the area it would be elevated into a higher tax base. He pointed out several potential concepts creating the boundary of the proposed CRA district, including the golf course and the Ponce resort area.

Mr. Halback said that currently they were making application with the Florida Communities Trust in the amount of \$6.6 million dollars for acquisition only, and that required a \$1.6 million dollar match. He said they intended to conduct a private funding drive to raise \$2 million dollars. He said they could qualify for \$1 to \$5 million dollars from the Northeast Florida Blueways. He noted that a 30 year bond @ 6% for a CRA could generate an income flow of between \$6 and \$10 million dollars, which could be used to leverage and create the matches for the grants, as well as rehabilitation and operation dollars.

Mr. Smith noted that the City was not constituted to run golf courses and take the risk of loss. He said the rehabilitated golf course would be an attractive operation for a professional management company, and the Stokes Organization had offered to manage the course after restoration. He said that considering a public/private hybrid golf club the course would attract a hotelier. He said that a public/private hybrid with privileges that private people paid for would not interfere with the basic public nature and access of the course. He noted that the Stokes Organization had built and operated seven golf courses. He said that by removing the capital cost element of the course, it would be self sustaining and reinvest on itself to provide incremental revenue to the City. He said the City had the option through October 31, 2003 to acquire, establish a contract, go hard with a deposit, and by the aforementioned date potential qualification for grants should be apparent.

Mr. Smith said that the exact Donald Ross design would fit within the existing golf course property, including the three holes at the entrance. He said that there

was actually property that was not required and should not be incorporated within the Ross design, including the existing club house. He said the Weed Organization had said that to replicate, but modernize the Ross design, the cost would be no more than \$3.5 million dollars, which was substantially less than building a new course. He said that the proposed closing would take place around December 31, 2003 to January 31, 2004; therefore, it would be beneficial to close the course on January 2, 2004 and reopen on October 1, 2004. He said that a proposed condition was that all parties currently opposing the final development filing of the Stokes Organization withdraw their objections and the agreement be in place by Jun 3, 2003 for the PZB meeting. He concluded that they needed a resolution to empower the City Manager to complete the negotiations and return to the Commission with a final contract that accrued no risk to the City until October 31st. He stated that if the money was not available at that time the property would revert to the 750 unit residential plan plus resort and hotel that used the golf course. ⁷

Chester Stokes, Jacksonville, stated that he thought the attempts to rehabilitate the golf course were admirable. He said that if someone came forth with a program that worked for everyone he would make the golf course available. He said that the one thing he could not afford to do was to take any longer for negotiations than necessary. He noted that he would continue his current plans simultaneously as the City tried to raise funding etc. for the project. He said that if the City was successful he would submit a new site plan for approval, but they could not be dead in the water. He pointed out that the land mapped out in

⁷ A brief recess from 8:54 until 9:00 p.m.

the power point presentation was not the exact land that was offered to the City for \$5.5 million dollars. He said that approximately one hole on the marsh front was not included in that price; therefore, if that property was necessary to rehabilitate the course there would be additional cost for the land.

Mayor Gardner noted that there were three parcels of land that did not coordinate with the presentation map. He said the Commission was aware of the deadlines, and he questioned whether an agreement would be necessary.

Mr. Stokes stated that an agreement was not necessary; he just wanted everyone to be aware that he had to continue his project and could not change his timeline.

Mr. Harriss congratulated the people involved for their innovation, and noted that the project could work. He said that there were some significant differences and expectations between Toby Smith and Chester Stokes, which basically related to cost as well as what Mr. Smith thought was important to make the project work. He expressed concern at the prospect of extending the City obligations and some of the numbers used in the presentation, as he preferred more of a cushion. He said that he would have to figure out how to make the payments on the balance of the proposed bond. He said that they could schedule a special meeting before the PZB meeting to sign a letter of intent, if not a contract. He stated that he was not convinced that there would be a meeting of minds, but he was willing to try.

Mayor Gardner questioned whether the PZB approval with a letter of intent was acceptable, or would they be taking the matter away from the PZB.

Mr. Wilson stated that Mr. Stokes' project still had to meet the legal requirements for approval. He said that contract zoning was against the law; therefore Mr. Stokes' project could only achieve approval on its merits. He said they could have a side contract stating that if the rehabilitation of the golf course worked Mr. Stokes would have to submit another plan.

Mr. Stokes reiterated that a contract was not necessary, because he would submit another plan if the golf course project was successful.

Mr. Harriss stated that time was of the essence, as there was a deadline approaching for the FCT grant and they had to start the CRA process, which was complicated. He said that it was imperative that they ask the County for their participation, and if the County was agreeable they would have to hire an attorney. He said that they could always stop the grant and CRA process should it become apparent that the project was not feasible; however, in the interest of time they had to begin those procedures.

A brief discussion was held regarding the direction the Commission should take.

Mr. Stokes stated that although there was no doubt that the golf course could be restored they should consider that there were other opportunities.

A brief discussion resulted regarding which parcels of land were necessary for the restoration, and it was determined that hole six was not included in the parcel of land for sale.

Mayor Gardner suggested a motion or series of motions to authorize the City Manager to proceed with the FCT and CRA financing applications, to schedule

or anticipate a negotiating session between Mr. Stokes, Mr. Smith, City representatives and the Save the Ponce group to resolve elements concerning land acquisition, and to set a special Commission meeting before the June PZB meeting to review progress at that point.

