

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
February 9, 2004

The City Commission met in a formal session Monday, February 9, 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
David Shoar, Chief of Police
Orfeo Paolini, Sound Technician
Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor David Alert, Historic St. Cyprians Episcopal Church, delivered the invocation, and Commissioner Lennon led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

Commissioner Jones requested that Item 11.B.2., introducing Ordinance 2004-05, reducing the maximum height of

structures in certain areas of the City from 35-feet to 27-feet be heard before Item 4. on the agenda, as the people's feelings regarding the matter were quite strong; therefore, he wanted to get the matter off the table immediately.

Mayor Gardner requested that Item 11.A.1, Resolution 2004-06, recognizing February as Black History Month be heard for Item 3.C., as there were no proclamations.

3.B/ Approval of Minutes of the Regular Meeting of January 26, 2004

The minutes of the Special City Commission Meeting of January 16, 2004 meeting were approved as presented, and the minutes of the Regular City Commission Meeting of January 26, 2004 were approved with the following amendment: page 24, right column, *Commissioner Lennon stated that the Commission was protecting the people from themselves.*

3.C/ Proclamations

Mayor Gardner recognized Superior Jones, high school senior, for earning first place honors in the Senior Division of the state Black History Month Essay Contest; thereby, winning a four year college scholarship. He read Resolution 2004-06 acknowledging February as Black History Month.

Item - 11.B.2/ Introduction and consideration of Ordinance 2004-05, reducing the maximum height of structures in certain areas of the City from Thirty-five (35) to Twenty-seven (27) feet.

Mayor Gardner remarked that the Commission had passed a resolution for preparation of an ordinance on height limits and establishing a moratorium until the matter was resolved. He said that it was a time for the Commission to decide whether to move to a public hearing.

Mayor Gardner stated that the proposed ordinance was not about height, but about a whole array of recommendations, proposals and concerns. He said that the Commission had approved an emergency action during the previous meeting to pause and consider how to balance what they wanted the City to be considering the tremendous pressure of development. He stated that they had to

retrieve their core values, decide what the City was to them and what they wanted the City to be in the future. He said that St. Augustine was a living city with a rich history, modern tourism industry and variety of lifestyles intertwined. He said the Commission had to find the balance between their core values and the rights of the citizens.

Mayor Gardner recommended that the resolution of January 26, 2004 be modified to state only that the moratorium be continued until the subsequent City Commission meeting of February 23, 2004, during which time they urged input from the entire community, and they release from the moratorium any development plans that had been in process on or before January 26th when the emergency action was taken.

Commissioner Jones stated that, in his estimation, Ordinance 2004-05 was all about height, as that was what the ordinance addressed. He said that he had expressed concern during the previous meeting, and after research he saw no justification for placing the height limitation on the residents. He said that 35-feet had been an acceptable height almost throughout the history of the City and certainly since the Spanish period when the English moved in. He said the English had added a wooden second story to the existing masonry single story homes that had been left by the Spaniards making many of those homes 2.5 stories, most of which were above 27-feet. He added that history demonstrated that many of the residential structures throughout the City exceeded 27-feet.

Commissioner Jones stated that the 35-foot height had been enacted in the 1960's and had stood firm since that time. He acknowledged that there were

situations that had gotten out of hand resulting in structures that were not appreciated, but there were other ways of addressing the issue. He suggested that the entrance corridor guidelines would address some of their concerns. He said that putting a height limit on the residents could result in generic flat roofs, because a two story structure could be built in 27-feet with a flat roof, which would adversely affect the unique silhouette of the City. He said the City did not need it, and he recommended withdrawal of the ordinance without going to a second reading.

Commissioner Jones stated that he had researched the ordinance enacted by St. Augustine Beach regarding height. He said their intention was different from the intent of Mayor Gardner's proposed ordinance which affected the entire City, but the St. Augustine Beach ordinance dealt with commercial properties in commercially zoned areas in an effort to keep A1A from becoming a wall of 35-foot structures. He noted that in residential areas of St. Augustine Beach residents were allowed to build homes higher than 27-feet.

Commissioner Jones stated that he had heard from many citizens that expressed concern and few had supported the ordinance. He said that it was unfair to the citizens and would result in structures from 2004 forward looking alike with flat roofs. He said that the proposal was made too quickly to act in an effort to undo what had been in place for over 40 years. He stated that he did not believe that the City was in a state of emergency requiring a moratorium or that anything drastic was going to happen tomorrow. He added that he did not believe the City had to do anything in the near future to change height limits, but they could address the citizen's concerns regarding height in some of the

commercial areas. He concluded that he had heard enough.

MOTION

Commissioner Jones MOVED not to consider Ordinance 2004-05 lowering height limits from 35-feet to 27-feet and remove the moratorium effective immediately.

Commissioner Lennon questioned whether, in the absence of Commission Burk, a 2/2 vote would mean the motion would lose.

Mr. Wilson replied that was not correct, and explained that a positive motion would have to be made to pass the ordinance. He added that the Commission would need a majority vote to pass the ordinance on first or second reading.

Commissioner Lennon SECONDED the motion.

