

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
September 8, 2003

The City Commission met in a formal session Monday, September 8, 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
Errol D. Jones, City Commissioner
Donald A. Crichlow, City Commissioner
William Lennon, City Commissioner

William B. Harriss, City Manager
Jack E. Cubbedge, Assistant City Manager
James P. Wilson, City Attorney
Martha V. (Nell) Porter, City Clerk
James Whitehouse, Staff Attorney
Timothy A. Burchfield, Chief Administrative Officer
Mark Knight, Director, Planning and Building Department
Mark Litzinger, City Comptroller
Paul Williamson, Director, Public Affairs
Dr. William Adams, Director, Heritage Tourism
William H. Harding, Director, Public Works
John Regan, Chief Operations Officer
James Owens, Fire Chief
David Shoar, Chief of Police
Orfeo Paolini, Sound Technician
Pam Halterman, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Reverend Smiley Sturgis, Good News Presbyterian Church, presented the invocation, and Commissioner Lennon led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

Mr. Harriss stated that he had received a request to table the appeal on the Ponce de Leon Resort until the first meeting in October. He said the applicant and the

Stokes people felt it would be prudent; therefore, the people who were there for matter would not have to wait through the meeting.

MOTION

Commissioner Lennon MOVED to table Item 10. until the October 13th meeting. Commissioner Burk SECONDED the motion.

VOTE ON MOTION

AYES: Lennon, Burk, Jones, Crichlow, Gardner

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

Mr. Harriss requested that the resolution concerning the CRA and Letter of Intent be presented earlier in the meeting, and the consensus was to move the item prior to 8G.

Mayor Gardner said that he had received a request through a third party from Charlie Hotchkins, who owned property near the Oyster Creek intersection, that a report on the agenda be delayed as he was not able to be present. He indicated he would like to delay taking any action at that time.

3.B/ Approval of Minutes

The minutes of the Regular City Commission meeting of August 11, 2003 were approved as presented.

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

John Valdes, 226 Rainey Avenue, addressed the Commission concerning the brick crosswalks recently installed by the Florida Department of Transportation on Avenida Menendez and San Marco Avenue. He noted that many visitors from Europe and the west coast were accustomed to traffic stopping when they stepped out onto a crosswalk; however, motorists were not yielding to pedestrians, which created a potential for accidents.

Mr. Harriss noted that there had been some complaints, and he indicated that signs were needed. He said the law was similar to that in other states, whereby a vehicle should yield to pedestrians that were already in the crosswalk, but a person could not just jump off the curb and expect a vehicle to stop. Following additional discussion of the crosswalk

situation, Mr. Harriss stated that he would send a letter to the FDOT advising them of the concerns.

Commissioner Lennon asked that a letter also be sent to Dr. Abare at Flagler College regarding students stepping out onto King Street traffic in front of the college and not waiting on the curb.

Commissioner Jones suggested a campaign to inform citizens that St. Augustine was a pedestrian friendly city and asking motorists to yield to pedestrians at crosswalks. He said that he would also take the matter to the next Intergovernmental Committee meeting.

Eric Doten, 200 Noel Circle, Ponte Vedra Beach, noted that his wife, Linda, owned Rembrandtz Gallery on King Street. He spoke about a newspaper article that appeared in the St. Augustine Record. Mr. Doten read a few sentences from the article entitled "Zoning Board Leaves Tattoos Issue in Limbo." Mr. Doten said he had researched the City ordinances that would indicate what the proper path would be, and he distributed copies of the ordinance. He explained that the original request to the PZB on June 3rd. was to approve, by exception in CL-2, the use as an intermediate care facility. He explained that there was concern as to what constituted an intermediate care facility. He said the City ordinance, Section 28.2 "Definitions" clearly defined an intermediate care facility, but the definition in the section was never raised or presented to either the Commission or the PZB. However, he said that he had found guidance as to what the board should have done when faced with a situation where the use was not specifically identified, which was shown in Section 28.7.

Mr. Harriss clarified that Mr. Doten was basically appealing the decision of the

PZB, and he felt uncomfortable with the methodology being used.

Mr. Wilson indicated that the formal procedure to appeal should have been taken. He said that he had spoken with the attorney and explained the procedure to file an appeal; therefore, he had expected them to file an application. He recommended waiting for the appeal to go through the formal process rather than having a discussion on the record without the opposing side having the opportunity to respond. He suggested that Mr. Doten wait until an appeal was heard so that all sides could be heard without violation of due process.

Mayor Gardner agreed and said that he thought the points Mr. Doten raised were primarily procedural in nature, which he had also questioned. He stated that he could not understand why there had been confusion after the PZB review under the Commission's request in the remand. He said that his understanding of the code was that that on appeal the City Commission made the final determination.

Mr. Wilson explained that one of the ways a final determination was made was by remand. He said that when a court remanded something to a lower court it went through the upper court and the higher court either agreed or disagreed with the decision, or remanded the matter to a lower court with instructions, which was essentially what the Commission had done. He said that once a matter was remanded to the lower court, the lower court made the final decision based on direction, and if that decision was not accepted the matter would be subject to an appeal. He noted that the decision had been to remand the matter to the PZB and the board had made a decision. Mr. Wilson added that if someone was not happy with the

decision, they had the right to appeal the matter to the City Commission; however, the matter would not automatically go back to the Commission.

Mayor Gardner stated that the code said remands were to go to the board for further review, and the Commission would make the final determination.

Mr. Wilson confirmed that the matter would have to go back to the City Commission by appeal before it went to Circuit Court but could not be appealed directly from the PZB to the Circuit Court.

Mayor Gardner concluded that the PZB had reviewed the matter and had given their opinion, and the Commission should have gotten it back on the agenda for final determination.

Mr. Doten questioned whether the appeal or remand was on an issue that had not been part of the appeal. He stated that they had not appealed the issue of whether the business was an intermediate care facility. He thought the issue was whether it was inappropriate to have the use in an entrance corridor; therefore, the issue with the remand had made the situation difficult for the PZB. He stated that he wanted to continue the original appeal, which had not been finally adjudicated by the Commission.

Mayor Gardner indicated that he had seconded the motion to remand the matter to the PZB, and he thought it had been clear that the Commission wanted all aspects of the matter to be discussed, as the matter was narrowly prescribed.

Commissioner Jones suggested that it had been too narrowly reviewed to be stopped by motion.

Mr. Doten indicated that had also been his view after reading the motion in the minutes and reviewing the remand order. He suggested that there had been a disconnect somewhere between the two.

Mayor Gardener said he did not believe that either side should have to go through the process to get it back to the City Commission. He asserted that the matter should have automatically gone through the process and been returned to the Commission.

Commissioner Burk asked if there was a way the order could be amended at the time it was ordered to be remanded.

Mr. Wilson commented that if anyone read the minutes of the last meeting or watched the tape of the last City Commission meeting, the issue regarding an intermediate care facility was not tremendously clear, nor was there clear direction about where the matter was supposed to go. He commented that the safest way was for the other side to file an appeal.

Mayor Gardner stated that he would like to see clarification on the code, as his understanding was that the City Commission was the final determinate of an appeal, because they represented the voters of the city.

Mr. Wilson agreed that was correct and that the matter would not go to Circuit Court without having gone before the Commission.

Mayor Gardner again questioned why the appeal would not automatically go back to the Commission just as when the Commission asked the PZB to look at zoning changes for recommendations.

Mr. Wilson explained that the concept of a remand was for a situation that was

sent back to a lower board with instructions to have the issue addressed, which the Commission felt had not been properly addressed, and allow the decision to be corrected. He said that if the remand was handled properly, the matter would not go back up to the Commission, which the PZB had thought was the intention of the Commission. He further added that the fact that the decision of the lower court was unsatisfactory to some people gave them the opportunity to take it back to the Commission again through appeal and still have all the rights they had before. He explained that the Commission had made the final decision in the case, but a step was added to the process. He added that it would have been automatic if it had been ordered, but it had not been ordered, therefore, the procedure changed. He repeated that if the applicant was not happy with the decision of the PZB, the matter went back to the Commission; therefore, it was not the final decision of the PZB if it was appealed.

Mayor Gardner said there had been circuit court remands to the City, and he understood that the orders from the court proposed the matter would be remanded to the City for action, not for review. He said the reason that the Mayor or Commissioner Jones had not put anything under motion was because the code said the buck stopped at the City Commission. He emphasized that the code said only the lower board could take a remand for review, but it did not say for review and action.

Mr. Wilson stated that he believed if the matter had not been appealed, the other side would have had a fairly strong argument after 30 days, and the case would have been final. He said it would have been the most appropriate way for the case to automatically go back to the

Commission. He added that there still had to be a public hearing, but to be on the safe side, they wanted to make sure the case was appealed to insure procedure and avoid challenge on a procedural basis.

Mr. Wilson advised that the other argument was if there was no appeal. He said that the Commission's intent was not to place procedural blockades in the face of the matter; but that they wanted to ensure no one found procedural law to overturn the matter. He reported that a hearing had been arbitrarily set on the matter for the following month after the 30 days in which the decision could be overturned. He advised that it would not cause any further problems to follow the process and ensure there were no procedural errors.

Commissioner Burk reiterated that the order could not be amended to make it specific and clear, therefore, if the people who disagreed with the PZB's decision did not appeal it, they would have provided ammunition to those who were in favor of the tattoo parlor. She said that it was a legal decision for those who wanted to appeal the PZB decision.

Mr. Doten pointed out the dilemma for appellants was that the issues of the remand were not part of their original application, and to develop a basis for appealing the decision became complicated.

Commissioner Burk agreed that the error in the decision, or what needed to be addressed, was the classification which was the reason the matter had been remanded for reconsideration.