Commissioner Crichlow stated that he would like to save the golf course, and he commended the people involved in the proposal; therefore, he would lend his vote to proceed. However, he suggested that the Commission further consider the financial ramifications for the City. He read the letter of intent regarding the golf course operations. He said that basically it meant that the City would pay the developer for the property and pay for maintaining the course, which would be the biggest amenity for Mr. Stokes' development. He summarized that the City would be providing all that to Mr. Stokes so that he could build million dollar homes on the property while using the golf course as a marketing tool. He added that the City would have to build and maintain the course according to Mr. Stokes standards. He questioned what kind of rates the City would have to charge to maintain the course at those standards, and whether it would truly be a public golf course when considering the potential cost of fees.

Mr. Smith noted that he wanted to develop a nice community that would be a credit to the City; therefore, they were not willing to have a golf course that was in the shape the Ponce was currently. He suggested that there were ways to operate the course and still make it available to the public.

MOTION

Mayor Gardner MOVED to proceed with the CRA and the FCT and negotiate one more round and a special meeting of the City Commission before the PZB meeting to review negotiations and get an update. Commissioner Crichlow SECONDED the motion.

Commissioner Lennon noted that everyone paid taxes and part of the County taxes went toward recreation. He said that the City was not in the business of recreation, because they paid the County to perform that service. He said that there were 11,600 people living in the City and the County had 140,000 residents; therefore, he questioned why the City should pick up the tab when the County was responsible for recreation. He requested that the City Manager talk with the County about joining the City in the project.

Mr. Harriss stated that he had spoken with the County and they had indicated they would be interested in participating in the CRA, but they did not want to run another golf course, as they had one that was currently losing money.

Commissioner Burk stated that she was startled by the Terms of Operation in the Letter of Intent. She noted that there was no mention of the golf course remaining a public course, and she thought it should be for local residents use at a reasonable cost. She stated that it sounded more like the City would foot the bill for an expensive and exclusive golf course, and she wanted to be sure that did not occur.

Commissioner Crichlow suggested that they might have to make some concessions. He added that the public was interested in saving the golf course.

Mayor Gardner noted that the Letter of Intent was a work in progress. He stated that he shared the concerns of the Commissioners, but he was not certain that they could negotiate the matter during the meeting.

Commissioner Jones encouraged the people involved to move forward. He expressed concern regarding some aspects of the Letter of Intent that involved real dollars. He said he was concerned that the end result would be that the course would be for the *haves* and not the *have nots*. He suggested that there were some unanswered questions.

Commissioner Crichlow suggested that perhaps the CRA could offset the golf course operations to allow for lower fees. He said they needed some real answers to their questions.

VOTE ON MOTION

**AYES: Gardner, Crichlow, Jones
Burk, Lennon**

NAYES: None

MOTION CARRIED UNANIMOUSLY

**5.F/ Feasibility study on the Parking
and Traffic Committee's
recommendations.**

Mayor Gardner suggested that for the sake of time the Commission take time to review the feasibility study and continue the discussion during a future meeting.

Mr. Harriss pointed out that the public was interested in moving forward.

Commissioner Burk stated that upon reviewing the timeline there was only one item that began in July; therefore she suggested discussing that one element. She questioned what the Consultant for RFP meant.

Jack E. Cubbedge, Assistant City Manager, stated that the Commission

had asked whether the PAT recommendations were feasible. He said that at a staff level they had to make assumptions, but they had determined that it was economically feasible; therefore, they could proceed, but the whole concept would have to work together. He explained that they could not build a parking facility without signage to direct people or continue to allow people to park wherever they wanted. Therefore, he said that they could focus on one element, but the study was a package.

Mr. Cubbedge said the questions were whether the facility would be historically accurate, state of the art etc., or generally what it would look like. He said they needed to decide what type of architect and/or engineer would be required.

Commissioner Burk said that the Commission required some renderings from an expert regarding what the garage could look like.

Commissioner Crichlow stated that he envisioned a structure that would cover a large footprint for increased parking. He said that he thought the structure should be low visibility impact, not a building that was reminiscent of a particular type of architecture. He said that it would be good to lower the structure a few feet into the ground to minimize height impact. He suggested building a berm on the sides and use a lot of landscaping to lower the visibility impact. He said they did not need to make an architectural statement of a historical creation, but make an understatement allowing visitors to focus on the VIC. He pointed out that it was his opinion that the VIC would have to be expanded and the main entrance moved to the westside. ⁸

⁸ End of audio tape three

Mr. Cubbedge explained that some of the assumptions staff had made were as follows:

- 900-1,200 parking spaces
- Accommodate public and private transportation services
- Primary parking area for visitors
- Beginning location for transit circulator, shuttles, private tours, and pedestrian excursions
- Accommodate downtown employees and local shoppers

Mr. Cubbedge stated that if the City Manager and Commission concurred he would have someone do some schematic designs to bring back to the Commission.

MOTION

Commissioner Lennon MOVED to approve Mr. Cubbedge's recommendation. Commissioner Burk SECONDED the motion.

