

CITY OF ST. AUGUSTINE

City Commission Workshop Meeting  
May 13, 2003

The City Commission met in a workshop session Wednesday, May 13, 2003, at 11:07 a.m. in The Alcazar Room at City Hall. The meeting was called to order by Mayor Gardner, and the following were present:

**1. Roll Call:**

George Gardner, Mayor/City Commissioner  
William Lennon, City Commissioner  
Errol D. Jones, City Commissioner  
Donald A. Crichlow, City Commissioner

Absent: Susan Burk, City Commissioner

William B. Harriss, City Manager  
Jim Wilson, City Attorney  
Jack E. Cubbedge, Assistant City Manager  
Martha V. (Nell) Porter, City Clerk  
James Whitehouse, Staff Attorney  
Jason Sheffield, Deputy Director, General Services  
Paul Williamson, Director, Public Affairs  
David Shoar, Chief of Police  
Orfeo Paolini, Sound Technician  
Karen Rogers, Recording Secretary

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**2. Discussion concerning San Sebastian Project/ Street Entertainers/ Plaza Vendors.**

Mayor Gardner stated that the meeting was to decide on the elements the Commissioners wanted to see in the San Sebastian Project and for the Street Entertainers portion it had been requested to eliminate public input; however, a Commissioner could request that someone speak.

Commissioner Crichlow noted that the Commission had the previous RFP for the San Sebastian property.

Mr. Harriss stated that the RFP was based on the evolution of previous Commission's desire passed down through time. He said the logical method would be to break the project down to the components. He said the first thing the Commission needed to determine

was what they wanted on the site, at which time the City would contract a designer/planner to put those elements together in a couple of renditions, with the caveat that the designer could not participate in the final project. He said that once the elements were determined they could decide whether the City or developers would handle the project.

Commissioner Crichlow noted that after taking the project the previous developer had returned to the Commission with a revised proposal that contained heavy residential development, which was not what the Commission had wanted, and eventually the developer had withdrawn. He said that regardless of the viability it was necessary for them to list what they wanted in the project.

Mr. Harriss agreed and said that a professional planner would have a feel for what could happen, and by no means

would the rendition be the final product. He said a developer might want to make changes; however, those changes would be determined by the Commission.

Commissioner Crichlow did not agree that a planner/developer would know what was feasible. He said that a developer would do what was most economically feasible for a return on his/her investment.

Commissioner Jones disagreed and suggested that they talk about what they wanted. He said that he wanted a hotel/conference center.

Mayor Gardner stated that he wanted at least one garage, and a marina. He said that he would like to see if it was financially feasible to expand the waterfront park for the community at the expense of retail and residential.

Commissioner Crichlow said that he would go along with that, as they wanted the development to provide a public venue.

Mr. Harriss said that they had to keep in mind that the San Sebastian project was within the CRA for the traffic and parking blight area and the taxable value created by the project would contribute to the payment for the garage and transit system etc. He said that the area could be all park, but the impact of no development on the site had to be considered.

Commissioner Crichlow suggested that a convention center should be built to accommodate 4-600 people for meetings.

Mr. Harriss stated that the size of the hotel would have to have the ability to serve that many people for a meeting and it would have to be upscale with restaurant facilities; in other words they could not expect a 100 room hotel to serve 4-600 people for a meeting.

Commissioner Crichlow expressed concern for the City considering the Ponce was closed and it had been the only conference center in St. Augustine.

Mr. Harriss pointed out that most conventions centers did not pay for themselves; therefore, incorporating a center within a hotel would be more cost effective for the City.

Commissioner Jones stated that he had used the term conference center for that reason.

Commissioner Crichlow suggested discussion regarding a civic center, owned and run by the City, on the San Sebastian property. He said that when the property was originally purchased it had been considered for a civic center.

Commissioner Lennon stated that every time they designated parcels of the property solely for the City they reduced the scope of developers interested in purchasing the property.

Commissioner Crichlow disagreed.

Commissioner Lennon noted that they would also be eliminating the property from the tax roll.

Commissioner Jones said that experience had demonstrated that convention centers did not make money; therefore, it was not realistic to consider at that time. He pointed out that the World Golf Village was struggling. He noted that they need not get into details during that meeting, but allow a planner to work with the components they concurred were an integral part of the project. He clarified that they agreed the project required a hotel/conference center/restaurant, open space, and a marina. He said they also needed retail space and residential housing of some sort.