Commissioner Crichlow stated that he would not belabor the issue, because he echoed the concerns of Commissioner Jones. He said that he would like to talk about it later in the meeting when the Commissioners were addressing Item 9.A. regarding the visual compatibility ordinance.

Mayor Gardner stated that without the majority vote of the Commission the resolution would die on first reading.

Mr. Wilson clarified that the "ordinance" would die without a majority vote.

Commissioner Jones questioned the situation if his motion passed.

Mr. Wilson stated that if Commissioner Jones' motion passed the ordinance and the moratorium would die.

Mr. Harriss reported that Commissioner Burk had telephoned and asked him to voice her concerns even though she was not present to vote on the matter. He said that her area of concern was relative to the moratorium and the residential areas; therefore, she requested maintaining the moratorium for those lots in residential areas that were 50-foot or smaller.

Mayor Gardner responded to Commissioner Jones' motion stating that 40-years earlier the City had not been at the affect of the FEMA line, which meant raising the ground level prior to building resulting in instances of buildings actually being higher than 35-feet. He said that the Commissioner had suggested there were other means of addressing the problem, which appeared to be the only saving grace in the will of the Commission at that point. He said that Commissioner Crichlow would comment on his committee's review of the other ordinance related to the compatibility of structures in neighborhoods. He noted that the height restriction was not intended for the entire City, as it was intended to affect residential and historic preservation districts.

Mayor Gardner stated that the Commission could propose resolutions and pass ordinances, and if they did not work with the will of the community the Commission could always get rid of them. Or, he said the Commission could deny ordinances, and structures could be built that the community later decided was wrong, and those situations could not be erased. He said that he did not think the action they took was dire, but a chance to pause and decide whether they should let the City go in the free market or return to core values

and really decide through the will of the community what they wanted.

MOTION

VOTE ON MOTION

AYES: Jones, Lennon, Crichlow

NAYES: Gardner

MOTION CARRIED 3/1

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 in support of the Mayor's desire to limit building heights.

Mr. Garcia stated that there were no longer public telephones in the downtown area. He said that there should be public telephones in the event of emergency, as not everyone had a cell phone. He said that there were other telephone companies besides Bell South that could install telephones and he suggested getting them as soon as possible.

Mr. Garcia stated that the vendors in the Plaza needed more coordination and organization of activities in the old market. He suggested that some of the vendors were claiming to be craftsman when they were honestly commercial vendors. He added that there were people dependent on the sales activity, but they were being excluded on certain dates due to City events. He stated that he did not believe it was legal to decide that the City expressive activity was more important than his expressive activity. He suggested that the Plaza was big enough for both activities to take place. He stated that visitors came to

town looking for the artists and craftsmen, and there was no reason to move the vendors around as they were working in little boxes. He asked the Commission to reconsider allowing the vendors the same working hours on Sunday as they had the other six days of the week.

Jay Williams, 120 Pelican Reef Drive, expressed concern that the lights at the Willie Galimore Center were on continuously, as the public had the ability to turn the lights on but they could not be turned off. He said the problem had disappeared for a year, but recently it returned. He said that everyone seemed to think that someone else was responsible for the lights. He stated that they were expensive to run; therefore, it was not right for a single person throwing a Frisbee to turn on those banks of high intensity lights that remained on until sunrise.

Mayor Gardner questioned whether cutting the lights off at 11:00 p.m. was reasonable.

Mr. Williams stated that if someone was turning on the lights and then leaving the area, the City needed a mechanism to turn the lights off. He said turning the lights off at 11:00 p.m. was not acceptable if the lights had been on for hours without anyone using the fields.

Mayor Gardner stated that staff would refer the matter to the county recreation department.

Mr. Harriss said that based on the fiscal background of wasting taxpayer money on power for the lights he had objected to the situation, but the powers that be in the county had decided that the public should have access to the lights. He said that the City installed a timer and currently 11:00 was the latest time for

them to be on, unless the timer had failed. He said Mr. Williams was correct that if a citizen wanted to walk their dog in the area for a period of time and turned the lights on they would remain on until 11:00 p.m. He added that they could only be turned on at a certain time also.

Mr. Williams stated that the lights were designed for major athletic competitions, and they were not necessary for a couple of kids tossing a Frisbee. He said that it would be cost effective to have the athletic lights available for organized activities complete with a sponsor to arrange for their use with the county. He stated that the lights were lighting up the south part of St. Augustine.

Mayor Gardner questioned who Mr. Williams could pursue the matter with.

Mr. Harriss stated that he agreed with Mr. Williams, and the City could communicate with the county regarding the matter. He said that the answer might be to further restrict use of the lights.

Mr. Williams stated that lighting the basketball courts was not the same as lighting up the entire Galimore Center and south St. Augustine. He stated that kids playing basketball did not require that much lighting. He added that the county was not interested in talking about the matter, which was a problem as the City suggested going to the county and county suggested going to the City.

Mr. Harriss agreed that it was a problem, as the county recreation department had better things to do, but residents of the City paid county taxes for recreation and the City could not risk assuming responsibility and costing the taxpayers more money.

Commissioner Lennon suggested using passive infrared or microwave to control the lights.

Mr. Harriss stated that he did not know they could be used on such a large area, but he agreed it would be a great compromise.

