

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
August 26, 2002

The City Commission met in a formal session Monday, August 26, 2002, at 4:00 p.m. in The Alcazar Room at City Hall. The meeting was called to order by Mayor Mark Alexander, and the following were present:

1. Roll Call:

Mark Alexander, Mayor/City Commissioner
Raymond Connor, City Commissioner
Henry F. Green, III, City Commissioner

Absent:

Susan Burk, City Commissioner (excused)
William Lennon, City Commissioner (excused)

William Harriss, City Manager
Jack E. Cubbedge, Assistant City Manager
James P. Wilson, City Attorney
Martha V. (Nell) Porter, City Clerk
Timothy A. Burchfield, Director, General Services
Mark Knight, Director, Planning and Building Department
Mark Litzinger, Director, Financial Services
Paul Williamson, Director, Public Affairs
Dr. William Adams, Director, Heritage Tourism
William H. Harding, Director, Public Works
John Regan, Director, Utilities
David B. Shoar, Chief of Police
Lt. Jerry Masters, Administrative Services Commander
James Owens, Fire Chief
Orfeo Paolini, Sound Technician
Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Dr. Pat Turner-Sharpton, First United Methodist Church, presented the invocation, and Mayor Alexander led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

Presentation by the Altrusa Club.

3.B/ Approval of minutes

The minutes of the regular City Commission meeting of August 12, 2002 were approved as presented.

4. PRESENTATIONS AND STAFF REPORTS.

4.A/ Presentation of a Proclamation declaring Florida Firefighter Appreciation Week.

James Blount of the St. Augustine Fire Department stood with the Commissioners while the Mayor read and presented him with a proclamation for Florida Firefighter Appreciation Week in recognition of the fire departments 46-years of service to the Muscular Dystrophy Association.

Non Agenda Item - Altrusa Club

Christine Plant, President, said that the Altrusa International Club had been founded in St. Augustine in 1959

Mayor Alexander stated that since 1979 the Altrusa club had supplied the City with U.S. flags to fly on the Bridge of Lions, which originally began as a way to honor the 52 American captives in Iran. He said that many of the flags provided by the Altrusa Club had also flown over the U.S. Capital in Washington and when retired they were returned to the Altrusa Club, folded, shrink wrapped, and sold to support the ongoing project. He noted that the Altrusa Club was presenting each Commissioner with one of those flags, and he extended his thanks to the members in attendance.

4.B/ Presentation by Old Town Trolley Tours of St. Augustine.

Dana Ste. Claire, National Director for Museum Services for Historic Tours of America, stated that they were seeking the Commission's consent to present a new type of vehicle to St. Augustine. He noted that the vehicle was similar to the trolleys currently used by Old Town Trolley Tours; however, the trolley would be designed for evening use. He stated that there were a number of ghost tours in the City that served as a catalyst for after hours business, which the City had promoted for many years. He pointed out that customers taking advantage of the ghost tours sought restaurants and

overnight accommodations, therefore contributing to the economy.

Mr. Ste. Claire said that currently Historic Tours operated the proposed vehicle in Savannah, Boston, and San Diego, and they thought the addition would be positive for St. Augustine. He said that they were updating their fleet of vehicles for safety and to accommodate the narrow streets, and the proposed vehicle would be built in a similar fashion with the exception of the colors and decorations. He said the vehicle would be built fully enclosed for safe night time use and to enhance the theme of *Ghosts and Gravestones Tours*. He explained that they would pick up passengers on the north end of St. George Street for a trolley tour of St. Augustines most haunted places, including the Oldest Jail, the Spanish Military Hospital, and the Old Drug Store. He said they would use a portion of the previously approved route and they would follow the guidelines, policies, and procedure of the franchise agreement. He noted that it was a program that was gaining popularity, and he requested permission to introduce the vehicle to St. Augustine.

Commissioner Connor clarified that the name *Ghosts and Gravestones Tours* would be best for the City.

Mr. Ste. Claire replied that was the name intended for the St. Augustine ghost tour.

Commissioner Green questioned whether the proposed vehicle would run at night only.

Edwin Swift, Director of Operations, replied that the vehicle would run at night, but not through the residential areas. He added that they had been running the tour without complaint since

the previous October in the company's typically used green and orange trolleys.

Commissioner Green asked what the capacity of the proposed trolley would be.

Mr. Swift replied that the vehicle had a 32 passenger capacity. He said the unit would be fully enclosed for safety, with handicap accessibility.

