

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
January 26, 2004

The City Commission met in a formal session Monday, January 26, 2004, 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
Dr. William Adams, Director, Heritage Tourism
Mark Litzinger, City Comptroller
William H. Harding, Director, Public Works
Paul Williamson, Director, Public Affairs
John Regan, Chief Operations Officer
Robert Leetch, Director of Utilities
James Owens, Fire Chief
Jeremy Masters, Commander, Police Department
Orfeo Paolini, Sound Technician
Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Dr. John Hunter, Memorial Presbyterian Church, delivered the invocation, and Commissioner Lennon led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

(None)

3.B/ Approval of Minutes of the Regular Meeting of January 12, 2004

The minutes of the January 12, 2004, City Commission meeting were approved with the following amendment: page nine, right column, mid page Mayor Gardner noted that he believed he had suggested installing lighting in the market facility not in the Plaza.

3.C/ Proclamations

Non Agenda Item

Mayor Gardner and Cathy Brown, Executive Director, Council on Aging, acknowledged Greta Larkin, Donna Fee, Brian Norris and Ray Sebens for their selfless service to the senior citizens of the community.

4. General Public Presentations and Comments (3 minutes per presentation with maximum total time limit of 20 minutes)

Leslie Garcia, 205 West King Street, spoke regarding the entertainers and St. George Street and the situation for the vendors in the Plaza. He disagreed that the commercial vendors should be stationed in the market place. He also disagreed that the vendors and entertainers in the Plaza were damaging the grass. He suggested that the City received enough money for permits to regularly resod the Plaza. He suggested that the City extend the same respect to the entertainers that they had to the Ghost Tours by allowing them to regulate themselves.

Commissioner Jones noted that the entertainers had been provided the same opportunity.

Peter Romano, 62 Sanford Street, stated that he was president of the Lincolnville Neighborhood Association and speaking on their behalf. He spoke in support of the City regulating continuity and conformity of design related to the construction of buildings within and outside the historic areas and the general appearance of the City. He said the association had recognized the need to protect Lincolnville from the onslaught of developers with the intention to exploit the beauty and historic significance for the last best deal in St. Augustine. He said that the lack of City restrictions did not protect Lincolnville, which was on the national register. He said that

Lincolnville was requesting that the City pay attention to the needs of historical preservation to show compatibility of structures, maintain recognition of cultural preservation and the access to nature.

5. PRESENTATIONS AND STAFF REPORTS.

5.A/ Presentation by Mark Litzinger, City Comptroller, regarding relocation of the Customer Service Division.

Mr. Litzinger referred to the agenda information regarding a use for the old fire station. He stated that currently the Financial Service Department was located in the Lightner Building, lobby D, fourth floor, where payment was collected for utilities bills, parking tickets, occupational licenses, for hire permits, guide licenses, inspections, code enforcement fines and rental payments. He said the division also administered the guide tests and issue ID's for the guides. He said that on average the customer service division helped approximately 100 customers daily, and the majority of the customers probably spent more time trying to find a parking space, walking into the building, and finding the right elevator then they actually spent in the customer service office. He added that they had a large customer base of elderly and some handicapped customers that preferred to pay their bills in person, all of which were challenged by navigating the Lightner Building.

Mr. Litzinger proposed relocating the Customer Service Division and Personnel to the old fire station at 50 Bridge Street. He said the benefits would be improved customer service and improved parking in the downtown area. He referred to the site plan and noted that the drive-up window on the west side would be a key

feature allowing a large portion of customers to conduct business without leaving their vehicle. He said that as a result of the drive-up window they estimated that 50-75 vehicles would not require parking on a daily basis. He said that the site plan also provided six short-term parking spaces for customers.

Mr. Litzinger said that they also wanted to move the City Building and Services Group to that location as well. He said the site plan also provided for an outside access meeting room, and they would like to complete some cosmetic renovations to the building and the grounds. He said that, with the Commission's approval, he was requesting authority to implement the plan.

Commissioner Lennon questioned the cost for the renovation.

Mr. Litzinger replied that they did not have any cost estimates at that time.

Commissioner Burk noted that the request was for approval of the concept.

Mayor Gardner questioned the next step.

Mr. Litzinger said that, with the Commission's approval, he could initiate the plan or they could instruct him to provide more information.

Commissioner Burk questioned the use of the second floor of the building.

Mr. Litzinger replied that there would be a cost factor involved for ADA compliance when considering renovating the second floor.

Commissioner Burk questioned whether it could be used for storage.

Mr. Litzinger agreed stating that the City was in need of a climate controlled record retention area.

Commissioner Burk stated that the idea of a drive-up window was ideal.

Commissioner Jones questioned the situation with the night deposit box for payments.

Mr. Litzinger replied that they would relocate the night deposit box to the area in question, which would be a safer location.

Mayor Gardner noted that a separate access conference room would provide space for the community to use at anytime.

Mr. Harriss pointed out that the restroom facility would be sealed off from the rest of the building, so that people using the conference room, which was approximately the size of the de Aviles Room, would have access without needing a City employee in attendance.

Commissioner Crichlow stated that the concept was viable; however, he would like to see the conference room large enough to hold 25-30 people.

Mr. Harriss pointed out the biggest gain for a central location for the Customer Service Division was that people would not have to figure out which elevator to use. He added that the size of the conference room was a topic for discussion.

Commissioner Burk stated that she thought the conference room was too large, which would increase the parking problem. She noted that the Willie Galimore Center was under utilized and it had a huge conference area for community conferences. She suggested

cutting the size of the proposed conference room in half.

Mayor Gardner stated that the Willie Galimore Center was relatively booked up.

Commissioner Crichlow agreed that he had run into that situation.

Mayor Gardner questioned whether ADA compliance was necessary for director's offices on the second floor.

Mr. Harriss replied that building would be utilized for public purposes; therefore, it would have to comply, as a director could possibly be handicapped. He added that the site plan would be designed with an area for an elevator in the future. He added that the proposal was a compromise for the structure.

Commissioner Jones asked the City manager to instruct staff to proceed further with cost and design development to bring to the Commission, and the Commissioners agreed.

6. ITEMS BY CITY ATTORNEY

(None Scheduled)

7. ITEMS BY CITY CLERK

(None Scheduled)

8. ITEMS BY CITY MANAGER (Includes Consent Agenda - noted with an asterisk)

8.A./ Consent Agenda

1. Preview of upcoming Commission Meetings.

2. Notification of two upcoming term expirations on the Historic Architectural Review Board.

3. Notification of a vacancy on the Code Enforcement, Adjustments & Appeals Board.

Mr. Harriss noted that the items on the consent agenda consisted of notification; therefore, a motion for approval was not necessary.

8.B/ Discussion Items

(None scheduled for this meeting)

9. ITEMS BY THE MAYOR AND COMMISSIONERS

9.A/ Discussion of proposed ordinance regarding visual compatibility of structures - Mayor Gardner.

Mayor Gardner stated that he had submitted details and pictures demonstrating that development in the historic districts and neighborhoods and indicating that they were being built to the maximum regarding height, mass and scale. He said that he had submitted recommendations by a panel of knowledgeable citizens, a summary of the Sanibel Island study on appropriately sized construction and an ordinance providing visual compatibility regarding height, spacing, and shape and so on, throughout the City. He stated that it was the Commission's duty to decide immediately whether the community or market forces would dictate the future.