Mr. Williams said that there could be a problem with that suggestion, because once high intensity lights were turned off it took time for them to go back on and the expensive part was turning the lights on; therefore, if they were going on and off all night long it would not solve the problem cost effectively. He said that there were other lights that would provide enough light for kids to play basketball without intrusion.

Mayor Gardner stated that it was a county responsibility, and he pointed out that the County Commission meetings also provided time for public comment that Mr. Williams could take advantage of.

Mr. Harriss stated that he would talk with Ben Adams, County Administrator, about the situation.

Henry Whetstone, 282 St. George Street, stated that if the City imposed too many restrictions, such as the height limitation they would drive people out of the living City and it would become slum. He suggested offering incentives instead of trying to curtail construction. He said they could offer tax free for perfect restoration or judge on a percentage basis as to how much less tax the person would pay for historic restoration. He stated that an incentive program might achieve exactly what the City was looking for.

Tony Bushell, 135 Marine Street, stated that he disagreed with changing the 35-

foot height limitation. He said the problem was the mass and scale, which drew the eye to the height. He said that small tall buildings did not create that line.

John Valdes, 326 Rainey Avenue, member of the Code Enforcement, Adjustments & Appeals Board, said he understood that the City had a tree committee that was trying to come up with an overall approach for landscaping and trees. He suggested that the Commission introduce a tree fund that was separate from the general fund, which would allow Code Enforcement to offer the option of allowing a citizen to remove a tree and not necessarily replace it with two. He said that in some instance there was not enough room on property to replace one tree with two trees. He said that with a tree fund the money could be used specifically to put trees where there were needed. He stated that he believed the Commission could act on the suggestion, which would help Code Enforcement and alleviate many concerns of the citizens.

Mr. Harriss stated that the suggestion was a wonderful idea and would aid in administering the law. He said that if the Commission wished he would research what the City could do in that direction.

Commissioner Crichlow questioned whether Mr. Valdes' suggestion would allow people to pay to remove trees.

Mr. Valdes replied that each case would have to go before Code Enforcement for determination and trees would still have to be replaced, but if the applicant persuaded the board that there was no room to plant additional trees there would be the option of the tree fund.

Mayor Gardner said that with agreement from the Commission he would instruct the City Manager to bring a recommendation back to them.

5. PRESENTATIONS AND STAFF REPORTS.

(None Scheduled)

6. ITEMS BY CITY ATTORNEY

(None Scheduled)

7. ITEMS BY CITY CLERK

7.A/ Consideration of an appointment to the Code Enforcement Adjustment and Appeals Board.

Martha V. (Nell) Porter, City Clerk, reported that there was one appointment and she had received one application for the position from Enid Hurst.

MOTION

Commissioner Lennon MOVED that Enid Hurst be nominated. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.

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 a vacancy on the Planning and Zoning Board.**
- 3. Release of Lien on a Unit Connection Fee Mortgage.**
- 4. Consideration of property acquisition.**

Mayor Gardner said that it was difficult to deny a reappointment to a board member, but there were term limits on all boards and committees, as well as vacancy created by moving or resignations. He said that the current PZB vacancy was a result of a resignation. He suggested that interested citizens submit applications to the City Clerk.

MOTION

Commissioner Crichlow MOVED to approve Items 8.1. through 8.4. on the consent agenda. The motion was SECONDED by Commissioner Jones.

Mayor Gardner stated that the motion was made and seconded without objection.

Mr. Wilson questioned the vote.

Mayor Gardner replied that it passed without objection.

8.B/ Discussion Items

(None scheduled for this meeting)

9. ITEMS BY THE MAYOR AND COMMISSIONERS

9.A/ Discussion regarding committee review of the visual compatibility Ordinance - Commissioner Crichlow.

Commissioner Crichlow said that he had been asked to take the topic to the Aggregation Task Force for discussion. He stated that the task force opinion was that the matter was beyond their scope to take on. He said that the task force recommended that hiring a consultant sounded like a good idea to them to determine where the existing guidelines needed strengthening and also decide

how to approach guidelines in residential areas.

Commissioner Crichlow stated that the task force felt the matter should be neighborhood specific because they were different, and whatever guidelines were implemented should be determined and requested by the neighborhoods.

Commissioner Crichlow said that the recommendation from the task force to pursue a consultant to look into the issue would also provide a perfect time to address the entrance corridor guidelines, as they had been passed sometime in the past knowing that they were not airtight and required additional work. He said that it would be a great time to take on that particular task, and the proposed consultant could probably handle that also.

Commissioner Crichlow stated that the existing entrance corridor guidelines and the HP guidelines were a framework, but they needed to go into those guidelines to determine where they needed strengthening to prevent some of the problems experienced in the past. He used the example of the American Inn and stated that the building was 35-feet tall, but it had four stories. He said a simple solution was to retain the 35-foot height limit but prohibit four stories. He said that if the structure in question had only three stories there would be enough roof to minimize the mass. He exhibited a photograph of a structure that had stood on the site in the past that was over 35-feet tall; however, the mass and scale rendered the height unobjectionable.