Commissioner Connor questioned where the tour originated and ended.

Mr. Swift responded that the tour began and ended at number two St. George Street by the City Gates. He said that there were three franchise designated stops along the tour for access and egress.

Commissioner Green questioned how late the tour would run.

Mr. Swift said that the last tour ended at approximately 11:30 p.m.

Commissioner Green asked the City Attorney whether there was any conflict with the color design of the proposed trolley or the timeframe of the tour.

Mr. Wilson replied that the ordinance was drafted to alleviate confusion with colors, therefore he did not see a problem, as the proposed vehicle color would not cause confusion. He said that the franchise agreement did not have a time restriction.

MOTION

Commissioner Green MOVED to approved the design. Commissioner Connor SECONDED the motion.

Commissioner Connor reported that he had talked with Mr. Wettach of the other

sightseeing trains, and he had no objection to the proposal.

VOTE ON MOTION

AYES: Green, Connor, Alexander

NAYES: None

MOTION CARRIED UNANIMOUSLY

Mayor Alexander announced that the Bridge of Lions would be closed for two hours due to mechanical problems.

5. ITEMS BY CITY ATTORNEY

(None Scheduled)

6. BY CITY CLERK

(None Scheduled)

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

Commissioner Connor extended congratulations to Captains Rayno and Tyler for their successful grant writing for Item 7.B. He said the amount of the matching grant was \$124,823, and the City's portion amounted to \$13,869. He noted that the grant was for purchase of equipment.

Mayor Alexander referred to Item 7.C. regarding a handicapped horse drawn carriage operation requested by the Disabled American Veterans, and he asked the City Manager to research the request.

Mr. Harriss stated that the Commission's approval of Item 7.C. would allow the City to study whether there was a need etc. for the proposed handicap horse drawn carriage and upon completion make a full report to the Commission.

7.A. Preview of upcoming Commission meetings.

7.B. Approval of Grant Award for the Fire Department.

7.C. Request by the Disabled American Veterans to operate a handicapped horse drawn carriage.

7.D. Approval of expenditure from the State Confiscation Fund.

MOTION

Commissioner Connor MOVED to approve items 7.A. through 7.D. on the Consent Agenda. The motion was SECONDED by Commissioner Green and approved by UNANIMOUS VOICE VOTE.

8. ITEMS BY MAYOR AND COMMISSIONERS.

Commissioner Green – U.S. Navy Reserve

Commissioner Green reported that the U.S. Navy Reserve had named a 737 Boeing aircraft after the City of St. Augustine, and he had attended the dedication during the previous weekend. He said the aircraft had been designed to hold passengers, cargo, or both. He said the program was outstanding, and he had appreciated the opportunity to represent the City. He noted that there were Admirals from all over the United States in attendance for the dedication, all of which had been to and thought highly of St. Augustine.

Meeting Notices

Commissioner Green stated that he had read in the newspaper that some citizens felt as though they were not receiving adequate notice about meetings. He said that as a Commissioner that concerned him. He pointed out that all meetings were advertised in the St. Augustine Record, the City had a web site, and the radio addressed the issue. He said that

if those means were not available to the citizens they should call City Hall. He pointed out that City Staff was very helpful. He added that the upcoming budget meetings had been put on the trim notice. He encouraged citizens to telephone City Hall or one of the Commissioners should they have any questions about meetings.

Commissioner Connor – Lighting in the Plaza

Commissioner Connor stated that it had been brought to his attention that the lighting in the Plaza and in North City was dim.

Mr. Harriss stated that the City did not replace lights until necessary, but they had increased the wattage from 70 to 150 watts on the request of residents. He noted that the lights in the Plaza were included within the next years budget for replacement.

Commissioner Connor suggested that some hidden lights directed upwards in the plaza could be helpful. He requested that staff research the issue.

Mayor Alexander – September 11, 2002

Mayor Alexander invited the public to join the City in the Plaza on Wednesday, September 11th at 8:15 a.m. for a Ceremony of Remembrance for those who perished in the terrorist attack. He said that at 8:46 a.m. there would be three minutes of silence, which would be broken by the ringing of bells throughout the downtown to signify the nations ultimate victory over terror. He noted that the Cathedral Basilica, Trinity Episcopal Parish, and Flagler College had agreed to participate in the bell ringing.