Mr. Doten stated that he understood that they could submit an appeal even though the basis of their original appeal was different from what the Board had

considered. He said that if there had been a second bite of the apple they would have taken it and submitted the paperwork. He clarified that the issue was not the time, effort or fee for submitting and appeal application, but their concern was what had happened to the first appeal.

Mayor Gardner asked Mr. Wilson whether the PZB had made some other finding or whether the board had modified their finding as a result of discussion, and whether the matter automatically went back to the Commission.

Mr. Wilson said it would, but it would have to go through the appeals process.

B. J. Kalaidi, 8 Newcomb Street, spoke regarding Ordinance 2003-23 and her concern about the definition of a family and rooming house in a residential community.

Mayor Gardner advised that the topic was on the agenda as a first reading and would be followed up with a public hearing on second reading; therefore, the matter should not be discussed at that time.

NON-AGENDA ITEM

On behalf of the City Commission and community, Mayor Gardner presented Officer Joe Bowen with a certificate extending gratitude and best wishes for his work and dedication to the St. Augustine Police Department for ten years.

5. PRESENTATIONS AND STAFF REPORTS.

5.A/ Presentation a Proclamation for National Alcohol and Drug Addiction Recovery Month.

Mayor Gardner proclaimed September as National Alcohol and Drug Addiction Recovery Month encouraging all citizens to support the cause. A representative from the St. John's County Health Department accepted the Proclamation.

5.B/ Presentation regarding the creation of a Special Assessment District to Dredge the Yacht Basin.

John Regan, Chief Operations Officer for the City of St. Augustine, reported that the Yacht Basin was located on the western side of Davis Shores, south of the Bridge of Lions and bordered by Matanzas Boulevard and Dolphin Drive. He described how the feature had originally been built into Davis Shores by the developer with the intent to build a canal that would run through the island. He said that the plan never came to fruition, but became a small canal with approximately 23 homes bordering it. He explained that the project had put together a special assessment whereby the neighborhood paid for the dredging of the basin and the material would be deposited on the northern end and removed by truck.

James Pennington, 103 Dolphin Drive, St. Augustine, spoke on behalf of 23 homeowners and addressed the issues of the odor, eyesore, safety hazard, property valuation and stabilization. He stated that a great deal of work had been done by the homeowners with the encouragement of the previous Commission three years earlier, as well as City staff and the Port Authority. He presented further details regarding the homeowners association, attorney, bank account, engineer and use of homeowner's funds to solve the problem even though it was City property.

John Regan said that a petition had been signed by 20 of the 23 property owners. He noted that two of the homeowners did not object to the project, but one was not a recreational watercraft user, and the other property owner was supportive of the project but was concerned about the technical details of the dredging operation and the spoils management, and therefore he wanted more details on the project. He informed them that the cost of the project was expected to be \$475,000 and economic models were used to show the cost and how to fairly allocate the costs. He stated that the costs equated to approximately \$1.34 per linear foot, and since there were some long properties that had end caps, there would be some caps associated with the amount each homeowner had to pay, however, that had been taken care of.

Mr. Regan expounded on the necessary steps to implement such a project, and he said that there were two elements that needed to take place simultaneously: one for development of a special assessment district, which required the City Commission to pass a resolution, and the second step would be the presentation of the description of costs and financial analysis. He explained that the resolution would be a two step process: first to pass a resolution and he recommended public comment during that period and, secondly, a public hearing after the City Commission made a final determination. He went on to say that if they were successful, the bid would be granted to the lowest competitive bidder, the City would supervise the construction and implementation, and the residents would pay the debt over a 20-year period. He indicated that the dredging should last about 20 years and the neighborhood could do what they wanted to do after that time. Lastly, he mentioned that the project had been fully permitted, and it

was staff's recommendation to move forward to the next level.

Commissioner Lennon asked why Mr. Regan recommended that outside people to be included.

Mr. Harriss explained that the specifications of the law regarding a public hearing meant you could not exclude anyone. He agreed that anyone other than homeowners would not have as much influence, because their money would not be invested in the project.

Mr. Regan mentioned that the project would not affect taxation of any other taxpayers since the cost would be born by the homeowners.

Commissioner Burk remarked that since it was public property there could be other people that brought their boat into the waterway.

Commissioner Lennon stated that he had spent some time with Art Runk on the south side corner and watched some of the silt as it came in and talked about the possibility of building a bulkhead to stop it.

Mr. Regan added that the marine engineers emphasized the importance of evaluating all features along the water, and their report would be part of the early engineering analysis.

MOTION

Commissioner Lennon MOVED to continue further discussion of the project. Commissioner Jones SECONDED the motion.

VOTE ON MOTION

AYES: Lennon, Jones Crichlow, Burk Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

5.C/ Presentation regarding the development of a speed hump installation policy

Mr. Cubbedge informed the commission that at the request of the City Commission staff had studied many communities using speed hump programs as a possible traffic halting device. He explained that residents could obtain a speed hump for their neighborhood by submitting an application that required four other neighbor's support for installation. He stated that the application was then submitted to the staff for review, and if approved the police department would install a traffic counting device to collect traffic data. He said that the information was then forwarded to the Traffic Evaluation Workforce, and if the application was successful the second phase included that a certified letter of survey be sent to all adjacent property owners. He added that support of 2/3 of the respondents was required for the speed hump to be installed. He showed photos of speed humps and gave a special thanks to Cooper Helm of the Public Works Department and contributing departments who conducted the background research.

Mr. Harriss added that they were ready for the first official application and rules would be posted in the Neighborhood Council Office.

Commissioner Burk stated that she supported the proposal, but she suggested there be provisions for not installing the speed humps directly in front of a citizen's home if they objected.

Mr. Cubbedge explained that the policy contained details with regards to

distances for intersections, driveways, etc., as well as a process for removal if needed.

Mr. Harriss clarified that the process include signs to alert drivers to the speed humps and that all relevant information would be available at the time of application.

Mayor Gardner pointed out that the program was designed for a neighborhood that wanted speed humps, but did not allow for a single individual to obtain.

6. ITEMS BY CITY ATTORNEY

(None Scheduled)

7. ITEMS BY CITY CLERK

7.A/ Consideration of one appointment to the Code Enforcement, Adjustments and Appeals Board

Ms. Porter stated that the position for Code Enforcement and Adjustments Board was created when Cathy Dupont became a City employee. She said that the term expired in December, 2003, but the term could be extended for three-years expiring in December, 2006. She reported that the two applicants were Clay Stratten and Enid Hurst.

Commissioner Lennon mentioned he had received some information on one of the appointees and wanted to hold off on the decision until the following month so that he could further investigate. He explained that the Board fined people who abused City property, for example, when people used alleys for personal use or treated them as their own property.

MOTION

Mr. Lennon MOVED to table the discussion and decision until the October meeting. Commissioner Burk SECONDED the motion.

VOTE ON MOTION

AYES; Lennon, Burk, Crichlow, Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

7.B/ Consideration of one appointment to the Board of Trustees St. Augustine Firefighters' Pension Trust Fund.

Ms. Porter reported that there was a vacancy on the Firefighter's Retirement Board, again, and the term would expire at the end of 2003. She explained that the vacancy was created when Benny Moskovic resigned. She said that James Zimmerman was the only applicant.

MOTION

Commissioner Lennon MOVED to appoint James Zimmerman to the Firefighter's Retirement Board of Trustees, and his term would expire January 1, 2006. Commissioner Burk SECONDED the motion.

VOTE ON MOTION

AYES: Lennon, Burk, Crichlow, Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

7.C/ Consideration of one appointment to the Police Officers' Retirement Board of Trustees

Ms. Porter stated that the appointment of David Shoar as the fifth member of the Department of Police Officer's Retirement

Board required the Commission's confirmation.

MOTION

Commissioner Burk **MOVED** to accept the appointment of David Shoar. Commissioner Jones **SECONDED** the Motion.

VOTE ON MOTION

AYES: Burk, Jones, Lennon, Crichlow, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

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

8.A. Preview of upcoming Commission meetings.

8.B. Approval of presenting the de Aviles Award to F. E. (Jack) Williams.

Mr. Harriss stated that he would notify the Commission when the ceremony was scheduled.

8.C. Determination of legal sufficiency and acceptance of an application to appeal a Planning and Zoning Board decision relative to property located at 130 Pelican Reef.

Mr. Harriss stated that even though the same individual owned both properties, the cases would be treated as separate applications, and he added that the attorney had been advised that the cases were for one owner.

8.D. Determination of legal sufficiency and acceptance of an

application to appeal a Planning and Zoning Board decision relative to property located at 43 Dolphin Drive

8. E. Consideration of a loan from the General Fund to the Solid Waste Division.

8. F. Release of Lien on Unit Connection Fee Mortgage.

MOTION

Commissioner Burk **MOVED** to approve and accept Items 8.A. through F. on the agenda. Commissioner Lennon **SECONDED** the motion.

VOTE ON MOTION

AYES: Burk, Lennon, Jones, Crichlow, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

8.G. Discussion and consideration of a Letter of Intent to Purchase the Ponce de Leon Golf Course.

Fred Halback, 287 St. George Street, updated the group on the finding of necessity of blighted conditions of the Ponce CRA and on the redevelopment plan. He said they had worked with Real Estate Research Consultants and the law firm of David Hartwell and Associates on the plan. He described the boundary of the plan which was approximately 1,069 acres of developable land, marsh areas and extended to the west side of US 1 including improvements to the US 1 corridor and the right-of-way of that corridor. He explained that fourteen criteria for blighting conditions were listed, and noted that the requirement was to pass one of two tests. His recommendation to the City was that they clearly identify at least two of the 14 criteria and that they also be able to

move ahead with or without the County's concurrence.