Commissioner Crichlow stated that when considering residential guidelines and zoning the matter became problematic. He said that he had no idea how a consultant would look at the situation, and it would take some discussion. He

said that some neighborhoods were homogeneous in style, in which case style could be addressed, but other neighborhoods were eclectic and height should not be addressed. He stated that the height issue would have to be addressed on a case-by-case basis, because 35-foot was appropriate in some places and not in others. He said that the guidelines required flexibility, because if a structure was submitted to HARB at 35-feet it did not necessarily mean that it had to be approved. He said maybe height limitation on styles such as frame vernacular or bungalows, which would keep the styles true to what they were. He said that might be one way, but he thought the approach of a consultant to look into the matter and work with the neighborhoods, with the help of staff, and try to determine what the neighborhoods wanted to maintain their character was probably the way to go.

Commissioner Crichlow said the Aggregation Task Force recommended the consultant angle, and they said that should probably be pursued.

Commissioner Lennon questioned whether Commissioner Crichlow had a lot of people going to him saying that was what they needed, because they were not happy with the ordinances.

Commissioner Crichlow replied affirmatively.

Commissioner Lennon questioned how many.

Commissioner Crichlow stated that he did not know. He said that he was sure that not everybody that felt that way had gone to him, but he said approximately 12-15 folks had verbalized it to him. He added that the Commission had talked about the need for all the City zoning to

be updated. He said the situation was tough, but with rational study and looking at neighborhoods, as well as the entrance corridor and HP guidelines, they could make changes that would maintain the character of the City better.

Mayor Gardner stated that he wanted to assure the folks who had worked hard and waited for the ordinance that Commissioner Crichlow's committee had looked at. He said that he had requested that recommendations for Code revisions for the historic element not be on the agenda that night, as he felt that they should focus on the ordinance that he brought forth, and he felt that they were wrapped in the same concerns he had previously indicated regarding the core values of the City. He said that the majority of the Commission had determined that it was not an emergency situation, and the existing codes would hold things in check. He said that he thought he was also hearing that they should look at and update the codes, which was important. He said that the four recommendations of one group should be on the next meetings agenda, because the Commission could probably act on those. He said the other one had a lot of good stuff most of which was subjective and subject to lawsuits.

Mayor Gardner stated that the Commission had authorized hiring a planner and David Birchim was working on the entry corridor guidelines. He questioned whether staff could handle the matter or whether an outside consultant would be necessary.

Mr. Harriss said that it would be a combination of both, as staff had started working on the entry corridors by hiring a planner, and he felt comfortable that staff could tighten the guidelines. He said that developing guidelines for the entire City would require some outside

help. He suggested getting a new eye to look at the matter and advise staff about what had been done in other cities. He said there could be different laws or overlay areas for different neighborhoods depending on what the neighborhoods wanted.

Mr. Crichlow stated that what the neighborhoods wanted was the key issue.

Mr. Harriss stated that they could have seawall meetings for every neighborhood.

Mr. Crichlow stated that a consultant would have to work closely with staff.

Mr. Harriss stated that staff's role would be to coordinate the consultant with the neighborhoods.

Mayor Gardner stated that based on the variety of comments he had received, a fresh pair of eyes assisting in the matter would be a good idea.

Mr. Harriss agreed and said it might cost some money but in the long term it would be worth it.

Mr. Crichlow said that if it was important enough to the public they would be willing to spend some of their tax dollars.

Mayor Gardner requested that staff research the cost of a consultant.

Tree Ordinance

Commissioner Crichlow stated that the Street Tree Committee was supposed to be working on the City tree ordinance, and he questioned the status of the ordinance.

Mr. Harriss said that he would get an update and send it to the Commissioners.

Commissioner Crichlow requested an update during the subsequent meeting.

Mr. Harriss said that staff would also provide information regarding the feasibility of a tree fund.

Mayor Gardner – Civil Rights Movement

Mayor Gardner noted that the Civil Rights Movement was not 50-years old and was not protected by HARB review. He said he had requested that HARB consider the matter.

Mr. Harriss stated that the matter would be discussed during the subsequent HARB meeting.

10. Appeals and Public Hearings

10.A/ Public hearing and appeal of a Historic Architectural Review Board's decision regarding property located at 32 Avenida Menendez.

Mr. Wilson recommended that the Commission reveal any exparte communications.

Commissioner Crichlow reported that he had spoken to and met with Mr. Patel concerning the matter.

Commissioner Jones reported that he had met with Mr. Patel and spoke with several citizens including Len Weeks and the architect for the project.

Commissioner Lennon reported that he had received a telephone call requesting that he review the shingles on the roof.

Mayor Gardner reported that he had spoken with Mr. Patel and received communications from Len Weeks.

Mark Knight, Director, Planning and Building Department, was sworn and reported that on November 20, 2003 the HARB met and reviewed an application requesting cement shingles on the 19 buildings located at 32 Avenida Menendez. He said that HARB had denied the alternative, and on December 18, 2003 the applicant filed an appeal. He stated that the Commission must determine whether the HARB had erred and either affirm, reverse or modify the board's decision. He said that if there was new information provided by the applicant during the hearing the Commission had the right to deny or remand the application to the HARB for further review.