Mr. Harriss noted that they had agreed that the height would be limited on the residential housing. He said the site had a height limit of 50-feet, but they did not have to go that high.

Commissioner Jones stated that he would prefer to stay in the 35-foot height limit, but they could negotiate that at another time.

Mayor Gardner noted that a rendering would be an asset.

Mr. Harriss stated that they would get a number of different options for the Commission to review, as they were trying to fit a number of components on eleven acres.

Commissioner Jones stated that nothing new had been brought up for the site.

Mr. Harriss stated that by adding a conference center within the hotel they increased the size of the hotel to support the conference room. He said that to date the hotel size had been 100-110 rooms, but he would check with developers regarding the matter.

Commissioner Crichlow said that development of retail along the north side of Lorida Street to create a pedestrian mall could be a nice element to tie King Street into the San Sebastian development. He said there could also be residential above the retail. He noted that the idea would not have to capture the flavor of the historic districts.

Mayor Gardner said that he would like to see retail and waterfront park in sight of the marina as a City or village center so the site would become a destination for people, which would also benefit King Street.

Mr. Harriss pointed out that the Commissioner's idea of residential was not significant.

Commissioner Crichlow noted that the Commission wanted the development to be mixed use. He questioned what they intended regarding the garage.

Mr. Harriss said that PAT recommended a parking facility near Riberia and Lorida Streets that would eventually become a garage, but additional parking would be necessary to serve the hotel, winery, and restaurant etc. He talked about the different people who would use the facility.

Commissioner Jones agreed that there would be parking for the facility, but he also foresaw a parking garage to serve City needs. He said that the next thing to discuss was whether the City would develop the site or sell it to a master developer.

Mr. Harriss stated that he wanted to wait until he had gotten some renderings for the Commission to review and facilitate what they would like, at which point they would have to decide whether to sell parcels to different developers or the whole site to one developer that would work with what the Commission envisioned.

Mayor Gardner suggested that a single developer would be thinking of what fit in his bank account more than what fit in the City, which was precisely what they had seen with the previous developer.

A discussion resulted regarding developers, and it was determined that if they put out a RFP for developers the developers would have their own designers, which could cause conflict, and if they had a problem finding a developer, the City might have to develop the property.

Mr. Harriss suggested that if the Commission wanted to turn the site over to a master developer perhaps they only needed a written description of the elements they wanted and allow the developer to design around those elements.

Commissioner Lennon noted that Vescor had a great idea to brick Lorida Street and develop studios for art galleries etc. He pointed out that the City had to be certain that the winery got their promised parking spaces. He suggested that the parcel occupied by the Police Department could be included in the San Sebastain project and the Police Department could be relocated.

Mr. Harriss noted that a board walk on the east side of the river had to be part of the RFP as agreed with the Port Authority.

Commissioner Lennon stated that he did not believe the City should have any part in the project, as that way 100% of the project would be on the tax rolls. He noted that all of the developers that responded to the last RFP had agreed to provide parking spaces for the City. He suggested letting the project go out to bid and see what happened.

Mr. Harriss noted that City Staff had no desire to go into the development business, but if that was what the Commission wanted they would do so.

Commissioner Lennon noted that the developers were the experts, and the Commission should see what they had to offer.

Mr. Harriss stated that some of the Commissioners had expressed a desire for the City to have more control of the San Sebastian project.

Commissioner Jones stated that the City would still have control if they turned the property over to a developer.

Mr. Harriss agreed that the City would have control up to a certain point. He said that he had enough information to draft a RFP for the Commissioner's review, after which they would put the project out for bid.

Mayor Gardner noted that there were realtors present and there was some confusion as to whether the City would pay commission if a realtor provided a developer.

Mr. Harriss said that when the City had intended to develop the site, which consisted of nine different sites, they had decided to pay a 5% realtor commission to any realtor that provided a perspective buyer that was chosen by the Commission for a particular parcel of property. He stated that the developers came out of the woodwork; therefore, the City did not pay any realtor commission. He said the question was whether the City should be paying a real estate commission for something that had been advertised and responded to by developers. He used the example of the situation with McGurn. He stated that it was the decision of the Commission.