Mr. Halback reported that he had researched the physical assessment, conservation lands and opportunities and constraints associated with them. He said they also looked at the unsafe and unsanitary conditions on the site, as well as the building and structural deterioration of the property. He stated that based on assessment increases of the county over last 5 years, the area lagged behind (33% vs. 100% in other areas) and had actually declined in value, as had lease rates. He stated that the deterioration or defective/inadequate street layouts, parking facilities, roadway, etc. had been substantiated. He felt comfortable that he could show that there had been aggregate assessed value of real property, which failed to show any appreciable increase over the last five years in relationship to the rest of the county. He believed that 6 of the 14 were more than adequate to substantiate by the state statute. He said the next steps were to clearly develop the redevelopment plan to bring back to the City Commission and PZB in a series of public hearings.

Mr. Halback illustrated in the Executive Summary what the increment projections were for the first seven years. He discussed Attachment A which showed his expectations of the sale value of the pieces of property, and he said that the data would be used to create a 25-year tax increment projection starting with Year 1 (2005). He explained that the tax increment would take place in December of each year and would be split between City and County at that time.

Mayor Gardner questioned the build-out value of \$207 million with an assessed value of 65% of \$135 million.

Mr. Halback answered that they had been conservative with the projections. He said they took the \$207 million sales price and used a percentage of that number as the likely assessed value and then ran those projections out.

Mayor Gardner asked whether there was any benefit to the map being outlined into the river as shown.

Mr. Halback replied that the outline encompassed the entire piece of property within the proposed development. He explained that it was unlikely to get any increment of the areas that were within the marsh, but there might be some reason for City facilities or programs in those areas in the future. He said that if the property was included in the district the City would be allowed to use it; but if it was not included in the district the City could not. He commented that it was the same rationale for including the right-of-way for US 1, although it was not in the project.

Mayor Gardner questioned whether the CRA affected public use of the wetlands in any way.

Mr. Halback replied that it would not.

Commissioner Burk questioned whether the Letter of Intent was necessary for the CRA, in the event that the Commission agreed not to issue it.

Mr. Halback recommended that the City consider continuing down the path of the CRA for some time to develop the opportunity to plan for other related things.

Mr. Harriss explained that whatever happened to the Letter of Intent the CRA was useful for the future, as the City was not obligated until much later in the year

with regard to actual implementation. He said that the City had simply climbed another rung in the CRA ladder, which affected nothing else.

Commissioner Burk's voiced her opinion that if the City moved forward on the CRA it might give the developer the wrong impression and force the City into some action it was not comfortable with.

Mr. Harriss disagreed that was the case.

Commissioner Burk indicated that she wanted to spend more time on the next topic before voting on the CRA. Mayor Gardner asked Mr. Halback to confirm with the Commission that he had requested an approval to continue the CRA process, and Mr. Halback confirmed.

Commissioner Burk expressed belief that it was important for the developer and everyone involved to know how the Commission felt about the Letter of Intent first and then address the CRA.

Mayor Gardner responded that it would not affect his vote one way or the other.

Commissioner Burk said that procedurally all the cards should be on the table before making a decision on either matter, because they were closely related

Mayor Gardner stated that the idea was to move forward regardless of the ultimate decision of the Letter of Intent.

Mr. Harriss agreed with Commissioner Burk, because if the City agreed not to go along with the Letter of Intent, it would not be an asset to the City of St. Augustine.

Commissioner Burk emphasized that if the City did not agree with the Letter of Intent but did agree with the CRA, it was

a clear message that the City was doing so independent of any developer. She stated that the City would be agreeing to the CRA because they wanted to and not because it was attached to a Letter of Intent.

Mr. Halback indicated that regardless of whether it was done before or after the resolution did not indicate an approval of the CRA. He said that it was simply the resolution that was found to be in blighted condition.

Commissioner Burk argued that it also meant moving forward and expending money on the CRA. She stated that prior to voting on the CRA she wanted to hear more discussion regarding the intricacies of the Letter of Intent.

MOTION

Commission Burk MOVED that before voting on the CRA the Commission hear consideration of the Letter of Intent. Commissioner Jones SECONDED the Motion.

VOTE ON MOTION

AYES: Gardner, Burk, Jones, Lennon

NAYES: Crichlow

MOTION CARRIED 4/1

John Bailey, 780 Ponce de Leon Blvd. representing Ponce Associates, LLC., discussed the Letter of Agreement For Option (no longer called the Letter of Intent), which was a revised letter dated September 8, 2003. He said a Letter of Intent had been submitted to the City Manager and had since been involved in discussions and negotiations with Emerson Lotza and Toby Smith. He said the binding Letter of Agreement for Option had emerged as a result of the negotiations, which contained terms that were acceptable to the Ponce Associates and Messrs. Emerson and Smith.

Chester Stokes, 4315 Pablo Oaks Court, Jacksonville, gave a quick history of how he became involved in the project. He explained that he had closed on the land one year ago and was unsuccessful in finding a developer who was interested in the golf course. He said that he had met with City and County members, but funding was an issue. He said that Toby Smith later approached him with an idea for the City to make the proposal work. He explained that the plan had not included the golf course, but they were willing to take part in the negotiations as long as their plan could proceed simultaneously with the negotiations for a golf course. He reported that the course had closed several weeks earlier and arrangements had been made for members to transfer their membership to other local courses at no cost to them.

John Kunkel, 4315 Pablo Oaks Court, Jacksonville, said that he had worked closely with the City and Mr. Smith and structured the Agreement through a series of meetings and discussions which he summarized in the steps below.

- As a result of the meeting and first series of the discussions in May the Commission voted in favor of proceeding with the idea and concept of purchasing the original Donald Ross Golf Course.
- In June the Commission adopted the idea of evaluating the study for the CRA, and Mr. Halback indicated that the CRA findings had started to come in, which were instrumental towards the purchase option, because the CRA presented roughly five times the funding capacity for the dollars discussed.
- That evening represented a third major milestone which included the

presentation of the option agreement, as the City had a clear option to purchase the golf course, the Oak Hammock area, existing clubhouse, parking facilities, and driving range. The important aspect of the agreement was that it bound the City to be able to sell the property if they chose.

- October 31, 2003 would be when the City committed to the purchase obligation.
- December 31, 2003 would be the closing on the property.

Mr. Kunkel presented Exhibit A representing the aforementioned property. The following items were carefully considered toward the inclusion, as they related not only to the importance of the original Donald Ross Golf Course, but also to the FTC grant which the City had applied for in June.

- The purchase price was tagged to an appraised value. The FTC grant required two appraisals, which had to be conducted by the City before the grant dollars could be used to close on the property. They would be bound to sell at the appraised value with the understanding that there would be a floor and a cap on the purchase price.
- The developer and the City would work closely to design the golf course so it would be compatible with the residential community and vice versa. It had been contemplated within the agreement that a new clubhouse would be provided by the City. Predicated by the CRA was the necessity for those funds to be used to eliminate the blighted conditions, as well as to put dollars into redeveloping the property so that the

tax increment Mr. Halback discussed was effectively realized.

- Maintenance of the operations level would be tied to industry standards, and they had used Marsh Creek as a representative example of the golf course. Previously the developer had wished to maintain and operate to preserve the service level and keep the maintenance standards at a high level. Taking the Commission's comments into mind, they had since allowed the operation of the golf course to be either managed by the City or submit for public bid.
- On October 31st ask the City to deposit \$200,000 which was at risk at that time. More importantly, the City needed to demonstrate that it had the necessary funds with the FCT grant, as well as the CRA funding. It was expected that the CRA funding and FCT grant dollars would be known and certain by that time. The sellers had committed to produce a new application that would be presented to the PZB by that date. With the City's firm commitment to purchase the golf course, it would be time to redesign the site plan and present it to the PZB for approval.
- The final stage would be the closing on December 31, 2003.

Mr. Kunkel said special provisions that would be adopted within the option agreement for discussion were as follows:

- The option agreement was binding on behalf of the seller, subject to the appeal being withdrawn that was presently pending the PZB's approval.
- The City had asked for a provision whereby it would purchase the existing hotel property and land bank from Ponce Associates at appraised

value, and both parties would jointly look for a resort hotel company to purchase the property with the understanding that it would be used as a resort hotel. There was a restriction for the use of the property of two years, and there was a two-year window for both parties to look for another hotel.

- They committed to a more formal contract having been drafted by October 31, 2003 which spelled out, in detail, each of the provisions in the option agreement to protect both sides.
- They agreed to have the closing documents completed by November 30, 2003, which was after the City's commitment deadline but well in advance of the closing date.
- The termination date in the option agreement would be September 23, 2003.

Mr. Kunkel said that he believed the dates gave each party enough time for review and modification.

Mr. Christopher H. (Toby) Smith, 225 Cannon Court East, Ponte Vedra, indicated that what he wanted from the Commission was some absolution. As a representative of the public and at the interest of the Commission, he felt that he had been operating in a vacuum without direct and complete feedback. He stated that he had done his best to position an economically viable acquisition of 171+ acres for development, and he believed that there was enough funding without tapping the existing tax roll and use of the City for the project. He took a few minutes to describe the evolution of the project. He said that with the Ponce closing the City and County had a deficiency of a viable conference center. He stated that not

only should the Ponce be redeveloped but the element of economic development came into play with the project.

Mr. Smith said there were three elements to be considered before the option of land banking, preserving a hotel site, and marketing the hotel. He said that the elements were as follows:

- A first class golf course and attraction for the city, county and state
- Redevelopment of the clubhouse area and conference center
- Oak Hammock and Robinson's Creek (nature center and park).