Dana Ste. Claire, HARB Chairman, was sworn, and stated that after lengthy discussion and fair consideration the HARB had felt that the alternative shingle material presented by Mr. Patel and Ron Flick was not acceptable. He said that Mr. Patel had presented a material that was fire rated, long lasting, and cost effective. He said that denial of Mr. Patel's application was based on testimony from the historic preservation community representatives, testimony from general contractors and roofing contractors regarding the viability and life of cedar shake roof shingles. He said the HARB had denied the application due to concern about setting a precedent; thereby, changing the complexion of colonial architecture in the City. He said that another concern was the extensive review by PZB and HARB regarding the visual character of the project, which had been modified and the HARB was reluctant to change any of the elements that had undergone full public and board review. He said that the HARB was also concerned about the impact the project would have on the visual character of the City. He concluded that the material proposed by Mr. Patel looked similar to

the cedar shingles; however, the board collectively felt that the material lacked authenticity.

George McClure, 170 Malaga Street, displayed renderings of the site and stated that Kanti Patel had been in the hospitality business in St. Augustine for many years, and the properties he owned represented well designed, maintained, and professionally operated properties that were a credit to the community. He said the site was legitimately of great concern, as it was one of the most visible sites in the City, and it was within a historic district that mandated an appearance dissimilar to what had existed on the site or anything else on the waterfront. He stated that the seawall and boulevard along with the developed properties were not of a Spanish era. He said that the project would impact several generations to come; therefore, decisions had to be made.

Mr. McClure referred to page 73 of the AGHP dealing with new construction and noted that there were different standards for new construction than for a reconstruction of a historic structure. He said that new construction was required to pick up significant themes such as height, materials, roof form, massing, setbacks and rhythm of openings to insure that a new building blended with its context. He said that new construction was appropriate as long as it did not destroy significant historic features and complimented the size, color, material, and character of adjacent buildings and their historic setting. He said that in the case of Mr. Patel's project there was no adjacent buildings that were in the Spanish style for them to emulate.

Mr. McClure said that over the length of the project there had been a collaborative

effort to create an acceptable design that set a wonderful standard for the waterfront. He questioned whether the proposed shingle material was at odds with the AGHP, because a new construction was required to use complimentary materials. He noted that many of the structures built in the historic districts had been built with concrete block, which was not a material used by the Spaniards, but it was acceptable because it was complimentary and could be made to look like Spanish construction. He said that the mortar the Spaniard's use to cover the tabby walls was different from the stucco currently used, but the material was routinely approved for the covering of exterior walls, because it provided better moisture protection and better durability while the appearance looked like the material the Spaniards had used. ¹

Mr. McClure stated that the tiles his client proposed had a longer lifetime, they were less expensive to install and better fire rated than standard wooden shake shingles. He said that the appearance of the tiles did not represent the detriment that was suggested. He distributed photographs of the proposed material and cedar shake shingles to demonstrate the likeness and stated that there were 19 structures most of which would have the shingle typed roof, which represented a tremendous amount of roof area. He said that the photographs demonstrated that there was no material difference in the appearance of the two products.

Mr. McClure agreed that properly installed cedar shake shingles would last a long time. He said that it was possible to treat cedar shingles with a fire retardant material, but it aged and diminished in approximately two years,

¹ End of audio tape one

which represented a fire hazard for the owner of the building and the surrounding structures. He referred to another photograph demonstrating moss on the cedar shakes resulting from the humid environment and said that the shingles were susceptible to rot and wood destroying organisms. He said that state of the art rendered the cement shingles undistinguishable and for that reason the material should be approved.

Mario Ibanez, 65 Jacks Avenue, Ponte Vedra, stated that he had 34-years of experience in construction, and he had dealt with a lot of warrantee service work throughout Florida. He said that he had a lot experience with shakes and in the best conditions and with care they could last years. He said that conditions near water and with continual exposure to the sun required considerable care.

Mr. Ibanez said the Cedar Shake and Shingle Bureau recommended that if the cedar shakes were not installed properly there could be lingering problems. He said his experience was that shakes required a lot of repairs. He said that they were beautiful; however, they were prone to wood boring beetles and certain wasps loved the material. He said that if they retained too much water they would deteriorate, they split in freezing weather, and if they got to dry the experience of expansion/contraction caused splitting. He said there were certain geographical areas that were not recommended for shakes and shingles. He said the proposed material looked just like cedar shake and provided more fire safety. He concluded that the Secretary of Interior had identified the material as an appropriate substitute.

Mr. McClure asked the Commissioners to look at the photographs of the proposed material and noted that according to AGHP new construction did not require

historic materials; it required that the materials be complimentary.

Mayor Gardner opened the public hearing.

Steve Schuyler, Architect 7 Inlet Place, was sworn and stated that he had been adamantly opposed the project from the start. He said that when he worked in the historic district they had to put wood roofs on the buildings, which was a basis of the guidelines. He said that the arguments supporting the use of the proposed material were that it was less expensive and it would last longer, which also meant less expensive. He stated that the project was huge and the scale of it was stimulating comments, and now they wanted to change the roofing material, which was a major visual component of the project. He said that he would be able to tell the difference in the material from the Bridge of Lions as concrete tile had a different look.