Mayor Gardner stated that he was not certain that the City required the service of realtors. He said that if there was a realtor fee it should be negotiated between the realtor and the developer without involving the City.

A discussion resulted when it was determined that staff would draft a RFP and put the project out for bid, and if they did not find a good developer the Commission would revisit the matter and possibly pay a realtor fee. It was also

determined to move on to the street entertainer portion of the meeting. <sup>1</sup>

Discussion concerning Street Entertainers

Mayor Gardner stated that he had drafted his impressions and conclusions of the previous street entertainer workshop, and he distributed and read it to the Commissioners. <sup>2</sup> His comment was that he was disappointed that more of the community had not taken part in the workshop or submitted substantial comment, but he had heard some fresh ideas.

Commissioner Lennon questioned the Mayor's comments as they were unrelated to the issue at hand.

Mayor Gardner stated that he was including the entire historic district to extend the historic heritage tourism experience.

Commissioner Lennon stated that he thought the meeting was solely to discuss bringing the entertainers back on St. George Street.

Mayor Gardner pointed out that when he requested that the Commission revisit the street performer ordinance he had not said that he wanted the entertainers back on the street at all costs. He stated that in the past the community at large had not had a chance to take part in the matter.

Commissioner Lennon questioned whether the Commission was currently there to discuss putting the entertainers on St. George Street. He said that he had given up his days work to discuss the entertainers, and he suggested that the rest of the Mayor's concerns could be discussed over the next couple of years.

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<sup>1</sup> A recess was taken for lunch from 12:00 p.m. until 12:30 p.m.

<sup>2</sup> Attached to the original minutes

Mayor Gardner stated that Commissioner Lennon could be excused, as they would still have a quorum. He said that physically St. George Street was too narrow for entertainers; therefore a more suitable venue in the historic district should be found. He said that if the performers were not to be on St. George Street, efforts had to be made to spread the visitor experience to other areas and make it attractive to the entertainers.

Commissioner Jones said that the Mayor had presented a plan, which had been reviewed. He expressed disappointment that the speakers during the previous meeting had not addressed the issues within the busker plan. He said that if the Mayor's plan was going to work other controls would have to be in place. He stated that City staff had drafted a plan several years earlier that had some good aspects, and he suggested combining the two plans to create another design. He said that during the previous meeting people had spoken in absolutes; therefore, he was not certain that the Commission could develop a workable plan. He added that he understood the frustration and the reluctance to deal with the issue. He noted that the street entertainers had not offered a solution to the matter, but he said that he would appreciate their ideas for a plan. He expressed concern that the only people supporting the entertainers were themselves, although he had received an e-mail from someone who said a group of people supported the entertainers, but they were not speaking out, because they felt intimidated. He questioned where else the entertainers could perform, as he admitted that the merchants complaints were legitimate. He suggested drafting a plan with rules and regulations in place that would withstand challenge; however, he expressed fear that they could not find that median.

Commissioner Jones questioned whether the current ordinance had truly held up in court or had the appellants run out of money. He noted that he had not seen any artists painting on St. George Street.

Commissioner Lennon stated that there were two artists painting on Hypolita Street, and they were not attempting to sell their work.

Commissioner Jones said that if an entertainer was good enough, visitors would go wherever they performed. He said that he thought allowing the entertainers to perform in the market place was a good idea, but the entertainers did not agree. He admitted that he was getting frustrated with the situation. He said they had to deal with all facets of the situation, but the merchants and the entertainers were no longer communicating. He questioned why the Commission was trying to deal with the matter, and he answered that he wanted to find a solution or get to the point where he knew there was no way to address the matter. He asked for help from the entertainers and the merchants.

Commissioner Crichlow stated that he wanted what was best for St. Augustine by giving visitors the best image of the City so they would go home and tell their friends. He said that he appreciated the concerns of all involved, but decisions had to be made with the big picture in mind. He said that he always thought that appropriate entertainment would be good for heritage tourism, but inappropriate entertainment would do harm to the City's image. He said that for every visitor who claimed to miss the entertainers there were ten that said they were not impressed with what they had seen. He described a situation of embarrassment regarding the entertainers while he was entertaining guest's downtown. He said that over the past six months he had looked at every

possibility regarding the matter to discover how they could allow good entertainment on St. George Street, but the City would also have to allow bad entertainment by law. He noted that the City was not denying the entertainers their first amendment rights by closing the four blocks of St. George Street. He said the argument that St. George Street was commercial was incorrect; it was a mixed use district, and he encouraged more people to live downtown.