Mayor Gardner stated that he had submitted two ordinances covering a range of concerns including demolition, historic resource definition, archeologically sensitive areas and development compatibility in surrounding neighborhoods. He recommended the following for immediate consideration:

- The City Attorney prepare an ordinance as presented by the citizen panel on demolition, definition of structure, government entities and archeological areas
- The ordinance reduced from 35-feet to 27-feet the maximum building height, measured from the FEMA hazard elevation
- The ordinance be effective retroactive from that day (January 26, 2004)
- Action on the ordinance be completed within 60-days
- The City Manager be directed to hire a consultant, as finances permitted, to take any necessary actions to develop code revisions as suggested in the Sanibel Island study regarding appropriately sized construction

Mayor Gardner concluded that he prayed the Commission would recognize the effect and act to preserve the empire they called home.

Commissioner Burk stated that she agreed with the Mayor in theory, but she was concerned how to accomplish his suggestion. She recommended considering the matter.

Mayor Gardner expressed concern about developers, their lawyers and banks; because they moved faster than government. He said he believed that the City had to put something in place immediately for protection while they studied the situation.

Commissioner Crichlow agreed that it was a great idea in concept; however, the ordinance was quite vague the way the Mayor presented it; therefore, it would not be enforceable in any way, shape or form. He suggested that there was a way to write the ordinance to insure that it was enforceable. He referred to a document prepared by the state that was a guide for developing standards for

historic Florida communities, which had been written in 1995. He said the guide provided details for rhythm of spacing and building, directional expression of building elevations and continuity etc. He said that the proposed ordinance was nebulous, and they could not ask a regulatory board to make determinations on vague subjective definitions. He said that the guide was a way to make the definitions objective. He suggested that if they were to address the items they would have to write the ordinance to address each specific neighborhood, as they were a lot different from each another; therefore, the things they addressed would change from neighborhood to neighborhood. He added that they had used the state document to update HARB guidelines.

Commissioner Crichlow stated that there was a lot to talk about, such as whether the ordinance would refer to new construction or renovations. He said that he personally believed that it should pertain to new construction, as that was the problem that had to be overcome. He said that the Commission had the complete authority to move on the ordinance. He pointed out that the historic preservation element of the Comprehensive Plan stated that the first goal was to *maintain and enhance the historic integrity and ambience within the City of St. Augustine*. He said that it was the Commission's task; however, how they did it was tricky.

Mayor Gardner stated that he was recommending that the City Manager hire a consultant or take the necessary actions to move in the direction of overall design review guidelines for the entire City. He said that reaching that goal would take time, board reviews, recommendations, and public hearing etc. He suggested that they start the ball rolling in that direction.

Mayor Gardner stated that for the immediate time they could approve the ordinance proposing elements on demolition, appeal definitions, compliance and height. He said that the ordinance had been prepared as an immediate recommendation by a citizen's panel that had looked at the entire historic element of the community and how it could best be preserved. He said that the ordinance changed the time to submit an appeal from 15-days to 30-days, and disallowed underground parking in archeologically sensitive areas. He stated that the ordinance had been well thought out, and he wanted the Commission to act on any or all of the elements and turn it over to the City Attorney for proper format and legal defensibility. He stated that another element was reducing the height limit from 35-feet to 27-feet maximum building height measured from the FEMA flood hazard elevation for consistency. He said that he wanted the ordinance to pertain to all new development, infill development and renovations. He reiterated that the Commission had to do something then.

Commissioner Crichlow questioned whether the Mayor wanted to pass a resolution on those elements during the meeting.

Mayor Gardner replied that he wanted to pass a resolution to have the City Attorney prepare an ordinance.

Commissioner Crichlow questioned whether there would be room for discussion as they moved on with it.

Mayor Gardner stated that it would go back to the Commission for first reading, and there would be a public hearing on the second reading. He said that he

wanted to move on the height limitation because it would apply all over the City.

Mr. Harriss stated that currently 35-feet was the maximum height in most areas, but there were some areas that had a 50-foot height limitation.

Commissioner Burk questioned whether the 50-foot height was in residential areas.

Mr. Harriss replied that there was some residential, but the bulk was commercial or multi-family.

Commissioner Jones noted that he had received quite a few e-mails recently from people supporting the resolution the Mayor had put forth. He said he recognized the passion for the issue and he agreed with certain aspects, but he also had reservations about the ability of enforcing the ordinances. He added that he did not understand what some of the terms meant, and the mayor had read into the ordinance more components during the meeting that were a surprise to him. He said that type of ordinance was rather sweeping and could have a tremendous positive impact for those who supported it and a negative impact for those who did not. He said that the ordinance was broad and must be reviewed by a cross section of citizens and not just those that had been instrumental in drafting the document, which was a small number when considering all the citizens. He said that he could not approve an ordinance without a clearer understanding and to make it retroactive was like signing a blank check. He said that he appreciated the urgency but the proposal was not fair. He suggested that the Commission study the proposal and the City Attorney prepare a tentative ordinance for review. He added that they could not make a height limitation etc. retroactive because of the potential

impact on the public that might be in the building process. He reiterated that they could not rush the matter.

Mayor Gardner said that approval of the proposal would authorize the City Attorney to prepare the ordinance, at which time it could be accepted or rejected.

Commissioner Jones said that was possible if they eliminated the retroactive clause, because it put everyone on hold.

Mayor Gardner stated that it would put three story mentalities on hold. He proposed a resolution for an ordinance to reduce the height to 27-foot citywide that was not vague and included the retroactive element with a 60-day limit. He said that whatever they did during the meeting they could undo in the future, but what some developer might do the next day, because the Commission had not acted, was not likely to be undone.

Commissioner Jones questioned whether the only element retroactive was the height.

Mayor Gardner replied affirmatively and said including the retroactive clause on height with a 60-day limit would serve as a moratorium.

Commissioner Crichlow questioned whether the City Attorney would be able to draft an ordinance in two weeks. He questioned what they were being asked to approve.

Mayor Gardner stated that if they dealt with only the height he would be comfortable; however, he would be certain that the Commissioners received the recommendations of the committee for further review with details for demolition etc.. He said at the same

time he recommended that the City Manger be authorized to hire a consultant if finances were available or otherwise...

Commissioner Jones suggested that they take one step at a time.

Commissioner Crichlow questioned whether the matter was within the capabilities of the new preservation planner.

Mr. Harriss replied that he did not believe staff had the capability to draft an extensive ordinance as would be necessary to provide the details, because the proposal was not historic, it was Citywide. He added that the proposal was more of a planning function than historic preservation.

Commissioner Jones questioned whether, in the interest of time, they could just deal with the element that they all agreed on.

Commissioner Burk suggested that perhaps the Aggregation Task Force could work on the proposal.

Commissioner Crichlow questioned what the mission was.

Commissioner Burk replied everything that was in the two ordinances except the height.

Commissioner Crichlow replied that all the architectural references would be incredibly time consuming.

Commissioner Burk stated that she was not talking about the issues; she was talking about identifying the areas of town in a rough draft.

Commissioner Crichlow replied that perhaps if they strengthened the task

force with someone from HARB. He said that he hesitated to commit what level the matters had to be taken to.

Commissioner Burk pointed out that the Commissioner could not commit the task force anyway, but he could discuss the possibility with them.

Mayor Gardner pointed out that the PZB and the HARB were having a joint meeting that week.

Mr. Harriss responded that the meeting was regarding manufactured housing that looked like barracks. He said the boards were trying to adopt the Jacksonville ordinance regarding horizontal diversity. He said that the proposal could be a topic of discussion for the meeting; however, the board members had not been given the chance to consider all the items in the proposal.

Mayor Gardner stated that virtually everything, with the exception of the one ordinance where the elements were recommended by the committee, was covered in the guidelines. He said that they wanted to look at the community and see what had to be done to preserve the neighborhood character.

Commissioner Crichlow said that he backed the effort; however, his concern was getting something in place that was enforceable by a regulatory group. He stated that it would take a lot of time and talent to create the proposed ordinance. He said that items such as demolition, structure sites, and historic sites could be discussed and voted on.