Dennis Cunningham, 54 Charlotte Street, was sworn and recommended that the Commission support HARB on the issue. He said that his home had a shake roof, and if the shingles were well maintained they lasted a long time. He noted that in spite of the reference to 19 separate buildings, from Charlotte Street it was one massive building.

Pierre Thompson, 206 Pelican Reef Drive, was sworn and stated that he had built in the historic district and he had the same situation occur; therefore, he had used artificial slate. He said that the City had a lot of fires, and he noted that there were fire walls on St. George Street. He recommended that the Commission take that into consideration.

Tony Bushell, 135 Marine Street, stated that he owned property adjacent to the project in question and two properties

behind it. He expressed concerned about the ineffectiveness of the fire department. He said that Mr. Patel had agreed to use cedar shake shingles, which was a major part of the project to make it look as though it belonged in the district. He suggested that Mr. Patel take the time and money to make the project look authentic. He stated that the project was a monolithic village regardless of the claim that there were 19 separate buildings. He said that when he replaced the roof on his properties he would go to HARB and follow their directions.

Mayor Gardner noted that 16 property owners within 150-feet had been notified and one comment sheet had been returned supporting the HARB decision.

Mr. McClure stated that he was not embarrassed to admit that the appeal was economically motivated, but the issue was whether there was a public reason or a reason in the ordinance indicating that the relief could not be granted. He said in respect to cost they were dealing with the lifetime of the roof as well as the fire standard of the roof. He said that his client had considered six types of cedar shingles, and the most expensive one was \$169 per square or a 10 X10 foot area. He said that the one his client had chosen was \$96.60 per square, and the proposed tile was \$230.87 per square. He said that it was true, in his opinion, that the tile roof would be longer lasting, look better longer and require less maintenance. He said that it was not the Commissions position to save private landowners money if there was a detriment to the public, but he could not discern that detriment. He added that there was a fire issue for the project and the safety of the surrounding properties. He suggested that the Commission look at the tile shingles and judge whether there was a marked difference in the material.

Mayor Gardner closed the public hearing.

Commissioner Crichlow said that as an architect he always examined the cost effectiveness of materials and the proposed product was probably the most cost effective and maintenance free roofing material. However, he said that property might not have a colonial history but the proposed product was trying to look historical. He said that it would be nice if there was one material on the project that was authentic. He said that the project was in a HP district and approving the appeal would set a precedent for all structures in HP districts, which the Commission should try to avoid. He said that cedar shake shingles had been in the original HARB approval and now Mr. Patel was trying to change it. He concluded that HARB had not erred in their decision.

Commissioner Jones stated that he had spoken with the owner about the issues and concerns, and he was aware of the length of time that had gone into the project. He noted that many residents were adamantly opposed to the project, but through compromise and modification a common ground had been found, but currently the owner wanted to change the agreement. He stated that he walked downtown and looked at a lot of roofs and no two were alike in terms of weathering. He said that he also looked at the shingles that were in the photographs and he could tell the difference, plus they would never weather and develop their own character. He added that the underground parking garage was a major concern for some of the citizens of the community, which they could not undo; therefore, they should not undo the cedar shake shingles. He stated that he did not believe that the project presented

anymore of a fire hazard than the rest of the downtown area. He concluded that HARB had not erred.

Mayor Gardner stated that he had objected when the request was made to replace the wood framing at the top of the Atlantic Bank Building with aluminum, because it was so far up that no one would realize. He said that the existing wood framing at City Hall was a joy compared to the aluminum framing. He referred to the rendering, and noted that adjacent buildings had not been included to provide a perspective, he suggested that the City Attorney explore the matter.

Commissioner Lennon noted that when the project went before the Commission the agreement was for wood shakes. He said that as a young man and volunteer firefighter he had observed cedar shake burning. He questioned how Far Away Places had gotten asphalt shingles. He said that he had seen thick fiberglass tiles that he could not tell the difference from cedar shake shingles, and he did not believe that an architect could have recognized the difference, especially on a two story structure. He said that he had become enthusiastic about the fiberglass shingles in terms of retarding fire damage in the City; however, the boards had not agreed with him. He recommended that the City find a substitute for cedar shake shingles for the safety of fire retardation.

Commissioner Lennon stated that he had looked at Casa Del Hidalgo and the style of the building make the roof quite apparent, which naturally required cedar shakes. He said that Mr. Dixon had fought to use another type of shingle for the 32 Avenida Menendez project; however, Mr. Patel had agreed on the cedar shake; therefore, a deal was a deal.

MOTION

Commissioner Crichlow MOVED to deny the appeal regarding property located at 32 Avenida Menendez requesting cement shingles in lieu of wood shingles, and because HARB had not erred in their decision because it would set a precedent in the HP districts and the project had been previously approved with wood shingles and should remain so. Commissioner Jones SECONDED the motion.

VOTE ON MOTION

AYES: Crichlow, Jones, Lennon, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY ²

11. RESOLUTIONS AND ORDINANCES (To include public hearing)

11.A / Resolutions

11.A.1/ Consideration Resolution 2004-06, recognizing February as Black History Month. ³

11.B/ Ordinances - First Reading

(None Scheduled)

11.B.1/ Introduction and consideration of Ordinance 2004-04, prohibiting roller skating, skateboarding and scooters or bicycles in certain areas.