VOTE ON MOTION

AYES: Lennon, Burk, Crichlow, Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

Mayor Gardner noted that parking at the San Sebastian was slated to begin in October, but he wanted to know why it could not begin immediately. He said that it could provide parking for near by businesses, and overflow parking from the VIC. He said that the timeline for the Lightner parking lot made sense. He questioned why they could not begin signage immediately directing traffic to the VIC. He questioned why they should wait until November to begin the transit program. He suggested contracting with someone for a year, or at least order trolleys immediately. He said the residential and historic area parking

timeline was okay as long as PAT was working with the assistance of City staff toward the two elements.

Commissioner Lennon questioned whether a transit system had been included in the budget.

Mayor Gardner stated that there was more than \$4 million dollars CRA money that could be used.

Mr. Harriss said that the money from the CRA could be used for some of the elements in the study. He stated that some of the elements in the timeline were flexible and some were fixed. He stated that they did not need signage sending visitors to a location where there was a garage under construction and no parking.

Mayor Gardner suggested that the signage could be adjusted when construction began on the garage.

Commissioner Crichlow suggested that they move ahead with the conceptual work for the multi modal system. He suggested that they discuss the San Sebastain parking during the workshop the following day, the Lightner parking was not immediately important, but they could move ahead on the residential parking plan.

Mr. Harriss stated that they were working on defining the important elements. He suggested that the Commission write down their ideas of what they envisioned in a parking garage for the consultant preparing the conceptual plans. He said that the City would advertise for consultants to submit qualifications and go through a selection process before bringing them to the Commission.

6. ITEMS BY CITY ATTORNEY

6.A/ Proposed sale of the Mary Peck House.

Mr. Wilson reported that it had taken at least 18-months to find an interested buyer to move the house to another location. He said that a local contractor, Chris Bourguignon, intended to disassemble the structure and remove it from the site, with the intention of reassembling the structure at an alternative site. He said that upon successful reconstruction of the house in conformance with the approved plans and City inspection, the City would reimburse Mr. Bourguignon for the cost that would have been incurred by the City to demolish and remove the structure. He said that he was requesting the City Commission's approval and authorization for the City Manager to sign the agreements to complete execution of the process.

MOTION

Commissioner Lennon MOVED to accept the recommendation. Commissioner Burk SECONDED the motion.

VOTE ON MOTION

AYES: Lennon, Burk, Jones, Crichlow, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

7. BY CITY CLERK

(None Scheduled)

8. ITEMS BY CITY MANAGER (Includes Consent Agenda)

8.A. Preview of upcoming Commission meetings.

8.B. Consideration of rental rates for the historic properties.

8.C. Assignment of Residential Curbside Recycling Contract with Browning Ferris Industries, Inc. (BFI).

Commissioner Crichlow said he had read in the minutes from the Historic Preservation Advisory Committee that in the event the lessee wanted to transfer their lease, the City would obtain from the new tenant at least \$50 per square foot of the leased space as a one time payment.

Mr. Harriss agreed that the clause was remarkable; however, it was brought to his attention that the leases were lucrative and were transferred often and it was considered standard practice in the industry.

Dr. Adams stated that the practice was suggested by Mr. DeLorenzo, because it was considered common in the profession. He added that he had never entertained the thought; although the problem of transferring leases had occurred several times over the past 27-years. He noted that during the four years he had worked with the City there had only been one transfer of lease. He said that when a lessee sold their business they were principally selling location, consequently, by opinion of the broker, the landlord should enjoy the rewards of providing the opportunity to another business.

A brief discussion resulted regarding who paid the \$50 per square foot, and it was determined the first lessee was responsible for payment.

Mr. Harriss said the practical affect was that they probably would not experience a transfer of leases. He said that instead tenants would probably turn the lease

over to the City to determine whether they would have to pay for the remainder of the lease.

Dr. Adams pointed out that the practice was a matter of sharing the wealth, obtaining the benefits for the privilege of the location, and stabilizing the rental situation.

MOTION

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

VOTE ON MOTION

AYES: Lennon, Burk, Jones, Gardner

NAYES: Crichlow

MOTION CARRIED 4/1

9. ITEMS BY MAYOR AND COMMISSIONERS

Commissioner Jones - Time Responsibilities

Commissioner Jones noted that the Commission was going to have to do a better job of utilizing the meeting time to give proper attention to all items on the agenda. He said they were going to have to take measures not to repeat themselves and waste as little time as possible in order to get the job done, or they were going to have to sit it out regardless of how long it took. He urged the Commission, including himself, to do a better job with meeting time.

Mayor Gardner said that when people went before the Commission it was the most important thing in their life, but he agreed that after five hours, seventeen minutes, and thirteen seconds the Commissioners affectivity faded.

Commissioner Lennon noted that recently the Commission meetings had gone entirely too long without need.

Mayor Gardner retorted that it was the same old same old, the public got its nose in and got the meetings backed up.

Commissioner Burk noted that a lot of the delays in the meetings were not caused by the public. She suggested that the Commissioners did not need to grandstand and take time during meetings to talk about things that were not relevant.

Mayor Gardner said that he would lighten up as much as possible, and he expressed appreciation for Commissioners suggestion to call the question to move the meeting along.

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 42 San Marco Avenue. ⁹

Mayor Gardner noted that they were hearing the appeal earlier in the agenda as Mrs. Oxford had recently gotten out the hospital, and it was getting late. He requested that anyone wanting to speak regarding the appeal stand to be sworn in.