Commissioner Lennon addressed the Mayor and stated that the way he saw it since the day they were elected they thought they knew better than anyone else in the community. He said that they had done nothing but dictate to the

community what they wanted. He said that if he wanted to move into a gated community that was guided by the Mayor and could do nothing without going before the Mayor's group he would never have moved to St. Augustine. He said that clearly they did not care what HARB or PZB had been doing for years, but he thought they had done a great job. He said that since the Mayor was elected the Commission was taking away people's rights regarding their properties by stopping them from building on nonconforming lots, and the Mayor had "do gooders" that sent him e-mails. He told the mayor to tell the "do gooders" not to send him e-mail unless there were 6,000 (or more than half the population) people in support of the proposal, because that was half the population or majority of citizens who elected the Commission. He said that he did not want to hear from ten people demanding that he vote in the Mayor's favor.

Mayor Gardner replied questioning whether the Commissioner wanted him to tell the community not to send him e-mails.

Commissioner Lennon said that would be fine, because he did not want the public sending him something that the Mayor had drafted. He said that the group of people who brought the information to the Mayor might be part of a class action that their name would be on; he did not know how that worked. He assured the Mayor that the Commission could not continue to dictate to the people that the Commission was right, and they were all wrong. He emphasized that he was not in favor of one item the Mayor had just introduced.

Commissioner Burk noted that it was the first time she had experienced an e-mail campaign where everyone had written

their own e-mails, as she had received approximately 25 and not one was a duplicate.

Mayor Gardner pointed out that each Commissioner had only one vote; therefore, what he might recommend (inaudible) we had a right to be as well, as well as your private property owners who liked to build four story, 35-foot high monoliths.

MOTION

Commissioner Burk MOVED that the Commission direct the City Attorney to come back with an ordinance restricting all 35-foot height limits to 27-feet, effective today (01/26/04) and no permits would be issued until there was a vote on the ordinance.

Mr. Harriss pointed out that the motion would restrict the City from going further with the garage (at the VIC).

Commissioner Crichlow objected to the proposal being citywide. He stated that he was not willing to vote in support of the proposal being citywide. He said that he would be willing if the restriction pertained to selected areas, but not citywide.

Mayor Gardner questioned what the areas would be.

Commissioner Crichlow stated that the matter would take studying.

Commissioner Burk suggested that they limit the restriction to all RS zoning.

Mr. Harriss suggested HP zoning.

Commissioner Crichlow stated that he would agree to HP 1, 2, and 3 and maybe he would go further, but he was not certain at that time. He questioned

whether they would want to limit the height in the Flagler area to 27-feet.

Mayor Gardner said that the resolution passed that night would provide a window of opportunity to get public input, in other words they could amend the ordinance on first reading. He said the public now had a better understanding of what the Commission was considering.

Commissioner Crichlow stated that they would not want the ordinance to affect the garage.

Commissioner Burk amended the motion as follows:

The denial of permits for the 60 day period for any application exceeding 27-feet be restricted to all RS Zoning and HP and when the ordinance went before the Commission that it would contain blanks to fill in which areas to provide time for public input.

Mayor Gardner added that it would be measured 27-feet from the FEMA line.

Commissioner Jones SECONDED the motion.

Commissioner Jones clarified that the ordinance would address height in RS and HP zoning only, and reduce maximum height to 27-feet. He further clarified that the ordinance would be introduced for first reading during the February 9th meeting, and should it be approved that it would go to second reading with public input on February 23rd. He noted that there would be a 30 day moratorium before the second reading and the moratorium could last no longer than 60-days.

Commissioner Crichlow suggested that the ordinance would affect the

comprehensive plan resulting in amendment.

Mr. Harriss disagreed stating that the Comp Plan in most instances had the highest limit, but it allowed for a variance of the zoning law to go to that higher limit.

Commissioner Lennon questioned whether buildings could be higher than 35-feet.

Mr. Harriss replied in some places with a PZB variance, if the Comp Plan allowed for more than 35-feet. He said that they could create a zoning ordinance for 27-foot height that allowed for 35-feet in the Comp Plan by variance.

Mayor Gardner pointed out that the Comp Plan was due for a five-year review.

Commissioner Crichlow suggested that they needed to study what affected the Comp Plan and make the necessary modifications.

Commissioner Lennon questioned whether it would be necessary to get rid of HARB and PZB.

Commissioner Crichlow stated that the boards were doing a good job.

Commissioner Lennon questioned why they wanted to change things.

Commissioner Crichlow stated that the boards did not have the tools they needed to do a better job.

Commissioner Burk stated that the City was changing and they had to change with it.

VOTE ON MOTION

AYES: Burk, Jones, Crichlow,

Gardner

NAYES: Lennon

MOTION CARRIED 4/1

Mayor Gardner suggested that they put together the elements in detail backing up the elements of the ordinance, demolition and so on. He said they would make copies for each Commissioner.

Commissioner Jones questioned whether they had covered both Item 9.A. and 9.B.

Mayor Gardner replied that he would pretty much say so.

Mr. Harriss stated that he thought that Item 9.B. would go to Commissioner Crichlow's Aggregation Task Force for discussion.

Commissioner Jones clarified that Item 9.B. was put aside for the time being.

Commissioner Crichlow stated that he would like Item 9.B. on the agenda for the subsequent meeting.

Commissioner Jones said if that was the case he wanted to be certain that the item was publicized properly.

Mayor Gardner said that he would have the people involved provide more detail for the Commission.

Commissioner Jones addressed the public noting that the Commissioners had a lot of issues and concerns regarding both proposed ordinances. He said the proposals were of such magnitude and so wide sweeping that the items demanded further review and discussion.

Mayor Gardner stated that they were satisfied that there was a cap on at least 90% of the immediate growth.

9.B/ Discussion of proposed ordinance regarding preservation of historic resources in all areas of the City – Mayor Gardner.

(The Item was addressed during Item 9.A.)

Signage

Mayor Gardner stated that he had requested that staff install more parking directional signs and follow up with the state regarding leading signs along San Marco and US 1 warning people about which lane to use to reach visitor parking.

Tips for Kids

Mayor Gardner stated that he and Commissioner Crichlow would be getting tips for kids on February 2nd at Cortesse's Bistro from 6:00 until 7:00 p.m.

Commissioner Crichlow noted that the object was to benefit Big Brother, Big Sisters by waiting on tables and donating their tips.

Commissioner Jones noted that numerous restaurants were participating in the event.

Ponce Resort

Mayor Gardner said that Mr. Schrieder had questioned demolition of buildings of historic significance that might be less than 50-years old and the Ponce Resort had been significant during the 1964 Civil Rights demonstrations. He requested that HARB review that element and make recommendation to the Commission.

Heritage Tourism Task Force

Mayor Gardner stated that he had made recommendation to the Commission to create a Heritage Tourism Task Force as had been recommended by the National Trust study and assessment of St. Augustine. He said that he wanted approval from the Commission to proceed with seeking applications for the task force.

Commissioner Lennon suggested that the Mayor currently had enough boards.

Mayor Gardner questioned whether the Commissioner did not agree with him. Commissioner Lennon stated that he did not agree with him.

Commissioner Crichlow requested that the Mayor summarize the St. Augustine Heritage Tourism Study. He questioned whether the results of the study would be presented to the Commission.

Mayor Gardner stated that the study had been completed by the National Trust and the strongest recommendation had been to create a Heritage Tourism Task Force representing all the stake holder elements in the community for a most effective management of heritage tourism. He said the task force would look at everything from the ghost tours to café tables after dark etc., and it would function as a recommending body to the Commission.

Commissioner Crichlow said the task force would make recommendations that would support the trust study.