Mr. Harriss stated that the current ordinance prohibited the use of skate boards and skating in historically sensitive areas or near historic monuments, but did not extend to the

² A brief recess from 7:28 until 7:40 p.m.

³ Resolution 2004-06 was read in Item 3.C.

improvements and recreations completed in the past 12-15 years. He said that the new ordinance used the term City Commons; however, staff had not been able to find out what the City Commons were.

Commissioner Jones stated that he had expressed concern for the young people skate boarding on the Santa Domingo Redoubt. He said he realized that the young people needed somewhere to go for recreation, but unfortunately the only accommodations for skate boarding was at Treaty Park, which was quite a distance from town. He said that he looked around the City trying to find a location to address the problem. He said that the City owned property across from the fire station on Anastasia Island that was not currently being used, which might be a suitable location. He suggested working with the county in that direction by offering them the land to build a skate park and playground area. He said if there was a park readily available young people would not seek out illegal or inappropriate locations. He suggested reopening the recreation discussion with the county. He asked the Commission to take his suggestion into consideration.

Mayor Gardner stated that without objection from the Commissioners the City Manager would look into the idea.

Commissioner Lennon noted that monuments had literally been destroyed by skateboards, but they had issued control that stopped the destruction until the current situation with the redoubt. He said that the City had donated Pomar Park for recreation, and it was a viable area with little concern for destruction, which the City might assist the county on building ramps etc. for the skaters. He added that the location was beautiful.

Commissioner Lennon suggested that the ordinance indicate that recreation could only take place in designated areas rather than indicating every area that the activity was prohibited.

Mr. Wilson said that it could be done by going through the definitional process. He explained that sometimes it was easier to prohibit certain areas than it was to permit certain areas. He said that it was up to the Commission.

Commissioner Lennon asked the Commission what they thought.

Mr. Harriss noted that there was no area within the City that was designated for the activities, and it was unreasonable to state that the only area acceptable was Treaty Park. He said that once the City had provided some areas they could alter the ordinance and not appear heavy handed.

Commissioner Jones said that they were dealing with semantics, but they were in agreement. He said that they needed to get the ordinance on the books and alter the ordinance when the City had created some recreation areas for the activities. He suggested moving forward.

Mr. Harriss stated that he was surprised at the number of young people using the Treaty Park skateboard facility.

Commissioner Jones stated that there was no form of recreation on Anastasia Island and that was why he had made the suggestion.

Commissioner Crichlow stated that something at Pomar Park would also be a good idea. He agreed that the area Commissioner Jones recommended across the street from the fire station was quite accessible to the young people

living on Davis Shores. He questioned whether there was a law against kids skateboarding on City streets other than those four blocks of St. George Street, and prohibition from the Plaza, City Commons, sidewalks and in any commercial or historical area. He said that skateboarders could use the streets in historical areas and anywhere else in town.

Mr. Harriss said that statement was true for non-motorized skateboards. He said the electric and/or gas powered skateboards were not allowed in the streets or on the sidewalks according to state law.

Commissioner Jones questioned what the Police Department would do in the case of skateboarding on City streets.

David Shoar, Chief of Police, replied that as far as he knew people could skateboard on City streets as long as the activity did not impede traffic, but not on sidewalks. He noted that the department enforced the skateboard ordinance quite often in the Plaza and confiscated skateboards until the fine was paid.

Commissioner Jones asked that staff move forward communicating with the county about skateboard facilities at Pomar Park as well as the property aforementioned on Davis Shores.

MOTION

Commissioner Jones MOVED to place Ordinance 2004-04 on first reading, read by title only and approved. Commissioner Lennon SECONDED the motion.

ORDINANCE NO. 2004-04

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING

SECTION 24-9 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO THE PROHIBITION OF SKATEBOARDING AND ROLLER SKATING ON ST. GEORGE STREET; ADDING ROLLER BLADES, PUSH SCOOTERS AND BICYCLES AS PROHIBITED THEREON; ADDING A PROHIBITION AGAINST DOING ANY OF THESE ACTIVITIES ON, IN OR UPON ANY HISTORIC OR RE-CREATED HISTORIC STRUCTURES OR MONUMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Lennon noted that Pomar Park was under utilized, and he asked Mr. Williamson whether there was something the City could do to promote it.

Mr. Harriss pointed out that the City had installed a gazebo, picnic tables and BBQ grills; however, no one seemed to utilize the area.

Commissioner Lennon stated that a skateboard facility at Pomar Park would give the park more exposure.

MOTION APPROVED BY UNANIMOUS VOICE VOTE.

Paul Williamson, Director, Public Affairs, reported that a St. Johns Visioning sub group was doing an inventory of youth activities in all parts of the county with brochures geared toward different sections of the county and Pomar Park was a part of it. He said that his department was providing photographs and descriptions of public places in the City that could be used for gatherings and Pomar Park would also be included.

Commissioner Lennon suggested an event with the Sheriff's helicopter landing and the Fire Department attending to attract families with children.

Commissioner Crichlow questioned whether Pomar Park was similar to the Galimore Center.