Mark Knight, Director, Planning and Building Department, said that the American Inn Hotel had originally sought a use by exception for off-site parking, but they had redesigned their plan to allow for on-site parking. He said concerns by the neighbors had been expressed, and the PZB had addressed the matter by having the developer

⁹ Item 10.A. was heard after Item 4.

construct a fence and relocate a dumpster to direct traffic away from the neighborhood. However, he said that the PZB approval had added the condition that the fence had to be concrete block instead of wood, but a masonry wall was not within the developer's budget. He said the appeal was to determine whether the PZB had erred, at which time the Commission could reverse, confirm, modify or remand the matter to the PZB.

Mr. Knight stated that he and Commissioner Crichlow had met with the developer who would be willing to construct a wood fence.

Commissioner Crichlow stated that the PZB had not erred; however, they had been over zealous for the neighborhood. He noted that the board had not been aware of the discussions between the neighborhood and the developer; therefore there had been a miscommunication. He said the appeal was to allow the developer to construct a wood fence, which would be an asset to the neighborhood.

Mayor Gardner opened the public hearing.

Doris Oxford, 6 Fletcher Lane, expressed appreciation for the help and attention she had received regarding the matter. She explained that the developer's original plan would have channeled traffic in front of her house and caused her to lose the parking space in front of her house, which she needed for her handicapped husband.

MOTION

Commissioner Crichlow MOVED to grant the appeal to require a wooden fence and not a masonry wall.

Commissioner Jones SECONDED the motion.

VOTE ON MOTION

AYES: Crichlow, Jones, Lennon, Burk, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

10.B.1/ Public hearing and appeal of a Planning and Zoning Board decision relative to property located at 231 San Marco Avenue.

Mr. Knight said that the application for 231 San Marco Avenue was a proposal to raise the existing motel and build a new one. He said the matter had gone before the PZB on March 4, 2003 for a use by exception for parking in a residential district, as the eastern 50-foot portion of the property was zoned residential. He said that the PZB had approved the use by exception with conditions. He said that on March 31, 2003, he received an appeal of the PZB decision, and it was for the Commission to determine whether the PZB had erred and modify, reverse or affirm the decision of the PZB.

Mayor Gardner stated that there were three elements in the original application, but the appeal was only for allowing parking in a residential district.

Mr. Knight replied that was the matter of the current appealed.

Deborah Andrews, representative for the appellants Bob and Gina Burrell, stated that she would outline the reasons that the Commission should grant the appeal and reverse and deny the order of the PZB. She said there were several issues in the City Code that warranted the denial. She displayed the site plan for the motel and questioned Mr. Knight whether it was the plan submitted for application, and the response was affirmative. She introduced the order,

three pages of layout for the motel, for Mr. Knight's approval.

Commissioner Lennon questioned why Ms. Andrews was introducing the articles when they were discussing the parking lot.

Ms. Andrews said they were relevant and background information to explain the issue as related to parking. She distributed a package of information to the Commission. She explained that the original application had three components as follows:

- Parking in a residential area
- Tree removal
- Residential house encroaching on a commercially zoned area

Ms. Andrews referred to the City Code definition of an appropriate exception, *if controlled as to number, area, location or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare*. She stated that the Commission had to determine if the application met those standards. She said the Code allowed uses by exception for parking lots with certain regulations, one of which stated that *there shall be no movement of any vehicles on such lots between the hours of 11:00 p.m. and 7:00 a.m.* She said that staff had left that restriction out of the order, which was a mandatory requirement and grounds to deny the order.

Commissioner Lennon questioned whether the appellants lived in the neighborhood and if the motel would affect them.

Ms. Andrews said that their property was not adjacent to the proposed motel, but they would be affected by the plans.

Commissioner Lennon questioned how the appellants would be affected by the motel.

Ms. Andrews replied that the appellant exited through that neighborhood.

Commissioner Lennon questioned whether the appellant had to use that street on a daily basis, and the response was affirmative.

Ms. Andrews referred to the Code regarding exception as, *when practical difficulties prevent the placing of all or part of the facility on the premises they are designated to serve. The board shall review the proposal for impact upon pedestrian and vehicular traffic patterns and user safety, impact upon surrounding properties from noise glare, visual quality nuisance and traffic generation*. She said that the applicant had not proven practical difficulties, as they wanted to increase the building size in the neighborhood and the parking related to increased number of rooms, which was not a practical difficulty.

Ms. Andrews pointed out that to increase the number of rooms the intention was to make the motel three stories, and the calculation for parking spaces was based upon that plan. She said that the newly approved Entry Corridor Guidelines limited building height to one or two stories; therefore, the plan violated the guidelines. She said that the approval was of an automatic nonconforming use, but one could not build a nonconforming use.

Ms. Andrews referred to the Code definition for exception and stated that there had not been a traffic study submitted to demonstrate impact on the neighborhood.

Ms. Andrews pointed out that the parking spaces had not been calculated properly and she presented her reasoning, which included the gym, laundry, linen, lobby, work area, pantry, breakfast, vending, fitness, office, storage, electrical areas, and bathrooms and stated that there were more than 5,000 square feet of accessory uses, yet staff had only calculated 600 square feet of office space for required parking spaces.

Commissioner Lennon suggested moving on to the parking issue.

Ms. Andrews responded that the parking had been inadequately calculated.

Commissioner Crichlow said that he understood that two parking spaces had to be included for employees, but questioned how the other accessory uses added to parking.