Mayor Gardner replied that the study outlined areas that the Commission might look at. He said that one idea was incorporation for the Parking and Traffic Plan for orientation in the VIC. He continued that he really liked that it was not simply dealing with historic

preservation and heritage tourism, but respecting the other elements that would be a part of the task force.

Commissioner Crichlow acknowledged that it could be a good effort that he would support.

Commissioner Jones pointed out the possibility of duplication, because the City had the Tourist Development Counsel and Chamber of Commerce. He said that perhaps the Mayor was trying to narrow the focus of recommendation to the Commission. He stated that the City had a lot of boards, and he was losing track of who was responsible for which elements.

Commissioner Crichlow stated that neither of those boards looked at the City from the preservation standpoint.

Commissioner Jones stated that when they were taking about lodging, restaurants and retail businesses they were not talking about preservation they were talking about tourism.

Mayor Gardner stated that the idea of the proposed task force was to bring all those elements to the table.

Commissioner Jones said that hopefully they would see some new faces.

Mayor Gardner questioned whether there were any objections to proceed.

Commissioner Lennon objected and questioned whether the Mayor was listening to himself. He questioned how many boards had to be answered to. He questioned how many people had the time, who were working or not, to be on all the boards the Mayor wanted. He questioned whether they were all the Mayor's people that helped to get him elected, and if so it was not fair to the

community. He emphasized that the City had enough boards and enough government.

Mayor Gardner stated that if Commissioner Lennon did not have the time he should not be sitting at the Commission table.

Commissioner Lennon pointed out that he was employed.

MOTION

Commissioner Crichlow MOVED to move forward with the Heritage Tourism Task Force to carry out the direction of the study conducted by the National Trust

Commissioner Burk questioned the objective of the proposed board; was it to promote tourism, manage the existing tourism, or discourage tourism.

Commissioner Jones questioned if the proposed board was intended to make recommendations or implementation of the recommendations made by the Heritage Tourism Study.

Mayor Gardner stated that the purpose of the task force would be to review and implement, as appropriate, the suggestions made in the National Trust report.

Commissioner Jones suggested that it would correct, review and recommend for implementation.

Commissioner Burk questioned whom they would recommend to.

Mayor Gardner replied the City Commission. He said the report suggested taking an over view look at the

entire tourism element, including parking, traffic, and special events etc.

Commissioner Burk questioned how many people the Mayor proposed to be on the board.

Mayor Gardner recommended two each for eight different categories, plus one that would be a representative of the City's Heritage Tourism Department; therefore, seventeen.

Commissioner Burk questioned how they would be selected.

Mayor Gardner said that he recommended that the City Clerk accept applications for each category for the Commission to vote on.

Commissioner Burk questioned the responsibility of the proposed board.

Mr. Wilson stated that it would be advisory like the parking committee and HPAC.

Commissioner Jones questioned how it would relate to government in the Sunshine.

Mr. Harriss said the meeting would have to be recorded and the minutes transcribed and the members would function under the Sunshine Law, which would represent that much more work for the City Clerk's Office.

Commissioner Crichlow questioned whether they could create the board out of the Sunshine.

Mr. Harriss noted that if they created a committee the Commissioners could have nothing to do with meetings.

Commissioner Burk questioned the cost of creating the board.

Mr. Harriss stated that the City had not conducted a study, but there would be cost.

Commissioner Burk stated that she was not sure she wanted to jump into another board that day.

Commissioner Crichlow stated that the National Trust study had made a lot of good recommendations, and the Mayor did not want to have another study gather dust on the shelf. He said that the proposed task force could make the recommendations for implementation, and that was why he was in favor of it. Commissioner Burk stated that she wished there were a lesser vehicle to do it.

Mr. Harriss stated that a group could be formed without being created by the Commission that could make recommendations to the Commission as any citizen could without being subject to the Sunshine law.

Mr. Wilson said that the group would have to be formed without City sanction and direction.

Commissioner Crichlow stated that if it had to be that way it had to be that way.

Commissioner Burk noted that the Sunshine did not bother her it was the expense.

Commissioner Lennon noted that the City Clerk would have to increase staff.

Mayor Gardner said the group going through the Codes would have records to be able to realize that the Code would have to be altered in different places. He said the City had tweaked Codes and possibly created conflict.

Mayor Gardner said that he had observed merchants fighting with one another instead of working together for the benefit for all, which the task force could address. He said the task force would be composed of knowledgeable people and citizens getting together to look at what was currently happening. He said that the City was continually ducking the idea of charging visitors for enjoying the City's resources. He said questioned Commissioner Lennon whether it would be better for the tax payers and the City to pay to host the visitors. He said that a tourism task force could address that matter and report to the Commission. He emphasized that the free market system in St. Augustine was a free-for-all and not a benefit to anyone including the tourism industry. ¹

Commissioner Jones referred to the task force and questioned whether the board members would have to be City residents, because if that was the case he was firmly opposed to it. He said that there were many merchants, and restaurant owners etc. that were not residents of the City who could provide valuable input.

Mayor Gardner said the Commission had determined that board members would have to be City residents, but advisory committee members would not be required to be City residents.

A brief discussion revealed that the restriction was only on HARB, PZB and Code Enforcement.

MOTION FAILED FOR LACK OF A SECOND.

Commissioner Burk stated that the reason she could not second the motion

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was because the City had too much on its plate currently.

Commissioner Jones stated that the Commissioners had a lot on their plate.

Landmarks of American History

Mayor Gardner reported that St. Augustine had been chosen as one of seventeen sites in the nation for the new program Landmarks of American History. He said that the sites would be announced Thursday at 1:00 p.m. at Flagler College and the program would be explained on how to use historic cities and other sites to enlarge and enhance teacher's knowledge of the understanding of US history. He said there would be four one week seminars conducted in St. Augustine during the summer.

Commissioner Crichlow - Casa Del Hidalgo

Commissioner Crichlow suggested that he get the downtown merchants together to determine the best use for the Casa Del Hidalgo.

Mr. Harriss stated that Dr. Adams intended on meeting with the Historic Area Council, the downtown merchants association, to get their input regarding the property, after which they would bring the response to the Commissioners.

Commissioner Crichlow stated that they could keep the situation wide open or the Commission could focus the direction of use at that time.

Mr. Harriss stated that they should get the input from the council.

Commissioner Jones - Traffic on Leonardi Street

Commissioner Jones acknowledged Chief Shoar for the meeting he held with residents of Leonardi Street in an effort to solve the traffic flow.

Santa Domingo Redoubt

Commissioner Jones suggested that the City examine and amend the ordinance regarding use of the redoubt as a skateboard park. He expressed concern that someone would get hurt.

9.C/ Discussion concerning the upcoming mediation hearing on the Ponce Property – Commissioner Burk.

Commissioner Burk noted that the mediation hearing for the Ponce property would be held soon and she had reconsidered her position; therefore, she requested withdrawing herself from serving the Commission for the mediation. She noted that as a lawyer she mediated on a regular basis, but the mediation in question would be different and difficult for her. She suggested that Commissioner Crichlow would be a good candidate. She added that she was the furthest opposed in consensus for what should be done with the property; therefore, she was not the best person to represent the Commission.

Commissioner Crichlow expressed concern regarding the position. He said that he would have to review the Commission's actions involving the Ponce to develop the Commission's concerns.

Mr. Wilson stated that the Commission had already determined their position regarding the matter, and they had to see what the other side intended on offering for common ground and what the Special Master recommended. He said that the Commissioner representing

the Commission would then return to the Commission with the alternatives to formulate a decision. He stated that it would be an open proceeding to facilitate an agreement between everyone. He said that a lawsuit could still be filed by the parties involved. He stated that the Commission did not have to sit down and discuss their position on the matter, as it had already been determined.

Commissioner Crichlow stated that he had no problem serving in that capacity.