Mr. Smith said that the Stokes Organization agreed to have the property sold at fair market value, and the City had retained a leading MAI appraiser, which he agreed to underwrite the cost of to provide consulting but not an appraisal. He reported that studies performed by the Lampe-Roy firm in Jacksonville indicated that the \$12-14.3 million was within range of the fair market value for the 171 acres in the option agreement. He stated that the evolution of the project had gone into multi-faceted funding. He explained that he and the Stokes Organization had jointly gone to the county and received a unanimous vote in support of the effort, and based on their own figures were close to what the CRA funding levels and tax revenues could be. He said they received support subject to going back to the County and showing them the numbers, which the Commission had seen. He stated that he believed he was able to count on continued county support.

Mr. Smith further explained that 22% of the project would be paid for by the State and Federal Government through the FCT grant, 34% would be paid for by the

County, and 44% would be paid for by the City, however, with County and City funding, all of the funding came from the property itself based on build-out and values.

Mr. Smith urged the Commission to give the proposal serious consideration. He also mentioned that the Ponce Golf Course had produced 48,000 rounds of golf at its best and even when it began to decline it produced 35,000 rounds of golf. He felt confident that if the course and clubhouse were restored, there could be at least 35,000 rounds of golf averaged at \$40.00 per round, and relieved of the capital costs (not operating and rental or tax costs). He said that the bidding process would hold the City harmless for the minimum 10-year period that was in the option agreement, as the City would take the responsibility to maintain and operate the golf course for ten years. He said that if the operators walked away after ten years there was a provision for operating it as open space, putting it up for sale or turning it into a park. He asserted that there must be a product first before formally enticing the operators to bid, but there would be plenty of time to do that since it would take nine months to rebuild the course. He believed the course could support itself, and the risk to the City was small.

Deborah Andrews, 11 N. Roscoe Blvd, Ponte Vedra, (Attorney representing Martin and Jeannie Tobler, residents adjacent to the Ponce), stated that her clients had been pleased with the golf course as their neighbors, but they were concerned about the future. She questioned the existing contamination on the golf course and whether the City qualified as a prospective bona fide purchaser. She said her clients had filed an appeal questioning whether the final development was in compliance with the

applicable provisions and regulations. She suggested that when the final development plan came to the City for review, the City look at the issues that had been raised in the appeal. She said that her client would like the City to make a decision sooner rather than later and be prepared to show the money and go forward with the purchase of the golf course. She said that her clients also wanted to see the City make the decision to go through with the plan before the Letter of Intent was signed and not back out at a later date. She emphasized that her clients were not against the restoration of the golf course, but they wanted the Commission to be thoughtful with the details.

Pete Grant, 4336 Coastal Highway, St. Augustine, stated that if the City accepted the agreement it went a long way toward saving a valuable environment and historical landmark for the City of St. Augustine, and at the same time revise new or improved revenue streams for the City. He urged the City, on behalf of the citizens who had signed the petition, to save the landmark and move forward with the finalization and acceptance of the agreement.

Mr. Harriss agreed that the matter had been long and controversial. He said that the property had been annexed on the basis of the existing golf course. He said the revenue that Mr. Halback had indicated was definitely available, and he believed the numbers were correct. He said the finding that was delayed until later in the meeting was one that could be substantiated over the County's objection, if that became necessary. He continued that it would be politically unwise not to have the County on board the operation, but they had indicated that they wanted to participate.

Mr. Harriss said that the analysis of costs involved in the golf course was based on the existing Letter of Intent, the improvements and other things that were required by the Letter of Intent. He said the other bond issue costs and interest capitalization made the project close to \$30 million, less the grant from the Park and Community Trust for \$6 million. He said the project would necessitate a loan of approximately \$24 million and that the analysis completed by his financial staff, for both a 25 and 30-year bond, indicated that for the first 12-20 years of the bond, the City needed 100% of the revenue from the CRA to make the debt service payments. He added that the City would also be required to fund a gap (financing) where the CRA did not come online as fast as the costs needed to be paid. He estimated that it would be approximately \$3-4 million, but it was still a cost that needed to be recognized and paid back. He explained that it would be a substantial period of time before it became positive, but the project would pay for itself in the end.

Mr. Harriss expressed concern for another 9/11 creating a deep recession, or the homes not getting built in the specified timeframe. He believed that the idea of using just the CRA as collateral was doable but difficult. He said the underwriter had expressed concern that the City would not find people willing to lend money on the basis of just the CRA revenue pledge, because it was dependent on a future build-out that might not occur. He explained that an existing CRA with a proven track record was much easier to sell than one that was simply dirt and without a history to rely on. He said that although the economy and building in St. Johns County was strong, it would still be a risk to the City and residents. He suggested that it was doable if the City pledged other revenues as a stop gap

until such time as the project came online, because the City would not have pledged for the entire period.

Mr. Harriss mentioned that the City only had so much collateral lying around and if the City was to go forward with other items currently on the plate, specifically the multi-level parking facility at the Visitor's Center, there could be a conflict of not having enough collateral to do both. He stated he was not sure whether the City had \$24 million in collateral at that point.

Commissioner Burk asked for clarification as to whether the hotel and conference center were part of the aforementioned numbers.

Mr. Harriss replied that they were not included in the above numbers and would be treated separately. He said the City could buy the property and hold it for a period of time and almost have a guaranteed buyout at the end with a good interest rate. He recommended financing it through a separate entity. He explained that the proposal was less risky, because the City would buy the property at a price less than market value. He said the advantage for the City was to hold on to the property until they found an appropriate hotel.

Commissioner Burk asked for clarification on what year the CRA would pay for itself.

Mr. Harriss responded that it would become positive in the year 2019, at which time the City would have paid off the debt and begin to receive money above the debt payment.

Mr. Harriss communicated that his objective was neither to tie up the City's funds nor to affect the City's credit if the money could not be paid back, but

protecting the City's name was important in any case.

Commissioner Burk asked Mr. Wilson to clarify the language in the agreement where it mentioned that closing would be contingent on the PZB approval. She referred to Page 6 where it further stated that if the PZB approved the application, but the decision was appealed the City would have to deny the appeal. She said that it was her understanding that the agreement directed the City, by its own issuance of the Letter of Intent, to deny an appeal. She stated that whether it was the intent or not, it was very clear that the Letter of Intent indicated that closing was contingent upon the City denying an appeal.

Mr. Bailey clarified that the closing would be contingent upon their project being approved by the City, and if the PZB denied the plan and the City affirmed it, then they were not obligated to close.

Commissioner Burk argued that it was strictly on the merits of the appeal and an appeal then became tied into whether or not the City purchased the property. She said the process seemed to be tainted, because it implied that if the City did not deny the appeal, then they would not go through with the purchase of the property.

Mr. Bailey explained that in order for there to be a golf course there had to be approval of a modified plan. He said they were willing to take the risk if the matter went beyond the City.

Commissioner Burk said she could not see how the City could pre-commit to deny an appeal if the City wanted to purchase the property, and the Letter of Intent clearly stated that the City strongly wanted to purchase the

property. She said the Court of Appellants already had a prejudiced commission sitting there.

Mr. Bailey agreed that the language could be modified. He emphasized that it was not their intent to bind the City to approve plans, but their intent was to enable them get out of the deal if the City did not approve their plans.

Commissioner Burk pointed out that not only could they get out of the deal, but the City would lose their opportunity to purchase the land, because the Commission granted an appeal.

Mr. Bailey asked Commissioner Burk whether her concern was that the City would be accused of pre-judging.

Commissioner Burk confirmed that it was her concern.

Mr. Bailey said he believed that the duties could be separated with Mr. Wilson's advice.

Mr. Wilson recommended that the easiest way was to have it incorporated before the City entered into a contract.

Commissioner Burk expressed concern about CRA funds and the necessary funds the City required to build streets, playgrounds, and other City needs. She held that the decision should be based on whether or not the City wanted to use the taxpayers' money by spending \$27 million on a golf course plus build, construct, and operate the golf course. She stated that she could not see how the City could afford the \$27 million; moreover, she did not think the project would be the best way to spend taxpayers' money.

Commissioner Crichlow said that because of the way the CRA was

structured, all money realized by the CRA would be dedicated to paying 100% of the bond debt.

Commissioner Burk argued that there were no tax dollars coming out of that area to support the entire infrastructure or the services.

Commissioner Crichlow agreed and explained that during the 16-year period there would be no money generated from the development to pay city or county services, such as fire, police, utilities, libraries, etc.. He said the money that was normally the development's fair share would be picked up by the rest of the City and County for 16 years.

Commissioner Burk added that the \$27 million might be generated from the homes, and that money would go into the general budget. She added that the \$27 million would be money that could not be used by the community.

Commissioner Crichlow reported that if the development was to move ahead as planned with the build-out of approximately 700 homes, there would be a \$1.3 million loss per year for the City and County.

Mr. Harriss confirmed that it would be \$1.7 after build-out for the City's portion, and the County would be a little less than that.

Commissioner Crichlow further added that it would be for a period of time until the project was paid for.

Commissioner Burk stated that the City might make money if everything went well, but it took a long time to make \$27 million.

Commissioner Crichlow stated that anything worthwhile came with risk and

the City had been charged with making the determination whether the risk was worth it.

Mr. Smith advised that it was \$24 million, not \$27 million.

Mr. Harriss responded that it depended on whether the Commission agreed that the project was worthwhile. He said that the three components were \$14.3 million as a cap for all the land, \$6 million in round numbers for improvements, and \$8 million in economic incentives invested in the property. He explained that the grant money was similar to equity money and would go to the Florida Community Trust from the Federal Government out of the taxpayers' pockets.