Ms. Andrews referred to the calculation table on page 1963 of the Code and stated that there would be more than office employees working for the hotel. She said there would be maids, building engineers, and grounds keepers etc. that should be calculated; therefore, there would be intrusion into the neighborhood and there would not be enough parking spaces in the parking lot to accommodate the motels needs.

Commissioner Lennon stated that most of the rooms she referred to were designed for the motel guests and would not require more parking spaces.

Ms. Andrews said that she did not dispute who would be using the rooms and facilities, but they were also used by staff. She emphasized that City regulation dictated the calculations.

Mayor Gardner clarified that she thought the PZB had erred in calculating the required number of parking spaces.

Ms. Andrews referred to the permit from the St. Johns River Water Management District and noted that the document demonstrated a different parking calculation and site plan; therefore, the information the City was working with was inconsistent. She said that the configuration for the retention also conflicted with proposed residential, reflecting inconsistency.

Ms. Andrews said the residential design was impacting many of the large trees that were going to have to be torn down. She said that the applicant had also not submitted a drainage plan to the City. She noted that besides the trees listed for removal there were also eleven palm trees that were not 20-inches that would be removed. She said the mitigation was for landscaping the motel, but the residential lot was next to the residential neighborhood. She said the eight trees on the residential lot would be removed and would not be replaced, which would not preserve 50% of the canopy as required by conservation zone three. She said that she could understand how staff and the PZB could miss all the things she brought to the forefront. She said the residential lot was in RS-2 and the lot coverage could not exceed 30%, but the layout of the house exceeded that percentage.

Bob and Gina Burrell, 27 Seminole Drive, were sworn in simultaneously. Mrs. Burrell said that she walked or drove by the property in question daily. She claimed that she would be impacted by the traffic generated by the hotel and removal of the trees. She said that there had not been a traffic study in the planning and building file, and there had

been no discussion regarding a traffic study during the PZB meeting.

Commissioner Lennon asked Mrs. Burrell to indicate on the map where she lived in relationship to the motel. He then pointed out the number of different routes that she could use to avoid the motel.

A brief discussion resulted regarding the neighborhood councils map designating the different neighborhoods, and it was determined that Mrs. Burrell's residence was in the same neighborhood as the motel.

George McClure, 170 Malaga Street, referred to the site map and questioned whether Mrs. Burrell recognized the site for the motel and for her residence and her response was affirmative. He clarified the route that Ms. Burrell used to get to San Marco Avenue and stated that San Marco Avenue was zoned Business One and it was a state highway that everyone traveled. He questioned whether Mrs. Burrell could see the site or parking lot in question from her home, and the response was negative. He questioned whether Mrs. Burrell had any reasonable expectation that guests of the hotel would park in her yard or Seminole Avenue, and the response was probably not. He noted that Seminole Drive was a dead end street, therefore, it was unlikely that a motel guest would drive there. He questioned whether the Burrell's owned any other property that was closer to the motel, and the response was negative.

Mayor Gardner questioned whether the Commission had decided there was legal sufficiency for the appeal.

Mr. Wilson replied that the legal sufficiency might not pass standing muster in court, but it had been the Commissions view, and he had always

been liberal when interpreting what standing should be. He said that on the form he had stated that the sufficiency was questionable, but he had allowed it to go through.

Ms. Andrews questioned whether Mr. Burrell had the opportunity to photograph the San Marco Inn.

Mr. Burrell replied that he had, and he showed the photographs to the Commission stating that the photos demonstrated the tree canopy, and he had taken the photos from the west side of San Marco Avenue.

Ms. Andrews questioned whether Mr. Burrell had reviewed the site plan, the size of the parking spaces as required by the Code, and she questioned what he had concluded.

Mr. Burrell stated that he had reviewed the site plan, and he had scaled the parking places with an engineers scale at 8.5 X 18 feet, but the City Code required parking spaces to be 9.5 X 19 feet. He said that he had also scaled the house to be constructed on the residential lot and it exceeded 60% lot coverage when it should not exceed 30%.

Ms. Andrews summarized that the appeal should be granted because the motel was intruding into a residential neighborhood, and the trees should be saved. She offered to answer questions and requested the opportunity for rebuttal.

Commissioner Lennon noted that for many years the people in the area in question had asked the City to help rejuvenate San Marco Avenue. He said that the commercial majority on San Marco Avenue were currently rejuvenating the avenue; furthermore, he had a hard time with the appellant's objections.

Ms. Andrews said the appeal was not for the building; they were requesting that the applicant comply with the Code. She said that allowing buildings to deteriorate was not a good excuse to exceed the rules.

Commissioner Jones questioned how many parking spaces Ms. Andrews thought the motel should have.

Ms. Andrews replied that the burden of proof belonged to Mr. Patel, and she really could not determine how many parking spaces they proposed. She said there was a minimum of 5-6,000 square feet that had not been accounted for in accessory uses. She said the plans as submitted did not include a scale to provide accuracy to determine the necessary number of parking spaces.

Commissioner Lennon stated that he did not understand how the accessory space required more parking spaces.

Ms. Andrews stated that the rules required a calculation for accessory use, just as they had calculated 600 square feet for office space.