Commissioner Crichlow suggested that if the City could not bring the entertainers back to St. George Street, which he felt would be a big mistake, they could bring color back to the street. He said the Commission had recently opened the street up to graphic artists and parades, and they planned to have a changing of the guard re-enactment during the summer. He said tourists would love those types of entertainment, and he suggested that the City build on them. He suggested putting someone from maintenance in period dress on the street full time with a push can cart and a broom to keep the street clean and to interact with the visitors. He said that person would be a street cleaning ambassador for the City, and if that worked perhaps expand the theme to a police person and other street characters. He concluded that the City's street performer ordinance was being used as an example by other cities; therefore, altering it would be flirting with disaster. <sup>3</sup>

Commissioner Jones questioned whether Mr. Crichlow's suggestion would interfere with the street entertainer ordinance. He questioned whether the changing of the guard would violate the ordinance.

Mr. Wilson replied that putting employees on the street in period dress would not be entertaining, it would be work. He said that the City could issue a

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<sup>3</sup> Commissioner Crichlow departed at 1:12 p.m.

parade permit for the changing of the guard.

Commissioner Jones questioned whether there was a restriction regarding the number of parades permits a month and Mr. Wilson agreed that there was. He questioned the situation with the ghost tours.

Mr. Wilson said the ghost tours were a red herring issue, because they were considered licensed tour guides.

Commissioner Jones stated that Commissioner Burk had suggested another committee to address the issue; however, the previous committee that addressed the issue could agree on nothing. He acknowledged that the City could not solve the problem within a couple of weeks. <sup>4</sup>

Commissioner Lennon stated that the City had made a law that jeopardized a lot of the thing the City had wanted to do, such as parades. He said that the entertainers were so mean they made the City eliminate some of the great historical events that took place on St. George Street. He said the City made the decision to enact the law and now the entertainers thought they could get back on St. George Street because of some of the Commissioners campaign promises. He said that it might be a possibility, but he guaranteed that the entertainers would be just as mean, and the City would end up back in court. He stated that he believed the Commission should leave the law alone and stay the course.

Commissioner Jones questioned what could be done to make the Plaza more appealing to the entertainers.

Commissioner Lennon suggested signage to make the visitors aware of the entertainment, but he guaranteed the entertainers would not use the Plaza.

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<sup>4</sup> End of audio tape one

Mayor Gardner questioned who owned the green space between the leather shop and the tile shop on Cuna Street.

Mr. Harriss said the City managed it, and it was a small piece of property.

Mayor Gardner suggested that the City could allow one entertainer at a time to work in that area.

Mr. Wilson pointed out that they would not be performing on the street; therefore, it was private and legal and could be regulated and rented to the entertainers at fair market value or allow it to be used for free.

Mayor Gardner said that the Spanish Garden would be a good place for the entertainers, but it was private property.

Mr. Wilson agreed that the owners of the garden could regulate the entertainers on that property. He said that the public right-of-ways were where the City had to be mindful of regulations. He pointed out that the entertainers had never paid any lawyer fees, but the City had. He said that the court had upheld the ordinance the way it was written; therefore, no one else had tried to sue the City, because the ordinance was valid. He pointed out that a lot of money could be made in civil rights cases, if the case was won. He said that he had observed some civil rights cases when attorney fees met or exceeded the amount awarded by the court.

Mayor Gardner stated that he had no doubt the ordinance would be upheld on the basis of the physical characteristics of St. George Street. He said that street entertainment added color and vibrancy to the market place; therefore, he questioned whether there were other venues around the district where entertainment could be placed. He questioned whether the City owned the

parking lot between Treasury and Hypolita Streets.

Mr. Harriss replied that those parking lots were privately owned.

Mayor Gardner questioned whether those lots had been improved.

Mr. Harriss responded that the City had improved the Spanish Street lot, as it had been an eyesore.