Commissioner Burk expressed concern regarding the conservation easement in Item 3. on Page 7. She said that golf courses were not necessarily ecologically friendly due to fertilizer and pesticides, and she questioned if the conservation easement would prevent it from being operated as a golf course in the future.

Mr. Harriss replied that the line item related to the IRS tax code indicating that when granting a conservation easement the seller gave up certain development rights. He explained that by doing so, one was able to take a credit on their tax return for the value of the easement.

Mr. Smith injected that it was limited to a golf course or manicured park.

Mr. Harriss added that the City would not be able to do any construction or development of any kind, and community centers or ballparks would not be allowed.

Mayor Gardner questioned whether there was a base value that continued to yield taxes to the County and City before the TIF.

Mr. Harriss replied that whatever the base value was on the purchase date would be the value that went into it. His idea was for the City to purchase at least that portion of the land before December 31st, so that taxes for that portion of the land would be zero as its base. He said that the rest of the developable land when finished had a value and would continue to be paid to both the City and County. He stated that the appraised value was \$7 million; less the golf course portion compared to \$135 million. He said that the percentages were only about 3% of the build-out value, because it was raw land, currently without a high assessment.

Mayor Gardner inquired as to how much out of every tax bill went to the City and to the County.

Mr. Harriss stated that the City received about 6.6 mills on a bill, so the City would get about 25% of the total tax bill. He clarified that none of the numbers had addressed any of the taxing bodies other than cities and counties.

Mayor Gardner questioned whether there were requirements in the Letter of Intent that the City had to borrow the money for improvements made in one or two years, and whether there was a requirement that Mr. Stokes must build a certain number of homes each year.

Mr. Harriss said there had been discussion about including an incentive clause stating that the City would release a certain amount of money incrementally. He explained that if the City did not pay for the property up front and it changed hands the appraised

value would diminish because of the current value. He said that it was Mr. Stokes' call as to whether he wanted to spread it out for incentive over time. He voiced his concern that it would become a community that just sat there.

Commissioner Crichlow expressed his concern about the \$8 million reimbursement to the seller for demolition and residential development costs in order to ensure elimination of conditions the City had rendered blighted. He asked for insight into why the City would give the developer \$8 million to help build it after the purchase.

Mr. Smith explained that over a series of meetings they had looked for ways to bridge the gap between the requirements of the FCT grant, so that the property would be sold at fair market value. He said that pursuant to MAI appraisals and the Stokes organization's analysis of the properties worth they had to consider certain sections, such as Oak Hammock and the 6th Fairway, which were designated for marsh front residential development. He said they looked at two things in assuming that a new district of the CRA would be created to invest in the property. He said they had considered how to take over certain aspects of the direct development of the property to make the property go faster, and have a road built, which the developer might not have built for three or four years. He said that investment in the demolition and preparation of the hotel was needed to move forward. He said that although the density would drop from 750 to 400 units there were things that needed to be done for US 1, the entrances, and also joint venturing some of the amenities to be available to the public and the residents. He explained that they arrived at the \$8 million by the estimates of the Stokes organization as to what a portion

of their infrastructure and development costs were, however it was not a precise figure at that time.

Mr. Crichlow asked Mr. Smith to clarify how the CRA would start producing money based on the \$8 million investment or the taxable value of the property increase due to the infrastructure.

Mr. Smith replied that getting the hotel property in better shape for a resort developer, and more importantly, having made investments in roads and lighting was a component. He suggested that entrances and a road completed to the best lots, to sell them as quickly as the less valuable lots, would accelerate the process of getting valuable property onto the tax rolls. He explained that it was not quantified in the current schedule because the current schedule was more or less a current build-out schedule. He stated that he believed the property sold significantly faster if investments of that type were made.

Commissioner Crichlow stated that his viewpoint was that it should be the goal of the developer to maximize the project on his own.

Mr. Stokes advised that the market would dictate the speed with which they moved, and that he had looked at the project with and without the golf course. He pointed out that under the proposal, his profits had been reduced by approximately 40%. He explained that it made sense to him because there were 400 units instead of 749 units, and having gotten some of the land burden off of them was less risky. He commented that they were once partners with the Ritz-Carlton project in Amelia Island, and the fact that the hotel was located 50 yards from the first tee had generated a huge positive cash flow. He

said that it would be a good move on the City's part, as a golf course with a hotel would be an asset. He said it would be easier to put a shopping center in the space, but they wanted a plan that made sense for everyone and preserved the golf course. He concluded that St. Augustine had a good chance at attracting a first-class hotel.

Commissioner Crichlow said they had to consider the dollars and liability of the City, and anything that was done to reduce the liability of the debt helped make the decision concerning the \$8 million.

Mr. Stokes agreed and again mentioned that they had taken a 40% hit without the golf course, and that there were pros and cons for both sides. He disclosed that his company had written the check and the interest check had started to run on them, which was why they wanted to do the dual track. He stated that if the City decided not to move forward, they wanted to be able to start construction the next day.

Commissioner Burk asked Mr. Stokes if he, as an experienced developer, thought that a golf course would be profitable for his company.

Mr. Stokes replied that there were not enough units.

Commissioner Burk asked Mr. Stokes why he thought the City wanted to have a golf course if it would not be profitable for his company. She acknowledged that St. Augustine was not a Ritz-Carlton community and was not like Ponte Vedra or Amelia Island.

Mr. Stokes clarified that he believed the golf course would not be profitable without a hotel. He stated that the key

was to have a hotel that charged \$100+ per round and not just pay for cart fees.

Commissioner Burk suggested that was too much for the community, as average people would not be able to use the golf course.

Mr. Stokes said that it needed to be a hotel that charged for rounds rather than one that competed with the \$25-\$30 rounds.

Commissioner Crichlow questioned whether the proposal jeopardized the bond issue with the VIC garage.

Mr. Harriss replied that he did not believe that the City had enough collateral for both projects. He stated that he was not certain how much collateral the City had available, because he understood that there was not a lot of interest in using excise tax, franchise fees, and other revenue sharing numbers, which the City had some capacity to pledge. He reported that the City was looking at approximately \$38 million, (\$14 million for a garage and \$24 million for the golf course) and could find \$1 million in pledgable assets for both projects. He stated that the next step was to pledge ad valorem taxes through a referendum.

Commissioner Burk expressed concern that the Letter of Intent indicated that the City would pay \$8 million more than the fair market value of \$14 million.

Commissioner Jones said that he would like to see the land preserved, but he did not feel the City could afford it. He stated that he understood that the \$8 million was to ensure the area was rid of the condition that the City had rendered as blight, but they were not necessarily material things that required real dollars. He commented that the Letter of Intent

addressed safety and the possibility of things that could occur in the future, but they would be things that the City had to deal with. He pointed out that with regards to the highway, there was nothing to be removed; therefore, there was nothing to be paid for. He questioned why the City would pay someone else for something that they had to deal with if they purchased the property. In addition, he stated that the state would take care of US 1 since it was a state road. He said that there were issues stated in the Letter of Intent that claimed it as being blight, but there was no cost involved—they were simply intellectual points made to generate funding and get the dollars. He said that he could not agree that the City should ask the State for money, establish the area as blighted and then pay the developer \$8 million to eliminate things that they were not sure existed in the first place. He went on to say that the Letter of Intent stated that buildings were to be torn down by the City, yet the City had agreed to pay the developer for removal of blighted conditions. He questioned whether it could work, and reminded the Commission that Mr. Stokes admitted that if the situation was his, he would not make the investment without a high end hotel. He stated that the burden should not fall on the taxpayers; therefore, he was not prepared to move forward with the proposal. He concluded that there was a timeline, and he wanted a decision to be made without further discussion.

Mayor Gardner asked Mr. Bailey to clarify that the documents clearly stated the golf course would be reconstructed to the original Donald Ross course and not just another Marsh Creek or Marsh Landing.

Mr. Bailey replied that the intent was to restore it to the original Donald Ross

course, and it would have to be maintained at a standard befitting the original Donald Ross course.

Mayor Gardner again emphasized that it would befit the original course not the modern standard course.

Mr. Bailey affirmed.

Mayor Gardner read a clause in the document which stated the course was to be operated in management consistent with Marsh Creek's present standards, and he asked if that meant with capable grounds keepers.

Mr. Bailey affirmed, and he said that it seemed to be the most appropriate.

Mayor Gardner read the clause stating that the seller reserved the right to plant trees on certain areas of the golf course as tree mitigation areas. He questioned whether that meant no trees and no palms in the residential development areas.

Mr. Bailey replied that it meant that planting additional trees in certain areas of the golf course would be counted towards satisfying their tree credits.

Mayor Gardner asked for clarification on the clause which stated that the seller reserved the right to form a community development district on the entire property inclusive of the property in question.

Mr. Bailey answered that it would be unlikely, but it would be similar to an association only a little more organized and formalized and had nothing to do with the CRA.

Mr. Harriss explained that a CCD was one that would assess the property owners in the district for costs that the

CCD would incur. He voiced his concern that the golf course would be a portion of it and expected to pay some of the assessments of the CCD.

Mayor Gardner stated that they were at a point where they could do something for future generations. He agreed that it was not about a golf course; it was about preserving the natural environmental space which contained history, and reduced the impact of a new residential development from 749 to 400 units. He said that for every \$1.00 in taxes collected, infrastructure would cost \$1.50 for new development. He emphasized that it did not make sense to buy the land even though the CRA was there in both cases, because the City did not have the collateral. He reminded the Commission that what they were looking at was the Letter of Intent, which agreed to a contract that would be escapable.