9. APPEALS AND PUBLIC HEARINGS (Not pertaining to ordinances and resolutions)

9.A/ Public hearing and appeal of a Planning and Zoning Board decision relative to property located 101 La Quinta Place.

Geoffrey Dobson, 66 Cuna Street, explained that the appeal was to a denial for an exception for the use of Mr. Tuseo's second floor property, for which he had requested permission for nightly rentals. Mr. Dobson distributed photographs of the property in question indicating the availability of parking and the commercial nature of the location.

Mr. Dobson pointed out that the general standards applied to the denial of an exception had not been followed in the instance of his client. He stated that under the City Code a permitted use by exception was allowed unless there was objective reason why it should be denied. He said that upon review of the minutes of the PZB meeting the motion for denial had not been specified. He noted that many surrounding neighbors had supported the application. Mayor Alexander questioned whether there had been reason given for the denial.

Mr. Dobson replied that the motion was general, not specific, with the suggestion that the exception would not be good for the neighborhood, which would be considered a subjective standard. He said that sufficient parking had been secured, and the building renovations proved to be a tremendous improvement, thereby upgrading the neighborhood.

Commissioner Green questioned whether Mr. Tuseo was currently renting the space to visitors.

Mr. Dobson replied that he rented it out for longer periods of time; however, Mr. Tuseo needed the daily option

considering the nature of his business. He added that he did not believe there were any complaints about the way Mr. Tuseo operated his business.

Mayor Alexander questioned whether the motion was legally sufficient.

Mr. Wilson replied that basically they wanted to look at whether there was substantial competent evidence before the board when they made their decision. He added that they should look at the entire record and not just the motion.

Mayor Alexander questioned whether there were similar businesses in the neighborhood.

Mr. Dobson replied that there were bed and breakfast establishments within close range. He added that the use was permitted by exception, therefore the question was whether there was sufficient evidence in the record to justify denial.

Mayor Alexander opened the public hearing.

Exparte Communications

Commissioner Connor reported that he had a telephone conversation with Lucky Howell.

Commissioner Green reported that he had a brief conversation with Mr. Dobson two weeks earlier.

Tom Kavanaugh, 130 King Street, was sworn and stated that Mr. Tuseo had impressed him as being ethical in his business dealings. He noted that he was thrilled with the remodel that Mr. Tuseo had done on his building, which proved to be a contribution to the neighborhood.

Bruce Yuling, St. Augustine, was sworn and stated that he was in support of Mr. Tuseo's request. He said that he worked in the building in question, and the location was highly commercial with adequate parking that did not abut the residences.

Nell Porter, City Clerk, reported that the clerk's office had mailed a comment sheet regarding the application to ten surrounding property owners, and three had been returned to her office in opposition to the exception.

The Commissioners took a few moments to read through the comment sheets.

Commissioner Green stated that he could not find a reason in the record for denial.

Mr. Dobson suggested that the decision had been made due to a personality conflict.

Commissioner Green stated that he would be concerned if there were residents in the immediate area, plus it was only one room.

Mayor Alexander noted that the location was highly commercial.

Commissioner Connor cautioned that the board had unanimously denied the application. He expressed concern after reading the comment sheets that were opposed to the application. He added that he did not see where the PZB had erred.

Mr. Dobson reiterated that the decision had to be based on an objective standard. He added that he believed the board had been influenced by the opposed speaker Mr. Rowland, whom he did not believe lived in that neighborhood.

Commissioner Green questioned whether there had been any complaints in the M. L. King Avenue and La Quinta Place location regarding bed and breakfast establishments.

Chief Shoar replied not to his knowledge.

MOTION

Commissioner Green MOVED to uphold the appeal. MOTION FAILED FOR LACK OF A SECOND.

Mr. Wilson admitted to being confused by the suggestion that the board had been influenced by an opposed speaker, as that was not reflected in the record.

Mayor Alexander agreed that he could not find any complaint on the record, therefore he could not understand how the exception could be denied. He admitted that the board had stated that the application was inappropriate; however, not why it was inappropriate.

Mr. Wilson pointed out that staff had recommended that the application be approved with conditions. He reiterated that there was no testimony in opposition to the application. He added that an exception was not as difficult to obtain as a variance.

Commissioner Connor reiterated that the board had voted unanimously, therefore they were of the same opinion.

Mr. Wilson agreed, although he said there was nothing in the record other than the board's personal opinion.

Commissioner Connor suggested that the board did not recognize the change of use; however, staff had explained that it was a change of use.