Commissioner Lennon - Tim Burchfield

Commissioner Lennon acknowledged Mr. Burchfield's birthday and all the years that he had served the City.

10. Appeals and Public Hearings (None Scheduled)

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

11.A / Resolutions

11.A.1/ Consideration of Resolution 2004-05, concerning a petition to vacate a portion of Bravo Park Avenue.

Mr. Harriss reported that Bravo Park Avenue was bordered by property owned by Charlie Hotchkins who requested vacation of that property. He noted that the City had no use for the property in question. He said that Mr. Hotchkins intended on building some houses adjacent to Bravo Park Avenue. He added that the first step was the resolution, and there would be two public hearings following approval.

MOTION

Commissioner Crichlow MOVED to approve Resolution 2004-05. The motion was SECONDED by

**Commissioner Lennon and approved
by UNANIMOUS VOICE VOTE.**

11.B/ Ordinances - First Reading

(None Scheduled)

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

(None Scheduled)

**11.D/ Ordinances - Second Reading
Public Hearing**

**11.D.1/ Public Hearing - Ordinance
2004-01, Motion to Amend,
establishing criteria for boatlifts and
boats on lifts.**

Mr. Harriss stated that the ordinance had been approved on first reading with an amendment to change the definition of a low profile boatlift to three feet above the deck and require that all structural members of the boatlift be underneath the deck. He said that the difference between a low profile and a no profile boatlift allowed for the low profile boatlift mechanical parts to be above the deck and the horizontal structure to be beneath. He said that was the amendment to the ordinance.

Mayor Gardner questioned whether they should motion to amend the ordinance.

Commissioner Crichlow stated that he thought they had changed the definition of low profile boatlifts.

Mr. Wilson stated that was the motion the Commission had previously voted on.

Mr. Harriss stated that he thought so also, but with an abundance of caution the Commission could amend through motion again.

Mayor Gardner read the motion from the previous meeting, and it was determined that the ordinance had been amended with a modified definition of low profile.

Commissioner Jones pointed out that the minutes did not state the modified definition, and he questioned whether the minutes should reflect that modification. He added that it was his understanding that currently the definition for low profile was really no profile.²

Commissioner Crichlow pointed out that they could still go three foot above the deck.

Commissioner Jones questioned what could be three feet above the deck; only the four posts?

Commissioner Crichlow agreed and added there would be no horizontal structure.

Commissioner Jones questioned whether the low profile and no profile apparatus that lifted the boat would raise the bottom of the boat to the same level.

Commissioner Crichlow stated that the height the boat could be raised was the same for both profiles. He said that at the last meeting they had discovered that there was an affordable low profile boatlift on the market without the horizontal members, which had concerned the PZB. He said the low profile boatlift had the four corner posts containing the mechanism that raised the lift, but it did not have the horizontal structure.

² The audio tape of the 01/12/04 meeting indicated that the definition of low profile was discussed prior to the motion which also referenced the discussion during Item 10.A regarding the appeal for boatlifts at 11 Tremerton Street.

Commissioner Jones said that the low profile boatlift had no negative effect on ones ability to raise the bottom of the boat.

Commissioner Crichlow said the height was the same and constant.

Mayor Gardner opened the public hearing.

Henry Green, 24 North St. Augustine Boulevard, distributed a boatlift catalog and a photograph. He said that Commissioner Jones question whether a low profile or no profile boatlift could lift the bottom of the boat above the deck of a dock was a good one, because neither boatlift could.

Commissioner Crichlow said that he did not understand.

Mr. Green explained that the no profile boatlift could only lift the cradle as high as the deck. He said that the low profile boatlift could lift a boat three feet above the decking, which was a crucial problem where he lived on the bay during a northeaster, because he had to be able to get his boat above the deck of his dock. He explained that in the instance of a northeaster his dock was completely underwater, and if he could not get the boat above the deck it would either float off or bang against the pallet causing damage or break a fuel cell creating an environmental problem. He referred to the catalog of boatlifts indicating a boat above the dock. He said that in other parts of the City the elevation was higher; therefore, the docks were higher.

Mr. Green agreed that the low profile and no profile boatlifts looked great; however, his liability would be increased if he could not provide a safe lift for his boat. He noted that boatlifts were

environmentally safer because bottom paint was toxic.

Mr. Green referred to the photograph he distributed of a 60-foot boat that was permanently anchored in front of his house, which destroyed his view. He added that the inhabitant of the boat paid no City, county, school board, airport authority, mosquito control, St. Johns River Water Management, Port and Waterways Commission taxes and he/she did not have to pay for utilities, water, sewer, trash, fire or stormwater. He said that he bought his home for access to the water with his boat. He stated that the way the ordinance was written with a 12,000 pound low profile lift was okay, because one could not lift much more than a 30-35 foot boat anyway.

Mr. Green stated that he had watched the PZB meetings on TV and negative comments came from the board, and many cases were appealed to the Commission. He said that if a dock and boatlift were not affecting a neighbor or encroaching on someone's riparian rights he could not see the problem of vista, except in the case of an ugly boat anchored in front of ones house. He said that if one lived on the water it was natural to want access via a boat. He said that the ordinance was overkill, and he questioned why the big rush to make the change.

Commissioner Crichlow stated that when he was on the PZB he had taken certain positions because he had received complaints from citizens who were concerned about the scenic vista. He pointed out that the ordinance would not affect any currently existing boatlifts, as the ordinance was not retroactive.

Mr. Green said that there were natural incidents in which docks were destroyed; therefore, the ordinance could affect him

in the future. He added that he was present for the future people who wanted to buy a home on the water in St. Augustine with access to water with a boat. He said that it was an issue of property and riparian rights. He stated that he had a boatlift and his neighbor had a boatlift, and he had no problem with it. He said that people with no or low profile boatlifts could cause a safety issue when their boats drifted away or broke-up.

Mayor Gardner questioned whether a low profile boatlift would not work for Mr. Green at all.

Mr. Green replied that to an extent it would; however, in the event of a bad storm it had been necessary for him to raise his boat higher to protect it. He added that generally he did not lift his boat as high to protect his view. He said that the perception was that the property owners were messing up the view, but they wanted their view also.

Commissioner Crichlow questioned whether Mr. Green was saying that the low profile boatlift with the horizontal member was capable of taking a boat out of the water to the three foot above deck level was more beneficial.

Mr. Green replied affirmatively, and he pointed out that the ordinance also kept the dock height down to six feet above mean high water. He said that if they could raise the dock height they could also utilize the low profile boatlift.

Commissioner Crichlow questioned whether an ordinance stating that a boatlift with the capability of raising the boat three foot above the deck would only be utilized in inclement weather.

Mr. Green questioned what a citizen would do when they went on vacation.

He said that when he was out of town he jacked his boat up high. He added that the ordinance also eliminated any horizontal structure. He said that would be fine if there was a catwalk all around the dock, but many docks had the catwalk on one side and the other side was exposed, which meant more dock would be necessary.

A brief discussion resulted in which the Commission looked through the catalog and considered Mr. Green's point of view.

Mr. Green stated that since the City had limited the size of a boat to 12,000 pounds no one had broken the law. He concluded that the current Commission took pride in doing what the neighborhood wanted, and he and the other residents were saying that they did not want the new ordinance.

Wayne Buzz George, 32 St. Augustine Boulevard, stated that he would echo some of what Mr. Green had said. He said that Mr. Green's point would seem quite valid once a citizen had a boat and lived through a northeaster. He said that getting the boat up higher was necessary for the safety of the boat and surrounding docks. He said that not allowing any horizontal member above three feet from the deck... And he explained how a lift worked and the need for safety.