Commissioner Jones suggested that they move on with the appeal

Mr. McClure said that he represented Mr. Jayesh Patel and his Uncle Kanti Patel, who was a well respected hotelier in St. Augustine. He referred to the standing issue, which was whether they would schedule an appeal upon the City Attorney's recommendation. He said there was no testimony or submitted evidence; therefore, he had not had the opportunity to question the Burrell's to determine the standing. He said that the standard in the City Code stated that the person filing an appeal could not be someone who was simply interested in

the issue. He said that there was a standard in Florida law that dealt with the standing, or the right for an individual to file and appeal, which indicated that the person filing an appeal must have an interest which was different in character or degree from the interest of the public at large. He said that Ms. Burrell's testimony indicated that she drove down a state highway and passed the property in question with some regularity, which could be said for a couple of thousand people daily.

Mr. McClure noted that the Commission was charged with determining whether the PZB had made an error, not whether the Commissioners would have made the same decision if they were PZB members. He said that Ms. Andrews submitted the St. Johns River Water Management permit, but that permit had not been introduced to the PZB; therefore, the board could not have erred on that matter. He said that Ms. Andrews should be confined to the issues that had been considered by the PZB. He noted that Mr. Patel had applied for the water management permit some time earlier but changes had been made to the plans since that time, which would require that the permit be amended.

Mr. McClure stated that Ms. Andrews' lengthy presentation contained matters that were not contained within the appeal. He said that the appeal was for the exception to allow parking within a residential district for the motel. He noted that Ms. Andrews stated that the residential property was in RS-2, when in fact the property was zoned RG-1, which was a multifamily district that allowed rooming and boarding houses, and required an exception for a motel or for parking for a motel. He said that Ms. Andrews introduced the City's calculation for parking spaces, which was a matter for approval of the building

department. He said that the only item for consideration was the use of the 50 feet at the rear of the property for parking, including the conditions for masonry walls, planting, and landscaping etc. He said the issue was not about the parking calculation for the entire site.

Mr. McClure questioned whether Commissioner Burk intended on participating in the decision for the appeal or declare a conflict of interest and recuse herself.

Commissioner Burk replied that in her opinion the matter did not impact her financially; therefore, she did not intend to recuse herself.

Mr. McClure read the policy of the state regarding the matter and a number of examples in support, and stated that the location of Commissioner Burk's law office was directly across the street from the proposed site, which indicated potential impact on her business. He said that he had to make the statement for the record.

Commissioner Burk said that her law office was not directly across the street from the motel, but within 150-feet.

Mr. McClure stated that in the examples he had presented the question of a public official expressing their opinion before a hearing was held and regarding an outcome of a zoning matter had been considered. He said it was determined that any expression of opinion disturbed the sense of fairness that the public was entitled to. He submitted the copy of the notice sent to Commissioner Burk and her response objecting to the removal of the trees.

Commissioner Burk said that had she expressed an opinion that was specific to

the project she would agree with him, but her opinion regarding tree removal was common knowledge to the entire community, and she should not have to recuse herself in every situation having to do with tree removal because of her position.

Mr. McClure stated that the difference was that the matter involved property that was approximate to hers, and she had made a written expression of an opinion with respect to a specific application, as opposed to general concern that many people shared. He said that his obligation had been satisfied, and he would move on.

Mr. McClure said that he would do his best to be quick considering the late hour. He said that the submission and argument by the appellant was disturbing but more disturbing was the fact that the appellant's counsel had completely misquoted the law of the City. He said that every reference to the parking exception included in the appellants presentation dealt with parking lots that were separated by 400-feet or less of the principle business, which was not the case in the current situation. He said that his client also did not bear the burden of proof under the City Code or the Florida courts, as an exception was a valid use. He said that a motel was a permissible use by exception independent of the parking lot in a RG-1 classification, which shifted the burden of proof to the appellant to prove there was a reason in the Comp Plan of the City Code why it should not be permitted. He reminded the Commission that the appellant had to demonstrate how the PZB had erred.

Mr. McClure stated that the appeal was not applicable according to Section 28-120 of the City Code dealing with nonconforming uses, which he read for

the Commission. He said the 50-feet of residential property had been used for the operation of a motel since before the applicability of the code. He said there were two motel buildings and existing parking on the property. He said that the modification provided for the removal of two dilapidated sets of motel rooms to be replaced with parking spaces and a home; therefore, decreasing the nonconformity of the property.

Mr. McClure stated that there was nothing in the code that prohibited the use of the property for a retention pond. He said that his client could reconfigure the plan to put the retention to the rear; however, his client did not feel that was in the best interest of the neighbors, because it would be a dry retention pond and sometimes they were not attractive. He said that he was incredulous with Ms. Andrews' logic that the accessory rooms represented separate businesses requiring more parking spaces.

Commissioner Burk questioned whether there was going to be a wall or a fence.

Mr. McClure replied that the recommendations of staff had been agreed to by the applicant, which was a six foot solid masonry fence.

Commissioner Burk questioned whether tree canopy was an issue for another meeting.

Mr. McClure said that the tree removal plan had been approved by the PZB and had not been appealed. He said there had been separate applications for Conservation Zone Three, tree removal, and exception for the parking lot. He said the only matter included in the appeal had been parking in a residential area.

Ms. Andrews rebutted that a notice of appeal stated that her client was appealing the order, and the order was the same for parking, trees, and the house encroaching into a commercial area. She said that her client had filled out and submitted the form for appeal, and she protested that her client had applied to appeal only the parking situation.