Commissioner Jones said that the concerns of the merchants and residents on St. George Street had been moved to the side streets, which were also residential. He suggested moving the entertainers away from the residential area entirely, or they would experience the same problems they had in the past.

Mr. Wilson pointed out that part of the problem was that the entertainers were market driven. He said that the entertainers could go almost anywhere they wanted currently, but they had not because they had determined that there was no market for their services in locations other than St. George Street. He pointed out that the entertainers felt that their income was limited in the Plaza also. He said that he occasionally saw entertainers on Cuna Street.

Commission Jones said that he had seen entertainers on Hypolita Street, but he had also received complaint regarding their presence from merchants and residents on Hypolita Street.

Mr. Wilson said the problem with first amendment rights were such that they could be limited to a degree, but they were always forced to face the consequences of the limitation. He added that citizens complained about things that government simply could not address.

Commissioner Jones said that the City had to make some area more attractive to the entertainers, such as the Plaza. He pointed out that the musicians would not play in the Plaza.

Mr. Wilson stated that he would have thought the Plaza would be attractive to the entertainers, because most visitors walked through it, but somehow the entertainers would not use the space. Commissioner Jones stated that the summer concerts in the Plaza were a total success.

Mayor Gardner suggested hiring an entertainer to test the Plaza.

Commissioner Jones said that the City sponsored entertainment in the Plaza with the summer concert series. He questioned whether the City had considered sponsoring different types of entertainment in the Plaza.

Mr. Harriss replied that the City had not, but the City had scheduled musicians that had been well received in the past.

Mayor Gardner again suggested hiring different types of entertainment to perform in the Plaza on an experimental basis.

Mr. Harriss noted that he had talked with the City Attorney about that possibility and the St. Augustine Record was willing to provide advertising for a monthly or regularly scheduled festival of local entertainment. He said that the entertainers were independent and it was hard for them to organize themselves.

Mayor Gardner questioned whether the entertainers would be compensated monetarily.

Mr. Harriss stated that the plan never evolved that far, as they could not organize enough entertainers for a festival.

Commissioner Jones expressed concern regarding Bob Jones, who wanted to play an instrument on St. George Street. He asked Mr. Jones whether he had taken his instrument to the Plaza to see whether it attracted visitor's attention.

Mr. Jones replied that he had not.

Commissioner Jones questioned why Mr. Jones had not attempted to work in the Plaza.

Mr. Jones replied that he had just recently gotten the instrument mounted on wheels.

Mr. Jones said that from other musicians experience it was apparent they could not make twenty five cents in the Plaza.

Ralph Hayes stated that he usually played at night and sometimes he played by the cannon in the Plaza; however, people did not make donations in the Plaza. He said the visitors on St. George Street were a captive audience. He suggested that the visitors might think the musicians were paid by the City. He noted that there was not sufficient light in the Plaza at night.

Mr. Jones stated that there were not enough people in the Plaza for a musician to make a living.

Commissioner Jones expressed concern on how to get visitors across the Plaza to Aviles Street. He said that if they could encourage visitors to extend their walk into other parts of the City the street entertainers could benefit.

Mayor Gardner questioned how the Plaza could be made more attractive to the public to support the entertainers. He said that if it involved investment by the City it might not be a bad thing. He said that he did not believe that there was

much creativity in the shops on Aviles Street.

Commissioner Jones disagreed, stating that there were some nice shops on Aviles Street.

Mayor Gardner stated that the shops needed promotion. He suggested a brochure of some type to promote the different facets of the City or an information kiosk in the Plaza to direct visitors, which in turn could help the entertainers.

Commissioner Jones suggested a brick walkway on Cathedral Place.

Mr. Harriss pointed out that most of the Commissioners ideas had been brought up in the past, but not necessarily implemented or proven wrong.

Mayor Gardner questioned whether the Commission had accomplished anything during the meeting. He said that he and Commissioner Crichlow were de-emphasizing the idea of entertainers on St. George Street or disturbing the ordinance in that regard. He said that Commissioner Jones wanted the option fully explored

Commissioner Jones stated that he would like some concrete suggestions from the street entertainers.

Commissioner Lennon stated that he supported the current ordinance.

### **3. Adjournment**

There being no further business, the meeting was adjourned at 1:45 p.m. <sup>5</sup>

MAYOR

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CITY CLERK