Mr. George stated that the 12,000 pound limitation had been in effect for a long time, but the six foot limitation from the gunnels up created a problem. He said the most popular boat around was a 28-foot Bertram, which would not fit into the requirement. He said that the City waterways were quite close to the ocean; therefore, people wanted ocean going boats; however, 23-24 foot boats would limit the ability to use the ocean without docking in a marina. He suggested that the 31-foot limitation should be

expanded. He said that he appreciated the objective surrounding the scenic vista; however, looking at non-taxpaying sail boats in the harbor also disturbed the vista. He suggested that if the Commission was looking at the vista they needed to take more than docks and boatlifts into consideration. He suggested going on the St. Johns River to look at the docks and boatlifts, most of which were the type of lifts the Commission was recommending, but there was a vista problem there also.

Commissioner Jones noted that the most popular boats would require a nine-foot height limit, and he questioned whether Mr. George found that reasonable, and the response was affirmative. He questioned the maximum boat length Mr. George found reasonable.

Mr. George replied that if they used 12,000 pounds and a nine foot height, they would not have to worry about the length.

Commissioner Lennon questioned whether Mr. George would be satisfied leaving the ordinance as it was with the 12,000 pounds, and the response was affirmative.

David Miles, 65 Dolphin Drive, stated that when considering boatlifts height equaled safety. He said storm surge was infrequent in St. Augustine; therefore, he only had to lift his boat high out of the water approximately six days a year. He said that boatlifts with a horizontal crossbar enhanced the safety of the whole structure, including a boat during a storm. He said that in his opinion lifting the electrical components out of the water in the event of a surge made those parts serviceable and easy to observe. He noted that if the electrical components to lift the boat went under water they were not usable. He added

that most people did not lift their boats way out of the water year round out of consideration for their neighbors. He said that when a dock went under water it was not much of a problem; however, when the boat went under water it would float off its moorings. He noted that in a storm there was no safe harbor; the best thing was to raise a boat out of the water.

Mayor Gardner questioned if lifting a boat three feet above the deck without the horizontal cross bar was satisfactory.

Mr. Miles replied not in his opinion, because the three feet limitation did not mean one could bring the boat a full three feet above the dock. He added that if the dock was high enough perhaps a low profile would be adequate. He concluded that a lot of differences could be worked out if everyone would talk to each other.

Frank Riggle, 67 Dolphin Drive, stated that he had moved to St. Augustine in 1949 when the Corp of Engineers regulated docks and boatlifts. He said that he was not certain that the leadership understood dock requirements. He said that his dock was six feet above mean high water, and his dock had been under water numerous times endangering his boat and boatlift. He stated that he agreed with the other speakers. He noted that he had been granted a 13,000 pound boatlift; however, in spite of the grandfathering he was not certain that any upgrade he might desire would be acceptable. He pointed out that the limitations would affect the resale value on his home.

Mr. Riggle stated that the more serious problem was the 50 or more sailboats anchored in the bay, because they ruined the vista and they never dumped, as he had seen raw sewage float by his

house. He suggested that the Commission address that situation, as the City owned the bottomlands and those boats needed regulation, especially in situations where they were sending children to school without paying taxes.

Fred Cone, 207 Inlet Drive, stated that he had installed a concrete dock with a no profile boatlift. He suggested that the Commission did not appreciate that the location of a home dictated what could be constructed. He said that some homes had floating docks but in his location Mother Nature would destroy that type of dock. He said that he objected to the Commission limiting the length and height of a boat, which would not allow him to have the boat he wanted. He stated that he envisioned that there would be 40-foot sport fishing boats that would weight 12,000 pounds in the future, considering the synthetics that were being developed for building boats. He emphasized that the ordinance had been poorly advertised, and he suggested that the Commission owed it to the citizens to notify them properly. He concluded that the size of boats should not be in the ordinance, and the 12,000 pound lift capacity along with the low profile boatlift should be sufficient.

Chris Way, 39 Avista Circle, stated that the people who lived on the water should have as big a say regarding the proposed ordinance as anyone living in a neighborhood complaining about speeding traffic. He said that people who lived on the water and paid taxes to do so should have access to the water. He suggested that people living on the water engage in a neighborly process to insure everyone's vista.

Commissioner Crichlow stated that he had heard complaints from people who lived on the water for the view.

Richard Davis, 5 Indian Mound Drive, stated that the whole purpose of the ordinance was the view and the view would be blocked regardless when a boat was out of the water on a lift. He said the existing ordinance was sufficient, as the 12,000 pound boatlift dictated the size of the boat. He said that if they dictated size, length and brand of boat the Commission would make his property worth a lot more money. He said the Commission was infringing on citizens rights. He said that the City Yacht Pier housed boats with fly bridges and tuna towers that were tremendously high along the bayfront, and they were there all the time. He said that there were 46 docks on the bayfront and 31 had boatlifts, on Salt Run there were 16 boatlifts with 21 docks, and Hospital Creek had six docks with four boatlifts; therefore, the City was approximately 98% built out on docks and boatlifts, so it made no sense to make a new ordinance. He said that there were 62 sailboats on the bayfront, 42 in Salt Run, and 9 sailboats behind the cross and the owners should pay their fair share.

Mayor Gardner requested the recommendation by the PZB.

Mr. Knight stated that the PZB had recommended that boats be 32 feet long, six feet above gunnels, and low profile boatlifts should be used. He said the deck six feet above mean high water had occurred in discussions about low profile boatlifts for using a measurable standard; thereby, inhibit raising docks to get the boat higher out of the water.

Commissioner Crichlow stated that the only thing he remembered addressing at a Commission level was introducing the different type of low profile dock.

Mr. Knight said that during the previous meeting there had been a discussion with Mr. Yelton and the public when the more defined definition of no and low profile boatlift, six feet above mean high water and excluding mast six feet above gunnels had been discussed.

Commissioner Lennon questioned how many people on the PZB lived on the water.

Mr. Knight replied that he did not know.

Mayor Gardner questioned whether the no horizontal structure members above the deck was a PZB recommendation.

Mr. Knight replied that was also based on the previous meeting when the section had been amended on first reading.

Mayor Gardner stated that the 32-foot boat length and the limitation of six feet above the gunnels were the recommendations from the PZB.

Mr. Knight agreed, and added as well as a low profile boatlift.

Mayor Gardner noted that the PZB had recommended low profile boatlift, but the Commission had made the boatlift specifications.

Harold Holton, 31 Avista Circle, stated that he disagreed with the speakers about the type of boatlift. He said that the no and low profile boatlifts were acceptable to him; however, he objected to the high profile lift with the horizontal bar supporting and lifting the boat, which would be six to seven feet above the level of the dock. He said that it was unattractive and blocked the view. He said that the solution might be in how high the dock was above the water or

perhaps they should raise the height above the deck to four feet.

James Pennington, 103 Dolphin Drive, stated that he was not in favor of the ordinance, because the Commission was about to pass an ordinance that would affect the development, resale, and valuation of property for years to come. He questioned whether the Commission had considered how much the 46 homeowners on the bayfront with docks paid in taxes. He further questioned whether the Commissioners truly understood the economic engine of the City. He said that when those properties turned over it would be the current valuation that determined the taxes, and the proposed ordinance jeopardized the people who wanted to live on the water. He cautioned that the Commission was about to do something dangerous.

Mr. Pennington said that he and understood the Commission had the best intention for the community, but none of them were real engineers to fathom their decision. He questioned whether a marine engineer had been consulted, as he had not heard from anyone in the marine industry. He encouraged remanding the ordinance to a committee that could make serious and professional recommendations and mitigate with the 46 property owners on the bayfront. He recommended being careful with what they decided, because they were about to make a dangerous decision regarding the viability and future taxation of the City, as well as the ability for the City to grow and be viable and prosperous.