Mayor Gardner pointed out that the appeal application specifically stated for *exception for a parking lot in a residential district*.

Ms. Andrews stated that all the issues in the order were being challenged. She stated that there had been a hearing for legal sufficiency without notifying her client; therefore, her client had not been present to defend herself, which was a complete violation of due process.

Commissioner Burk questioned whether the tree removal failed to maintain the 50% tree canopy, thereby violating the code.

Mr. Knight stated that the tree removal did not violate the code. He explained that if the applicant maintained 50% of the canopy the planning department could administratively approve the application.

Mayor Gardner noted that the applicant had not maintained the canopy, because he had gone before PZB.

Mr. Knight stated that the applicant had gone before PZB for trees that were over the minimum size. He said that including the residential lot he thought there was a 50% canopy.

Mr. McClure stated that the issue regarding fairness troubled him, because he had to guess what Ms. Andrews was

arguing about. He said that her lack of clarity put him at a disadvantage, as he had not been aware of what to prepare for.

Ms. Andrews stated that was the nature of hearings. She stated that clearly Mr. Patel had gone before the board for three items.

Mrs. Burrell stated that after she had filled out the application she considered that she should have listed the trees also. She said that she had asked Mr. Knight about the situation, and he told her she could bring the item up during the hearing.

Mayor Gardner questioned whether they should proceed with the appeal or allow it to go to court. He questioned whether Ms. Andrews would be willing to pursue the appeal for parking only.

Ms. Andrews replied no, because they were pursuing the tree issue.

Commissioner Crichlow questioned the situation regarding off-site parking.

Mr. McClure stated that Ms. Andrews had referred to the Code regarding parking lots that were separate from the business it served.

Ms. Andrews stated that the property consisted of nine lots, seven of which were zoned commercial and two that were zoned RS-2. She said they were talking about nine different parcels.

Mr. Wilson stated that the applicant was supposed to state specific grounds for the appeal, and he read the ordinance. He said the idea was for everyone to understand the legal basis for the appeal, rather than being ambushed by vagueness. He said that most importantly the board could not be

prepared either. He said that Mr. Knight should not have told Mrs. Burrell that she could change the basis for the appeal during the hearing, but Mrs. Burrell had a lawyer that could have amended the application.

Mayor Gardner questioned whether the legal notice had to list the reasons for an appeal.

Mr. Wilson replied that the notice did not have to provide that information.

Commissioner Jones questioned whether lots one through five were considered one parcel.

Mr. McClure said it was listed as one parcel with one account number. He said that if the City insisted that each was a separate parcel and that one building could not be built in the middle of multiple lots there would be problems.

Mr. Wilson explained that many lots in St. Augustine had been platted years earlier; therefore, they used multiple lots for individual developments. He said in that case the lots were tied together as one development, and the setback rules were not applicable. He noted that the rules Ms. Andrews had quoted to the Commission regarding parking lot requirements related to remote contiguous parking lots and usually under different ownership.

Commissioner Jones questioned whether they were addressing parking and trees.

Mr. Wilson replied that the application specified parking, but the appellant was trying to raise another issue, which had been addressed during the PZB meeting and no one could currently remember the result of the matter. He said that was why the appeal form requested the applicant to state the reason for the

appeal and allow staff to prepare for the issues. He said that if staff could not prepare themselves it made it difficult to prepare the Commission. He said that the Commission had the right to demand that the applicant comply with the law, which is precisely what the court would do.

Ms. Andrews objected stating that would violate her client's due process rights. She suggested that her client was being ambushed. She stated that standing was raised without notice to her client. She suggested that Commissioner Burk had also been ambushed, because there had not been notice for request for disqualification. She said that the ambush was a Red Herring to justify the restriction, because the issues raised by her client were legitimate. She referred to Section 28-29e regarding appeal procedures. She suggested that the Commission read the Code regarding non-conforming uses. She requested that the Commission grant her client's appeal, because the PZB had erred based on the facts as presented.

Mr. Wilson read the appeal review form in which he had stated that the appeal was marginal, the grounds were barely sufficient and might not have legal standing sufficient to file a law suit, which had been provided to the appellant. Therefore, he said sufficiency had been in question since the appeal had been filed.

Mayor Gardner opened the public hearing; however, there was no response.

MOTION

Commissioner Lennon MOVED to deny the appeal. MOTION FAILED FOR A LACK OF A SECOND

Commissioner Jones stated that the meeting had been going on for seven

hours, and because further issues had been raised he required further consultation before he could make a decision regarding the appeal.

Mr. Wilson stated that the PZB had approved the application; therefore, in order for the Commission to rule in favor of the appeal...

Commissioner Burk interrupted that the Commission wanted to know whether the appeal could be continued.

Mr. Wilson replied that the case could always be continued. However, he said the applicant was entitled to a decision on the merits of the case, unless the Commission requested specific information related to whether the appellant had raised sufficient question to indicate that the decision of the PZB was made in error.

Commissioner Burk pointed out that everyone was tired and not thinking clearly; therefore, she recommended continuing the discussion at the subsequent meeting.

Commissioner Jones stated that his problem was that if he felt Mrs. Burrell had not proven her case, but at the same time one of the Commissioners might participate in a vote that might not be legal—which put him in a difficult position.

Commissioner Burk questioned the rules regarding the Commission conducting further investigation.