Mayor Alexander noted that the bed and breakfast industry in St. Augustine was positive for the City. He suggested that because the location was dense commercial Mr. Tuseo's space would be hard to rent as an apartment. He added that he would rather the location was a daily rental than apartment rental for college students.

Commissioner Green MOVED to grant the appeal as the PZB had not given a reason why they denied the application. Mayor Alexander SECONDED the motion.

VOTE ON MOTION

AYES: Green, Alexander

NAYES: Connor

MOTION CARRIED 2/1

**RESOLUTIONS AND ORDINANCES
(To include public hearing)**

10.A/ Resolutions

(None Scheduled)-

10.B. Ordinances – First Reading

(None Scheduled)

**10.C/ Ordinances – First Reading –
Public Hearing Required**

(None Scheduled)

**10.D/ Ordinances – Second Reading –
Public Hearing**

**10.D.1 Public Hearing – Ordinance
2002-17, providing incentive for the
redevelopment of structures listed on
the Florida Master Site File.**

Mark Knight, Director, Planning and Building Department, stated that the ordinance established a 12-month

timeframe for houses on the Florida Master Site File when they went before the HARB and were denied demolition. He said that in addition should the applicant carry through with a project and demolish the structure the grandfathered rights would be lost.

Dana Ste. Claire, Chairman, Historic Architectural Review Board, stated that HARB attempted to develop an initial tool for the Comprehensive Plan to insure the future protection of the St. Augustine historic fabric. He said the board recognized the ordinance as a positive initiative and deterrent to demolition. He said there were a number of further steps to insure the Comprehensive Plan against willful and inadvertent demolition. He thanked the Commission for their support of the ordinance.

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

MOTION

Commissioner Connor MOVED that Ordinance 2002-17 be placed on second reading, read by title only and approved. Commissioner Green SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2002-17

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTIONS 28-89, 28-118 AND 28-120 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO PROVIDE INCENTIVE FOR THE REDEVELOPMENT OF STRUCTURES LISTED ON THE FLORIDA MASTER SITE FILE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Connor, Green, Alexander

NAYES: None

MOTION CARRIED UNANIMOUSLY

11. GENERAL PUBLIC PRESENTATIONS AND COMMENTS (15 minutes per presentations)

12. MATTERS NOT ON THE AGENDA (Items not addressed elsewhere on the agenda – three-minute time limit).

Edith Look, 705 Segovia Road, said that she had thought there would be discussion regarding the Disabled American Veteran's requests to operate a handicapped horse drawn carriage.

Mayor Alexander explained that the Commission had approved that staff research the issue and report their results to the Commission.

Ms. Look stated that the cause was deserving, and she spoke in support of a handicapped horse drawn carriage.

Howard Davis, 252 St. George Street, stated that the Commission had chosen to ignore the residents concerns for their community and homes. He suggested that the proposed parking garage violated the restrictive covenants the City Commission had signed with the Division of Historic Resources, therefore the project would require the divisions approval.¹

Thomas Baumgartner, 7 Bridge Street, questioned why the Commission was ignoring the concerns of the residents regarding the proposed parking garage, and why they would not request an impact study from the Florida Division of Historic Resources regarding the project.

¹ Hard copy attached to original minutes

Mr. Wilson pointed out that Item 12 on the agenda was designed for the community to speak to the Commission, but it was not the Commissions position to respond.

Mr. Baumgartner questioned whether the Commissioners had forgotten signing the restrictive covenant.

Mayor Alexander deferred the question to the City Attorney.

Non Agenda Item

Commissioner Green suggested that when the Commission had PZB or HARB appeals, it would be helpful to have the Chairman or one of the board members available to give a summary of the item or answer questions.

Mayor Alexander agreed that it would be helpful.

Commissioner Connor said that the chairman of the boards was subject to call. He added that normally when there was an appeal someone from the board was present.

Commissioner Green agreed that the boards were accessible to them; however, his concern was that the general public might not understand why the Commissioners made a decision. He added that he did not like to overturn the PZB.

Mayor Alexander requested that there be a board member present during appeals.

Mr. Harriss agreed that normally a board member was present; however, he was not certain why no one was in attendance.

Commissioner Green stated that he would have preferred having heard from

a board member before making his decision on the appeal.

14. Adjournment

There being no further business, the meeting was adjourned at 5:19 p.m. ²

MAYOR

CITY CLERK

² Transcribed by Karen Rogers, Recording Secretary