Richard George, 201 South Matanzas Boulevard, referred to the high profile lift and said the concern was the cross member and how it effected the vista. He provided an example of the Commission's intention and suggested that the low profile boatlift would not really make that

big of an impact. He said that regarding safety it was better to get boats higher out of the water during storm surges. He said that people who applied for boatlifts might be willing to accept the risk for themselves, but if the boat knocked out of the cradle in a storm it could impose damage on the surrounding properties.

Mayor Gardner closed the public hearing.

Mayor Gardner said that taxes had been discussed earlier in the meeting. He said the canals and waterfronts of Fort Lauderdale and Miami demonstrated a boating community, but St. Augustine was a historic community. He suggested that the people should compare the taxes that they would pay in Palatka, and he suggested that they get something over there so they could pay fewer taxes. He questioned whether they loved the historic ambience of St. Augustine or whether it was the convenience to the ocean. He said that he believed the speakers cared about the City. He said the discussion earlier about developers going bigger, broader and higher sounded similar to what the speakers had to say about anticipating a bigger boat down the road and their ability of being able to get it, because they were paying a lot of taxes on the water.

Mayor Gardner said that he could not make the safety factors in a hurricane a justification to dismiss the ordinance or vote against it, because when bad weather came he got out of it. He said that if he had a boat he would have to anticipate that by moving to shelter, but the speakers were asking the City to provide that shelter regardless of the vista. He stated that vista had been a topic of discussion for years and previous Commissions had refused to make a decision by dealing with the matter on a case-by-case basis. He said he liked to

think that was why three of the Commissioners had been elected in the last election, to stop putting things off and start making some decisions, whether certain Commissioners liked it or not. He said that he did not believe the Commission could dismiss the matter. He said that he would take some of the comments made by the boating people into account, but the Commission had to make a decision.

Commissioner Burk stated that she had reconsidered the no horizontal structure members above the deck, because when a boat was on the lift one did not see it, and the boat would be on the lift 90% of the time. She added that it also had merit in a boatlift; therefore, she was flexible about the matter. She stated that the initial purpose of the 12,000 pound limit was to restrict the sizes of boats; however, it was clearly evident that the limitation did not restrict the size of boats. She said that the Commission had to clearly and definitely define the restrictions in the ordinance. She noted that it was interesting that two citizens that lived on the water and could afford any boatlift they wanted had chosen to use the low profile boatlift, and if it was not safe why would they have done so; therefore, she could not recognize the limitation as a safety issue or a hardship. ³

Commissioner Crichlow agreed with Commissioner Burk that the 12,000 pound boatlift limitation had not been the right choice to limit boat size. He said that somewhere they had to limit the size of the boats. He said that he was not certain that he bought Mr. Pennington's idea of increased property values, because he believed that people bought property on the water for the view as much as for access to the water. He

³ End of audio tape two

said that he had talked to as many residents that felt that way at any rate. He said he believed that it would enhance the property values by limiting the boats that blocked the view, which made sense to him. He said that he wanted to be considerate of the citizens that had spoken that evening and their views. He said raising boats above flood level water made sense to him, and he might be willing to go along with something such as leaving the horizontal member on a low profile boatlift to get the boat above the height of the deck in the case of flood. He said there had been too many complaints and problems to leave the ordinance as it was. He said that he would be open to tweaking the proposed ordinance.

Commissioner Jones stated that he was not prepared to approve the ordinance as it currently read. He said that he had listened to the boaters that lived on the water and he found it interesting that after advertisement he had not heard many people speak against the boater's opinion. He said if there were that many people out there concerned about how it looked why were they not there to speak out to protect their property and investment. He said the one gentleman that lived on the water and supported the ordinance had only addressed high profile boatlifts. He added that the ordinance did not address high profile boatlifts because the existing ones were grandfathered in. He said the Commission had to respond accordingly and perhaps raise the height from the gunnels to nine feet compared to six feet. He said that perhaps they needed to set a size limit, but the Commission had to listen to the citizens that owned boats regarding raising the boats to a safe level during a northeaster. He stated that when talking about the City in regards to history they had to consider that the waterways were also a part of that

history, because without them St. Augustine would not have been discovered. He noted that they had not quite defined vista, but as things stood without modification he would vote against the ordinance.

Commissioner Crichlow questioned whether the Commission should be looking at private docks and boatlifts verses marinas with boatlifts.

Mr. Wilson stated that there was no differentiation between the two.

Commissioner Jones questioned whether there could be a legal differentiation.

Mr. Wilson replied that if the proper finding were made they could, but they were not within the framework of the ordinance. He stated that many of the complaints were regarding multiple docks and boatlifts constructed for condominiums and multifamily areas, but that matter had not been addressed.

Mayor Gardner questioned whether the second reading represented a final action, and the response was affirmative.

Commissioner Lennon pointed out that Commissioner Burk had initiated the boatlift weight, and he had stated at the time that the next thing she would want to change was the length and size of boats, which was currently happening. He said that he had asked Commissioner Crichlow to produce the names of the citizens with complaints about the vista; however, he had not received one name to date.

Commissioner Crichlow stated that he would be glad to provide the information.

Commissioner Lennon stated that the names should be made public. He said that he remembered Commissioner

Crichlow stating that he could see Mr. Cones dock blocking the vista from the fort.

Commissioner Crichlow stated that he had said from the seawall between the Bridge of Lions and the fort.

Commissioner Lennon disagreed stating that he had gone to the fort to check the vista and there was no way that Mr. Cone's dock could be seen around the corner.

Commissioner Crichlow stated that Commissioner Lennon was misquoting him.

Commissioner Lennon questioned when Commissioner Crichlow decided that the City needed to change the ordinance.

Commissioner Crichlow stated that he had not decided that at all. He said that the PZB had made the decision.

Mayor Gardner stated that the ordinance had not been Commissioner Crichlow's doing.

Commissioner Lennon questioned how the matter began with the PZB.

Commissioner Crichlow replied that he did not know.

Mayor Gardner stated that the PZB had pleaded with the Commission for years, including when he was on the board, to clarify the ordinance regarding boatlifts and docks, because the matter had constantly gone before them.

Commissioner Lennon noted that the change made by Commissioner Burk had addressed the matter dealing with the weight of boatlifts.

Mayor Gardner stated apparently not when considering that Commissioner Lennon had stated, after the vote, that the matter would arise again regarding the size of boats.

Commissioner Crichlow said the question was the reason the PZB had addressed the problem.

Mr. Knight stated that there had been a number of conditions placed on approvals by the PZB in the past year regarding low profile boatlifts, limiting boat lengths to 32 feet and six feet above gunnels. He said there had been two appeals to the Commission in the past six months regarding the matter; therefore, he had brought a list of conditions to the PZB to identify the criteria they wanted codified. He said the board had determined that the modifications should be 32-foot boat length, six foot above gunnels and low profile boatlifts.

Commissioner Lennon noted that Mr. Knight did not know how many people on the PZB lived on the water.

Mr. Knight replied that he believed there were two members, but he could not confirm it.

Commissioner Lennon stated that the Commission was protecting the people from themselves. He said that the Commission was invading the rights of people that wanted a certain size boat for their needs. He stated that he was curious how the matter had evolved into an ordinance dictating boat size and height of console and just how it concerned anyone that did not live on the water.

Commissioner Crichlow distributed a letter from Anne Fletcher, 35 Dolphin Drive, who was concerned about her view

and supported the ordinance, because she did not want to lose her view to tall stanchions, long docks, or boatlifts. He said that was just one; he had also talked with Mrs. Nader and he had a list in his office of people who were afraid of losing their view. He stated that it was a serious problem, and he could see both sides. He said citizens had a right to their view, as they paid the same property taxes.