Mr. Wilson said the Commissioners could continue to investigate and disclose exparte communications.

Mayor Gardner stated that the major concern was whether there was a financial interest conflict involved.

Mr. Wilson explained that a financial interest would have to be revealed. He said that in the case of Commissioner Burk the matter was entirely up to her, as any penalty would be suffered by her solely.

Exparte Communications

Commissioner Jones reported that he had gone to the site and discussed the situation with the Patel's and received e-mails upholding the appeal. He noted that his discussion had been regarding the demolition.

Commissioner Crichlow said that he had received e-mails from concerned citizens in favor of the appeal.

Commissioner Burk stated that she had received e-mails supporting the appeal, and she had gone to the site and spoken briefly with the Patel's.

Mayor Gardner noted that he had spoken with the Burrell's, Mr. Kanti Patel, and he had attended the PZB meeting when the matter was discussed.

Mayor Gardner questioned whether they should continue or table the item. He added that the next meeting was a month away.

Mr. McClure pointed out that one of the provisions of the Code was to provide a timely appeal and decision. He said that his client had ceased operations, was receiving no income from his business, and he had construction loans with substantial interest. He said that a month's delay would be devastating to his client. He suggested that the Commissioners were inviting problems if they postponed their decision for the purpose of acquiring additional information, because the standard of the

appeal was that the appellant had the burden of proof to demonstrate error. He said that gathering further information had nothing to do with whether the appellant had demonstrated error. He emphasized that the appellants attorney had only said that she thought the parking spaces were counted wrong or the parking space size was incorrect, none of which demonstrated that there had been an error to permit the continuation of a parking lot for a hotel that had existed on the property for a long time. He requested that the Commission make a decision sooner than a month. He said that if they continued there should be no additional evidence or testimony taken from anyone.

Ms. Andrews pointed out that judges took their time making decisions. She suggested that the Commission read the code. She suggested that because it was late that the Commission take their time making a decision, because when Mr. Patel made application he had proceeded at his own risk.

MOTION

Commissioner Lennon MOVED to deny the appeal. MOTION FAILED FOR LACK OF A SECOND.

MOTION

Commissioner Crichlow MOVED to continue the appeal and readdress the matter within the subsequent two weeks. MOTION FAILED FOR A LACK OF A SECOND.

Commissioner Jones recommended meeting on May 19th at the latest.

Commissioner Burk recommended that other than review the Code and state

statutes, the Commissioners abstain from gathering additional information.

MOTION

Commissioner Crichow MOVED to continue the appeal on May 19, 2003. Commissioner Jones SECONDED the motion.

VOTE ON MOTION

AYES: Crichlow, Jones, Burk, Gardner
NAYES: Lennon
MOTION CARRIED 4/1

11. RESOLUTIONS AND ORDINANCES

(None Scheduled)

11.B/ Ordinances – First Reading

11.B.1/ Introduction and consideration of Ordinance 2003-18, increasing the salary of Commissioners.

MOTION

Commissioner Jones MOVED to place Ordinance 2003-16 on first reading, read by title only and approved. Commissioner Burk SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2003-18
AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 2-26 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO INCREASE THE SALARY OF COMMISSIONERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE.

Mayor Gardner requested to amend the motion to increase the Mayor’s salary to \$20,000 annually rather than \$16,000.

Commission Crichlow questioned the premise for the Mayor’s request.

Mayor Gardner replied that the current Commission and Mayor salaries—the Mayor had doubled...

Commissioner Lennon stated that was because Mr. Weeks had doubled the Mayor’s salary.

Mayor Gardner agreed that was a number of years back when the Mayor’s feeling was that his work was—that he was twice as involved in time with the community as the Commissioners and should be compensated accordingly. He said if they carried that practice out his salary would be \$24,000; however, he thought that was pushing the envelope, but he thought that for the amount of public events, proclamations, letters and other elements the Mayor was involved with, and not just for himself but for future Mayors, it was not an excessive amount of salary to ask for the Mayor. He said that as Commissioner Burk mentioned when she brought the subject up, they wanted to attract candidates that were willing to serve and also be compensated for their time and effort. He said that the City Manager had recommended that the Commissioners salary be increased from \$6,000 ¹⁰ to \$12,000 and the Mayor’s salary be increased from \$12,000 to \$16,000. He pointed out that the second reading would include public hearing, and he looked forward to the public’s comment.

Mr. Jones withdrew his motion.

MOTION

¹⁰ Commissioner’s salary is currently \$7,200 annually

Commissioner Crichlow MOVED to move Ordinance 2003-18 to second reading, read by title only and approved with the modification that the Mayor's salary be increased to \$20,000 annually. Mayor Gardner SECONDED the motion.

Commissioner Lennon stated that the reason the salary had been raised was because the Mayor thought that he was more important than the Commissioners. He pointed out that the Mayor had denied the Commissioners and doubled his salary.

Commissioner Crichlow noted that the Mayor put considerable more time into the job than the Commissioners.

Commissioner Jones questioned whether the ordinance could be amended at second reading.

Mr. Wilson replied that was the purpose for public hearings.

VOTE ON MOTION

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

NAYES: Lennon

MOTION CARRIED 4/1

**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 12:25 a.m. ¹¹

MAYOR

CITY CLERK

¹¹Transcribed by Karen Rogers, Recording Secretary