Mr. Harriss explained that by the time the option date expired, they would have knowledge progressed with the CRA. Mr. Harris clarified that he had not confirmed that the City could not handle the project as a CRA pledge. He stated that it would cost more and the numbers would be higher, but he had not said that it could not be done. He explained that the City had to use their collateral and might not be able to build the parking garage.

Commissioner Jones asked what would happen if the City was required to remove the soil during the reconfiguration of the golf course and it was exposed to the surface.

Mr. Harriss reported that Mr. Stokes and individuals from the Ponce organization had said all along that there might be a good chance of contamination. He said there was a consent order signed stating that whatever they required would be

fixed. He said that he did not know the monetary extent, but if the City were to buy the course it was another consideration to be quantified during the due diligence period. He said that the arsenic was put there because of the golf course, therefore, the City would be purchasing the arsenic contamination that existed with the golf course.

Mr. Smith advised that arsenic in the soil on a golf course was not a threat for remediation or costs even when the soil was turned. He said that arsenic bound with the soil of a golf course and created a problem if a human being played or dug in it. He stated that the question was whether the arsenic or any other contaminant had migrated out of the soil and into the ground water or marsh. He added that it was his understanding that there was no migration; moreover, he would personally underwrite the costs of all the test borings and everything necessary to make sure that the City would not inherit a problem. He said that he could not comment on it as residential space, but he had been informed that operating as proposed, the City had satisfied them it would not be a problem.

Mayor Gardner questioned whether there was a window to table the matter for two weeks.

Commissioner Crichlow commented that there were several issues brought up that the Commission was not comfortable with. He said it was the first contract on the table and maybe the Commission needed a few weeks to see whether it could be made more attractive.

Mr. Harriss advised that the developers set September 23rd as the deadline, which was the day after the subsequent meeting. He said that with direction

from the Commission they could put the matter on the September 22nd agenda. He noted, however, that it was important to have specific direction as to what areas the City wanted to work on.

Mayor Gardner said that the proposal had been outlined and every effort had been made to make it happen, but this was the first time it had gone before the Commission for a vote. He said it could be killed right then, but he thought the project was worth the delay.

Commissioner Burk stated that there had been extensive negotiations between the Mayor and Mr. Stokes, and that it was not the first draft of the proposal.

Mr. Smith recommended that the Commission direct the City Manager to discuss what could be done with Mr. Stokes. He said that he did not want the project to be penalized for his presumptuousness, and he asked the Commission to give it another shot. Commissioner Burk's said that when the Commission gave the first approval to go out and see if they could find the money, she had anticipated it would come from private entities or land banks and not through taxpayer dollars, but every penny would be out of taxpayer dollars.

Mr. Smith acknowledged that the project qualified for a number of private and other public grants and fundraising, but the project had just been defined the previous Saturday. He stated that the essential element was the timeline, and the reason he emphasized the need for the CRA and the benefit that came from a CRA was that it would get the deal done. He told the Commission there was nothing to prevent them from prepaying the bond.

Commissioner Burk stated that the City did not need to be involved in

negotiations between Mr. Smith and the developer or private entities interested in purchasing the golf course.

Mr. Smith agreed, but said that it was his personal choice that the highest and best use of the property was as a public facility.

Mayor Gardner repeated that he was not ready to say no.

Commissioner Lennon informed Mr. Smith that the City was not in the recreation business, but the County was. He directed attention to the sentence stating that the City had a strong desire to purchase the land. He disclosed that he had received approximately 150 phone calls from people suggesting that the City was nuts, as they did not want the City's dollars spent on a golf course. He emphasized that the citizens of St. Augustine wanted nothing to do with a golf course that most people would not use. He pointed out that the majority of the people who would use the golf course would be County residents. He stated that there were 140,000 people in the county, but the county had said that they wanted nothing to do with the course. He questioned why a little city of only 11,600 citizens would want to purchase a big piece of property and try to develop a first-class golf course. He spoke on the citizens behalf and stated that he would vote against the project.

Commissioner Burk's expressed concern about delaying the vote when she could not see a way the situation could be fixed even if the price decreased, unless of course there were private funds for the purchase. She suggested that the developer go through the normal channels on all aspects.

Commissioner Crichlow suggested that it was too soon to decide whether the

project could be fixed or whether it could be financed through the CRA. He stated that he wanted to do everything in the City's power to make the project work to preserve the land. He requested that the Commission take two more weeks to explore all possibilities.

MOTION

Commissioner Lennon MOVED to deny the Letter of Intent. The motion was SECONDED by Commissioner Burk.

Mayor Gardner agreed the City was dealing with taxpayers' expense and the gap needed to be closed, but he recommended that the Commission take another two weeks to consider something so critical to the nature of the community.

VOTE ON MOTION

AYES: Lennon, Burk, Jones

NAYES: Crichlow, Gardner

MOTION CARRIED 3/2

8.H. Leonardi Street and Pellicer Lane Intersection Report.

Mr. Cubbedge presented a summary on the aforementioned intersection by consultants who conducted traffic counts, movements and speed. He said the consultants concluded that although the intersection looked like it should be a problem, approximately 80% of the traffic that went into the intersection left South Dixie Highway and went to Pellicer Lane, but 92% of the traffic that went up Leonardi Street turned to the right on King Street. He explained that it did not make sense to send drivers west onto Pellicer Lane and impact a signal light intersection to turn back to the east on King Street. He said that the consultants suggested traffic calming devices on Leonardi Street as a deterrent.

Mr. Cubbedge reported that St. John's County had made improvements to Holmes Boulevard to allow for widening and alignment to feed directly onto Four Mile Road and State Road 16. He said that when construction was completed it would lighten some of the local traffic that came across South Dixie Highway. He said the first recommendation was to monitor those improvements and measure the traffic volumes, and if there was no improvement, they suggested implementing traffic calming devices. He further stated that if the intersection became unbearable, land could be purchased that complemented with the three roads and realigned the intersections. He said that if the residents concurred they would consider installing a speed hump on Leonardi Street in the near future. He also mentioned that all roadway improvements under construction at that time were expected to be completed by the spring of 2005.

Commissioner Lennon suggested that a speed hump was the solution the residents were looking for.

Mr. Cubbedge agreed that speed humps had merit.

Commissioner Crichlow questioned what had happened to the idea of a traffic circle.

Mr. Cubbedge explained that the dollars needed for the additional land purchase and the unfamiliarity of American motorists with traffic circle made the option the lowest priority.

Commissioner Crichlow agreed that it was one of the City's worst intersections.

Mr. Harriss said that Charlie Hotchkins had recommended a plan that would not cost the City anything. He said his idea

was to restripe so the traffic flowed continuously on Pellicer Lane and T-Boned the other into it with curving. He mentioned that the road belonged to the County and required their concurrence for change.

Commissioner Jones said that residents on Leonardi Street were also concerned about speeders and had suggested installing a stop sign on South Dixie Highway at the 3-way split where South Dixie Highway ran into Leonardi Street and Pellicer Lane. He asked whether Mr. Cubbedge had informed the residents that they could make application for a speed hump.

Mr. Cubbedge said there was some indication that the residents had started the process. He said that based on the comments received, he might have to go back to the Commission for ideas. He explained that the first two steps included about \$10,000 in expenses and that he would like to get the Commission's acceptance on the report and be ready to go ahead with it.

Mr. Harriss said that they probably would not ask for the \$495,000 option for a while.

Mayor Gardner announced that the report would be available in the Neighborhood Council Office.

9. ITEMS BY MAYOR AND COMMISSIONERS

Commissioner Jones – Masters Drive

Commissioner Jones reported that some residents had expressed concerns related to speeders on Masters Drive. He explained that it was a County road but the City tried to monitor it for speeders. He stated that they were also concerned that the density, in terms of new homes

and duplexes being built close to the road, would eliminate the easement aspect for a potential sidewalk. He said there were also quite a few blind corners, as property owners built their fences up to the corners and planted shrubbery, which blocked the view for drivers. He asked Mr. Knight to look into that aspect, and Chief Shoar to deal with the speed violations.

Mr. Harriss agreed that people had to avoided Palmer and Josiah streets, which made it difficult for drivers to get out on Masters, but it was expected to be paved the next week.

Commissioner Jones said he would continue to work with County Commissioner Stearn to address the concerns. He also reported that there were no school zone signs near Crookshank Elementary School.

Commissioner Crichlow – Ordinance 2003-23

Commissioner Crichlow reported that the PZB had reviewed Ordinance 2003-23 regarding aggregate lots and recommended that the Commission create a task force to develop potential solutions to the problem. He stated that he would like to move that process along by appointing a member of the PZB and a member of the Commission to the task force.

Mr. Harriss recommended doing an advertisement for volunteers and appointing them by the next meeting.

Commissioner Burk questioned whether the task force members should be City residents.

Mr. Harriss said that individuals would have to be property owners, but they would not have to be City residents.

Mayor Gardner stated that he would rather that they were City residents, because a non-resident would not have the same concerns.

Mr. Harriss pointed out that a person who paid taxes for their property, even if they lived outside the city, had the same concerns. He suggested that they advertise for interested members, accept applications and let the Commission decide.

Commissioner Crichlow advised that the VCB was organizing the Super Bowl events and had numerous teams already established, and the City would be involved with the activities.

Mayor Gardner - Announcements

Mayor Gardner recognized the police officers who recently graduated from National Guard Officer Candidate School.

Mayor Gardner gave an update on Courtney's Corner at Davenport Park, which was scheduled to be rededicated on October 11th. He said that Randy and Kevin Schmidt of Ponte Vedra had made a substantial donation in memory of their daughter and the improvements included new play sets, surfacing and landscaping.