Commissioner Jones stated that there was currently an ordinance in place and for some reason there had been recommendation or someone asked for a more restrictive ordinance. He said the ordinance had come up and some of those who were impacted by the ordinance had spoken and suggested a compromise. He suggested considering the compromise rather than keep hammering at the issue. He said that he had heard willingness to be flexible from the speakers.

Commissioner Lennon stated that the speakers had not come to the meeting to change an ordinance, because they were happy with the ordinance as it was. He said that someone out there was not happy with it, but they had not attended the meeting to verify their position.

Commissioner Jones replied that he understood, but given due consideration the speakers said they could live with some of the ordinance, but not all of it. He said that he heard the cross members were important to get the boat above the dock for safety purposes; therefore, he suggested making that change to accommodate the situation in fowl weather. He suggested raising the height to nine feet above the gunnels to accommodate the most popular boat in use. He suggested looking at the things they agreed on and take care of it rather

than hammering some other extreme condition.

Mayor Gardner questioned whether there had been public input during the discussion with PZB about the matter.

Mr. Wilson replied that there had been a work shop with public input during the spring of 2003, and the comments were much the same as the Commission had just heard. He said that the last time the matter had been heard at the PZB he did not remember any public input.

Mayor Gardner stated that the change in the ordinance was the result of countless applications for docks that had been approved with conditions similar to the proposed ordinance. He stated that when he and Commissioner Crichlow had been on the board they heard the matter all the time and had to set conditions. He said that the best he could currently support was tabling the matter until the next meeting during which time they could receive a report from the Chairman of the PZB. He said that the PZB must have taken into account the opinions of the public who had spoke at the workshop.

Commissioner Jones stated that the PZB had made a recommendation, and the buck stopped with the Commission. He said they should make a decision.

MOTION

Commissioner Crichlow MOVED to modify Ordinance 2004-01 to allow three foot high, but delete the requirement eliminating the horizontal member and allow a horizontal member at three feet.

Mr. Harriss pointed out that the amendment would put the ordinance back to what was currently in the Code.

Commission Crichlow added to put the ordinance back to the original definition of a low profile boatlift.

Mayor Gardner stated that they would take out *and there shall be no horizontal structure members above the deck.*

Commissioner Crichlow agreed and stated that it was the only change he was willing to make. He said that 32-feet was reasonable and six feet above the gunnels was also.

Commissioner Jones stated that he would like the ordinance to read nine feet above the gunnels.

Commissioner Crichlow replied that was defeating the purpose.

Commissioner Lennon stated that they should throw out the ordinance.

Commissioner Burk SECONDED Commissioner Crichlow's motion.

Mr. Harriss noted that the motion was to amend the existing ordinance; therefore, it should be a motion to amend the existing ordinance.

Commission Crichlow added that the motion was to amend the ordinance.

Commissioner Jones questioned whether the Commission would still be voting on the ordinance should the proposed motion pass, and the response was affirmative

VOTE ON MOTION

AYES: Crichlow, Burk, Jones, Gardner

NAYES: Lennon

MOTION CARRIED 4/1

MOTION

Commissioner Jones MOVED to amend the ordinance to read nine feet above the gunnels, changing it from six feet. MOTION FAILED FOR LACK OF A SECOND.

MOTION

Commission Jones MOVED to remove the limitation on the length at 32 feet.

Commissioner Lennon questioned the height limitation.

Commissioner Jones noted that the motion to increase the height had failed.

Commissioner Lennon suggested opening the height and the size of the boat to 32 feet.

Commissioner Jones stated that he might as well go all the way with it.

Commissioner Jones continued "to remove the height and length amendment as the weight would dictate some of that." Commissioner Lennon SECONDED the motion.

VOTE ON MOTION

AYES: Jones, Lennon,

NAYES: Crichlow, Burk, Gardner

MOTION FAILED 3/2

MOTION

Commissioner Crichlow MOVED that Ordinance 2004-01 be passed as amended. Commissioner Burk SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2004-01

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 11-29 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO ESTABLISH CRITERIA FOR BOATLIFTS AND BOATS ON LIFTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Crichlow, Burk, Gardner

NAYES: Jones, Lennon

MOTION CARRIED 3/2⁴

11.D.2/ Public Hearing - Ordinance 2004-02, rezoning property located on Lewis Speedway to Planned Unit Development (PUD).

George McClure, 170 Malaga Street, stated that he was there on behalf on the North Florida Commerce Center. He stated that Karen Taylor was responsible for drafting the PUD narrative and the supporting graphics. He said the original PUD had been approved in 1999 authorizing up 200,000 square feet of various commercial uses. He said the original site plan was centered on a larger scale building surrounded by parking. He said the PUD had expired, and after review his client had altered the density to 160,000 square feet of uses, and the site plan currently distributed the smaller scale buildings around the parameter of the site to orient the parking to the interior. He stated that the PZB had been positive about the development.

Mr. McClure said that Diane Mills who expressed concern about the preservation of the adjacent ecological system and the preservation of an appropriate buffer between her adjacent residences had approved the

modifications. He said that Ms. Mills was concerned about Red House Branch, a flowing creek that emptied into the San Sebastian River. He said that revision to the site plan reoriented some of the lakes on the project to keep the north section of the site forested and to provide further buffer.

Mr. McClure noted that they had granted a conservation easement over the uplands and wetlands on the north end of the site beyond the boundary of the development area. He said that the conservation easement had not been drafted but it had been agreed that his client would grant it to the Water Management District at the time they issued the permits and before the issuance of the construction permits by the City. He said that once they determined the wetland jurisdiction and created a legal description of the property and applied for a permit they would be able to grant the conservation easement, which would permanently prohibit any development in the area. He said that the process he describe provided opportunity to determine the conservation easement had been granted. He added that his client would have to go back to the City for final development plan approval.

Commissioner Crichlow questioned what the conservation easement did beyond the buffer.

Mr. McClure replied that they had conducted the archeological evaluation of the site, and there were some important sites in the area that they were staying out of. He explained that a conservation easement covered the additional upland between the development area and the wetland, which increased the tree canopy and it was permanent and prohibited any development as dictated by the Water Management District. He said

⁴ A brief recess from 8:27 until 8:45 p.m.

that the easement indicated that the owner gave to the district certain rights and the property had to remain in its natural state. He said the authority could enter the property to be certain that the conditions of the easement were being met and enforce the terms in the case of violation.

Mayor Gardner opened the public hearing.

Deborah Andrews, 11 N. Roscoe Boulevard, Ponte Vedra Beach, representative for Diane and Jerry Mills, adjacent property owners on the northern border of the property in question addressed the Commission. She stated that Mr. and Mrs. Mills were satisfied with the site plan and the conservation easement. She said the matter had been a good example of cooperation with the residents, and they looked forward to working with the applicant to finalize the development and implement the conservation easement.

Mayor Gardner closed the public hearing.

MOTION

Commissioner Lennon MOVED to place Ordinance 2004-02 on second reading, read by title only and approved. Commissioner Jones SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2004-02
AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ESTABLISHING THE NORTH FLORIDA COMMERCE CENTER PLANNED UNIT DEVELOPMENT (PUD) PURSUANT TO SECTION 28-289 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR TERMS AND CONDITIONS OF THE

PUD; PROVIDING FOR NON-AD VALOREM ASSESSMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Lennon, Jones, Crichlow, Burk, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

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

David Thundershield Queen, 16 Fountain of Youth Boulevard, spoke against the proposed changes for the Plaza in fee increases, vendor location, grass maintenance and Sunday vendor hours.

Mr. Queen applauded the efforts of Mayor Gardner and other Commissioners for protecting the treasures of the Oldest City.

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 9:05 p.m. ⁵

MAYOR

⁵Transcribed by Karen Rogers, Recording Secretary

CITY CLERK