Mr. Cubbedge said he had received complaints about the fences at Davenport Park, but he had explained that they were temporary to block anyone from going in or around the construction zone. He concurred that October 11th was the scheduled date of completion. He suggested that the date was a little optimistic, but it could possibly be done. He stated that the Schmidt's had hired a general contractor and five sub-contractors who specialized in their respective areas. He pointed out

that based on the entrance corridor plan, adopted before the project was permitted, they met the requirements on the proposed fence. He said that they had picked a theme that could be used on the existing north city block for compliance. He stated that it had been a challenge considering height and visibility, because the playground was meant to be accessible to children of all abilities. He said that there would have to be some unique gate openings and closings.

Mayor Gardner thanked the New York Times for an excellent article in the Travel Section the previous Friday. He said that the National Trust had done a study on heritage tourism and the City, and Flagler College had shared the cost of the report. He said the Trust had a number of inquiries and wanted permission to post it on the National Trust website, which required the approval of the City Commission.

Mr. Harriss commented that he thought it was probably already documented, but it was not a bad thing.

Mayor Gardner reminded everyone that Thursday marked the anniversary of 9/11. He said that Flagler College students would hold a vigil on Wednesday night at 7:00 p.m. at the Flagler College entrance on King Street. He stated that the City would conduct a group ceremony in the Plaza on Thursday morning at 8:30 a.m., followed by a Memorial Mass at 10:00 a.m. in the Cathedral Basilica, which would be sponsored by the Knights of Columbus Council 611.

Mayor Gardner stated that the first public hearing on the budget was scheduled for Thursday, September 11th at 5:05 pm in The Alcazar Room.

10. Appeals and Public Hearings

10.A/ Public hearing and appeal of a Planning and Zoning Board decision relative to the Ponce de Leon Golf Course property.

Item tabled until the October 13, 2003, City Commission meeting.

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

11.A / Resolutions

11.A.1/ Consideration of Resolution 2003-21, establishing the property formerly known as The Ponce de Leon Hotel, Golf and Convention Center as a Community Redevelopment Area.

Commissioner Jones suggested that the City consider the possibility of purchasing a smaller portion of the land in question.

Mr. Harriss stated there was an unanswered question in the CRA and asked that they pass the CRA finding.

Commissioner Burk asked what benefit it would be.

Mr. Harriss replied that it was a resource he did not want to give up at that time. He said that if they did not restore the golf course there might still be other avenues of thought.

Commissioner Burk questioned whether there was any commitment or expense.

Mr. Harriss said there would be no additional expense to keep the door open, and there would be no commitment until the end of the year, at which time he would inform the Commission.

MOTION

Commissioner Lennon MOVED to accept the CRA Resolution 2003-21. The motion was SECONDED by Commissioner Jones.

VOTE ON MOTION

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

NAYES: None

MOTION CARRIED UNANIMOUSLY

11.B/ Ordinances - First Reading

11.B.1/ Introduction and consideration of Ordinance 2003-23, modifying the definition of "family" and "rooming house".

Mayor Gardner advised that it was a first reading, therefore, if passed the ordinance went to a second reading with a public hearing.

Mr. Harriss asked Mr. Knight to give a summary of how the ordinance had come about with specific details of the impact.

Mr. Knight explained that it started several years earlier when the definition of "family" included only related persons, and only related persons could live in a house together. He said the code was then changed to allow unrelated persons to live in the same household in a single family home and still be considered a single family home. He reported that currently six unrelated people could live in a single family home and still be considered a single family home. He explained that as time passed more people had taken advantage of having six unrelated people in a single family home, and the PZB had noted that it had become an issue with some neighborhood associations. He said that in an attempt to correct what had become a problem, the ordinance would reduce the number of people of unrelated individuals in a single family home from

six to four and the PZB had recommended that the ordinance be adopted. He said PZB had also made a recommendation to decrease the number of unrelated people in a single family home to three people. He stated that the ordinance also required that homes considered rooming houses be registered with the Planning and Building Department within 90 days after adoption. He said that the practice would be allowed to continue legally for three years, at which time the property owner would have to come into compliance with the zoning category. He added that if the existing rooming houses did not register within the 90 days, it would be considered a code violation.

Mayor Gardner questioned whether a rooming house was an allowed use in any residential area.

Mr. Knight said it primarily affected residential single family areas in RS-1 and RS-2. He said that rooming houses were allowed in a number of other residential districts but not in RS-1 and RS-2.

Mayor Gardner questioned the consequences for not registering with the Planning and Building Department within 90 days.

Mr. Knight confirmed that if a person was renting to five unrelated people at the present time, and they wanted to continue operating in legal standing, they would need to register in order to continue legally for three years after registration; but after three years they would not be allowed to operate. He said they would register as a legally non-conforming rooming house.

Commissioner Burk questioned whether they had to register the names of the renters.

Mr. Harriss replied that they would register the number of people, but not their names. He said that if it was a four-person rooming house and the number was reduced to three people they could continue to operate, but they could not expand.

Mr. Crichlow questioned what would happen if there was a house in RS-1 that had five unrelated people living in it.

Mr. Knight explained that it would be considered a single-family home. He said that if the ordinance was adopted stating three or four persons, it would automatically become a rooming house and be considered a legally existing non-conforming use.

Mr. Crichlow asked how it could be classified as a rooming house if the use was not allowed in RS-1.

Mr. Knight replied that, by definition, it would be considered a rooming house of non-conforming use, but grandfathered in for 90 days. He said that if the property owner registered, they would be grandfathered in for three years. He said that it was not written in the ordinance that it had to be proven. He stated that it could be questioned administratively if someone had a two bedroom house and claimed they had a six-person rental.

Commissioner Burk recommended that the Planning and Building Department register the names of the people cohabiting. She agreed that there was no problem reducing the number to three people, but she thought it should exclude children under the age of 18. She concluded that she did not want fraternity houses in the neighborhoods.

Commissioner Lennon expressed concern about how age would be proven without asking for identification, which

the City did not have the right to do. He said it should be taken into consideration that St. Augustine was a college town and people needed the income from rental property or from renting out rooms in their home.

Commissioner Burk expressed concern regarding the number of cars that a rooming house would generate, and she agreed that the ordinance would give the City some relief.

Mr. Harriss said that the Commission should be aware of the difficulty presented for staff to enforce the ordinance. He added that the ordinance would bring more homes into scrutiny.

Commission Burk stated that changing the number would not change the enforcement.

Mayor Gardner asked the Commission to decide whether they wanted to move the ordinance to second reading with a public hearing. He asked the city attorney whether it was necessary to put in the number of people or if it could be left blank.

Mr. Wilson recommended that it should state how many people it would apply to, but that could be changed after the public hearing.

Commissioner Burk advised that the County had four.

MOTION

Commission Crichlow MOVED that Ordinance 2003-23 be modified to change the definition of "family" and "rooming house" and that the "family" be defined as not to exceed three unrelated persons and be placed on first reading, read by title only and

approved. Commissioner Burk SECONDED the motion.

Commissioner Jones discussed the definition of family in RS1 and RS2 and asked how that related to the HP districts.

Mr. Knight said that rooming houses were not allowed in HP-1, and that area would be affected as well. He said that he believed that rooming houses were allowed in HP-2, HP-3, HP-4 and HP-5. He said that if a rooming house was a permitted use in a zoning district, the person would have to get a use permit for the rooming house. He said if there were six unrelated people cohabiting in a regulated area they would not be subject to the three year requirement.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2003-23

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 28-2 AND ESTABLISHING SECTION 28-123 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO MODIFY THE DEFINITIONS OF FAMILY AND ROOMINGHOUSE AND ESTABLISH A SYSTEM FOR TRACKING AND AMORTIZING NONCONFORMING ROOMINGHOUSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

VOTE ON MOTION

AYES: Crichlow, Burk, Jones, Gardner

NAYES: Lennon

MOTION CARRIED 4/1

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

(None Scheduled)

11.D/ Ordinances - Second Reading Public Hearing

Mayor Gardner questioned whether the Commission had set a public hearing on the aggregation ordinance.

Mr. Harriss replied that the PZB had suggested a task force, which would be decided at the next meeting. He explained that the task force would make recommendations to the Commission to help decide a course of action. He said the item had been tabled so that the Commission could look at more options and get input from the public.

11.D.1/ Public Hearing - Ordinance 2003-20, establishing twenty percent (20%) side yard setbacks for nonconforming lots of record.

Mr. Knight explained that the issue was for non-conforming lots of record as related to side yard set backs. He explained that on legally existing non-conforming lots of records, there was a 10% side yard setback (10% of the width of the lot). He explained that a 50-foot wide lot would have a 10-foot side yard set back. He said the minimum lot and the zoning district had a 20% side yard set back. He indicated that the proposed ordinance provided for a 20% side yard set back for non-conforming lots so that it would filter down based on the size of the lot. He explained that when it became a conforming lot, it would meet the same side yard set backs for the zoning district. He said it was primarily effective in RS-1 and RS-2 zoning districts where the side yard set backs were large by comparison to the HP districts.

Mayor Gardner questioned whether that would be the only public hearing, and whether it would become law if the Commission took action at that time.

Mr. Wilson replied that it was set for hearing and would become effective ten days after passage.

Mayor Gardner said a public hearing would be held and asked the Commission to report any exparte communications.

Mr. Wilson said that since it was a legislative act, communications were not required.

Commissioner Burk requested that during the public hearing the speaker's state whether they lived in the City.

Mayor Gardner opened the public hearing.

Kea Blalock, 144 Southwind Circle, (not a city resident), President-Elect for the Board of Realtors, stated that she was there on behalf of herself and the Board to oppose the ordinance and request that the Commission look into the matter further before making a decision.

Mayor Gardner suggested that if any of the Commissioners owned a non-conforming lot they might need to recuse themselves.

Mr. Wilson responded that it was an ordinance of general application and not a matter necessitating that Commissioners recuse themselves.

John Vonasok, 5903 Rio Royale Road, (not a city resident), said that he owned several properties in town. He questioned the situation regarding the set back of less than 4-feet.

Mr. Knight replied that it could not go below a 4-foot minimum side yard set back. Therefore, he said the set back for a 30-foot wide lot would be 6-feet on each side. He explained that overhangs counted toward the set back.

Mr. Vonasok confirmed that with an 18-foot wide house one could build 35-feet high. He stated that a narrow house at that height would be an eyesore. He suggested that on the smaller lots the 20% should not be put in effect, plus lots should be looked at on an individual basis by reviewing site plans, maps of the city, and the character of the neighborhoods to make adjustments. He said that a 15% set back might be more just than 20% on some lots. He said that 30-foot wide lots would be affected resulting in some very narrow homes, which would impact the downtown areas.

Commissioner Burk disclosed that the ordinance would not apply downtown.

George E. Haynes, 27 Riberia Street, said he was representing a part of the Board of Realtors as Chairman of the Political Action Committee and for the Board of Director for Habitat. He expressed concern that the ordinance would prevent them from building low-income housing. He pointed out that building three-story homes was more expensive; however, habitat did not have plans to build two or three-story homes, because the most economical home was usually single story. He said the Board of Realtors point of view was that many investors felt their investments would dwindle away because of reduction in the size homes they could build. He stated that it was a big issue for many people when they lost a percentage of the home they intended on building, or that they might have to build two or three-stories to get the square footage they wanted.

He suggested that the proposed task force to study the aggregate ordinance also study the set back issue at the same time.

Leland Wittmire, 43 Dolphin Drive, urged the Commission to leave the set backs at 10%. He said it was reasonable to build a home on a narrow lot with a 10% set back, but it would be detrimental to the tax base to limit what could be built. He stated that he did not see a problem with the way things were.

Janice Brown, 5903 Rio Royale Road, stated that she did not live in the city limits, but she owned property in the city, and she could not build an affordable home that could be sold under the proposed ordinance. She stated that there were 30-50-foot wide lots on Kings Ferry Way, Lincoln Street and Pomar Street where she had building plans that would go with the community and houses on those streets. She said the home being built on Kings Ferry Way was approximately 1600 square feet and had a 3-foot side set back to the eaves.

John Valdes, 226 Rainey Avenue, said that he lived in city limits and renovated and restored buildings in the city. He expressed concern for the architectural guidelines in the city in reference to the appearance of buildings. He said that modern buildings being built in old neighborhoods disrupted the fabric of the neighborhood. He stated that adopting the 20% set back would force the architectural style to change and would not look good in older neighborhoods. He said the City should look at the architectural overview of all older neighborhoods, not just HP districts. He mentioned that the ordinance affected existing homes, as they would not be able to construct additions. He said that most people would like to see nothing done. He agreed with Commission

Jones' suggestion that a 10% minimum be retained by placing a minimum. He provided an example of a 10% side yard set back and a 4-foot minimum from the property line as an option.

Commission Burk questioned whether they could have different setbacks for one story verses two story homes.

Mr. Valdes said that it was an issue of keeping the fabric of the neighborhood, and when people were forced to build two-story homes on small lots the result was an architectural challenge. He said that Lincolnville had numerous two-story homes on 30-foot wide lots, but it fit into the neighborhood. He recommended leaving the ordinance as it was.

Mayor Gardner questioned whether the entrance corridor guidelines were effective city-wide.

Mr. Valdes stated that it could be incorporated within the yet-to-be-appointed City Entrance Corridor Board. He said that the matter should go to HARB, because they dealt with a different set of parameters. He said that the Entrance Corridor Board would not have a large amount of work going to them, because there was not that much being done on entrance corridors. He added that if one were looking at an architectural overview in existing residential zonings, HARB would be the logical board too appeal to.

Mr. Vonasok stated that he had put a lot of effort into planning his home on Kings Ferry Way to fit into the neighborhood. He added that the Commission was not taking elevation into consideration, as they had to go to 9-feet; therefore, the house would be 3-5 feet higher than any other houses in the neighborhood, which made it look bigger.

Jennifer White, 401 Marsh Point Circle, stated that she owned non-conforming lots in the city in the RS-1 Salt Run area. She stated that when she bought the property, they had been given notice that the set backs were at 10% on a 50-foot wide lot. She said it was difficult to design a home that would look appropriate with a garage in the front. She explained that the set backs would go from 5-feet on each side to 10-feet on each side if the ordinance passed and she would be forced to build a taller home. She stated that amending the side yard set backs would devalue homes in the City, because 95% of the lots were non-conforming, and it would force people to build homes that were out of character to the City. She said that in the 1920's the City was depicted as a quaint village with homes close to each other, which was the reason the majority of lots in the City were small. She said that changing the ordinance would contradict that plan. She stated that by enacting such an ordinance the City would create a gated community and be more restrictive than the original creators of the City thought when they plotted the lots.

Carl Blow, 100 San Marco Avenue said that he lived in the city and wanted to lend a little support to Mr. Valdes that an architectural overview should be considered for the RS-1 and RS-2 areas. He agreed with the Mayor's recommendation of looking at separation from structures, and not so much at strict side yard set backs. He said that with homes being older and so close together, fire protection should be a consideration when studying the issue and beefing up the fire rating on the exterior walls and roof so that fire could be contained.

B. J. Kalaidi, 8 Newcomb Street, said that she had two non-conforming lots

that would be affected by the ordinance. She stated that 10% was sufficient, and if the ordinance was passed, people would go to the boards for variances. She stated that the character in the plats should be kept to the rights of the property owners. She observed that parking had not been taken into consideration when people built on their property. She indicated that parking was already a problem in the City and if the City took away more of people's property there would be no place to park, and the streets would become worse than they were. She suggested that the Commission think seriously before taking away more of what a person had invested in.

Commissioner Jones mentioned that he had originally been in favor of the ordinance but had asked that it be tabled at the last meeting for additional feedback. He said that he was prepared to withdraw his support of the ordinance as it currently stood. He recommended that it be remanded to follow the aggregate ordinance for adjustment. He reiterated that he was not prepared to support the ordinance as it was.

Commissioner Burk agreed to leave the 10% set backs but suggested that adding at least 10-foot distance from an adjacent inhabited structure was important, not including garden sheds, etc. and with a 4-foot minimum.

Commissioner Crichlow said that he wanted to discuss modifying it to 8-feet, as it would affect the speed that a fire could spread. He stated that structures 4-feet apart were too close, and he would like to see the 10%, and he added that he would like to see an 8-foot minimum distance between structures. He also asked the Commission to consider making a decision at that time.

Mayor Gardner replied that the ordinance could be defeated, but he suggested instructing the task force to consider it as part of the aggregation issue.

Commissioner Lennon said the ordinance was one of two pieces of legislation that were the worst to go before the City Commission. He said that the ordinances invaded people's privacy, diminished property size and limited what people could do with their property, especially when considering small lots. He stated that the Commission should not tell people what was good for them; moreover, he had a problem jamming government down the citizen's throats. He stated that Mr. Crichlow had already changed what could be built in the HP districts. He said that the proposed change would not be good for the property owners who had purchased lots years ago.

Commissioner Crichlow noted that a motion required a majority vote to pass. Commissioner Burk emphasized that the City was trying to protect the existing neighborhoods, and lots that no one would have thought about buying were currently being built on. She stated that the Commission was not trying to take away rights, but trying to protect rights and the integrity of neighborhoods.

Commissioner Jones said he grew up in Lincolnville and the homes were not 2-feet apart. He stated that currently some people wanted to build 2-feet from property lines.

MOTION

Commissioner Jones MOVED to amend the Ordinance to stand at the existing 10% with a minimum of 4-foot set back. Commissioner Burk SECONDED the motion.

After discussion on the definition of 4-feet, Mr. Knight read the change of the ordinance to make sure everyone understood: The ordinance would change the side area requirement for non-conforming lots to remain at 10% of the width of the lot with a minimum of a 4-foot set back.

Mr. Harriss said that 10% was part of the original ordinance. He clarified that the 4-foot minimum was the only change, but the 20% also needed to be modified.

Mr. Knight said it would still have impact on the RS-1 lots. He explained that with a 74-foot wide lot, technically the width would be 7.4; therefore, it could go down gradually on RS-1 lots.

Commissioner Crichlow went on to explain that if a person had a 45-foot lot the set back would be 4.5-feet, but on a 35-foot lot there would not be a 3.5-foot set back.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2003-20

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 28-119 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO CHANGE THE SIDE YARD REQUIREMENT FOR NONCONFORMING LOTS OF RECORD FROM TEN PERCENT (10%) TO TWENTY PERCENT (20%) OF THE WIDTH OF THE LOT; 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, Gardner

NAYES: Lennon
MOTION CARRIED 4/1

MOTION

Commissioner Jones MOVED that Ordinance 2003-20, as amended, be placed on second reading, read by title only and approved. Commissioner Burk SECONDED the motion.

VOTE ON MOTION

AYES: Jones, Burk Crichlow, Gardner

NAYES: Lennon
MOTION CARRIED 4/1

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

(None)

12.B/ GENERAL PUBLIC PRESENTATIONS AND COMMENTS (15 minutes per presentations)

(None scheduled for this meeting)

13. Adjournment

There being no further business, the meeting was adjourned at 10:47 p.m. ¹

MAYOR

CITY CLERK

¹Transcribed by Pam Pitton