Mr. Harriss explained that the active portions of those parks were managed by the County Recreation Department and the passive portion was managed by the City.

11.B.2/ Introduction and consideration of Ordinance 2004-05, reducing the maximum height of structures in certain areas of the City from Thirty-five (35) to Twenty-seven (27) feet. ⁴

11.C/ Ordinances - First Reading - Public Hearing Required

11.C.1/ Public Hearing - Ordinance 2004-03, concerning a petition to vacate a portion of Bravo Park Avenue.

Mr. Harriss reported that the area in question was the original designated right-of-way for Davis Street, but over time the roadway moved west, and when the City paved the road it became the City's property rendering the original right-of-way unnecessary. He said that the City had negotiated a 10-foot parcel that the City had claimed through adverse possession. He said that the rest of the area was not needed by the City, and the City would not want Mr. Hotchkin to open Bravo Park Lane.

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

⁴ Item heard after Item 3.C.

MOTION

Commissioner Lennon MOVED to place Ordinance 2004-03 on second reading, read by title only and approved. Commissioner Jones SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2004-03

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, VACATING, DISCONTINUING AND ABANDONING THAT CERTAIN PORTION OF BRAVO PARK AVENUE IN ST. AUGUSTINE, FLORIDA, LYING NORTHERLY OF LEWIS BOULEVARD; PROVIDING FOR RESOLUTION OF CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

MOTION WAS APPROVED BY UNANIMOUS VOICE VOTE.

Commissioner Lennon questioned whether the vote should be named.

Mr. Wilson said that it was fine.

Mr. Harriss stated that it was alright as long as there was no objection.

11.D/ Ordinances - Second Reading Public Hearing

(None Scheduled)

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

Nancy Sikes-Kline, 15 Miruela Avenue, stated that she was representing the St. Johns County Historic Resources Review Board, for which she was chairman. She stated that the board was requesting

letters of support for a historic preservation grant application for a West Augustine cultural survey. She explained that the survey would study the West King Street corridor from the City/County line to Carter Road to investigate the feasibility of establishing a historic district or enclave. She said they proposed to hire a consultant to prepare reports on the potential district areas and individual buildings recommended for the study and historic property survey, which would include approximately 45 buildings to establish a historic district. She read a document prepared by the St. Johns County Historic Resource Review Board explaining their intention.⁵

Ms. Sikes-Kline stated that the board was working with the West Augustine Redevelopment Agency and hoped to work with the City to get the grant, and she requested a letter of support.

Commissioner Lennon questioned whether people went to Ms. Sikes-Kline and asked her to do that sort of thing in their neighborhoods.

Ms. Sikes-Kline replied that the county had conducted a cultural resource survey for the entire county and West Augustine was prioritized for redevelopment. She noted that historic preservation went along with affordable housing. She said that the West Augustine Improvement Association had been attending the board meetings as well as the St. Johns Housing Authority. She said there was a big interest in revitalizing the areas. She added that it was a grass roots effort.

Commissioner Lennon stated that if Ms. Sikes-Kline had come with a list of names indicating that the people wanted

to be a part of the project and wanted their homes designated it would be more appropriate, but the people had not come to the Commission.

Ms. Sikes-Kline said that the county was writing a grant, and she was simply asking for a letter of support from the City for a grant to conduct a survey.

Mayor Gardner clarified that the grant was for the survey and not for money for rehabilitation.

Ms. Sikes-Kline stated that the first step was to ascertain what existed and the status of the property amounting to a cultural survey and hopefully hire a consultant to help with revitalization.

Mayor Gardner noted that the time would come when private property owners would have the right to accept or reject any action for their property.

Commissioner Crichlow questioned whether it was part of the county CRA.

Commission Jones said that it was different but they worked closely.

Ms. Sikes-Kline stated that she did not know.

Commissioner Crichlow questioned whether any money from the CRA was eligible for the revitalization.

Ms. Sikes-Kline stated that she really did not know. She said that what had been emphasized was the areas straddled the county and the City line, and there had been discussion about working with the City to get the area in better shape. She stated that it was what the people living there wanted.

⁵ Document attached to original minutes

Commissioner Jones noted that he intended on writing a letter of support himself.

Commissioner Crichlow requested the information in order to write a letter also.

Mayor Gardner questioned whether the Commission would entertain a motion to direct the Mayor on behalf of the Commission to write a letter of support.

MOTION

Commissioner Jones MOVED to direct the Mayor to write a letter of support on behalf of the Commission. Commissioner Crichlow SECONDED the motion.

Commissioner Lennon stated that he would like more information before writing a letter.

VOTE ON MOTION

AYES: Jones, Crichlow, Gardner

NAYES: Lennon

MOTION CARRIED 3/1

Greg Baker, 39 Valencia Street, thanked the Commission for courageously reversing the action to lower building height to 27-feet and lifting the moratorium. He stated that 35-feet was not the problem and 27-feet was not the solution. He stated that protecting the character of the neighborhoods was important, but there were some neighborhoods where perhaps the character should be changed. He said that Pelican Reef had beautiful architecture; however, it would not be appropriate for other neighborhoods. He said that North City and Lincolnville had a character that required definition and preservation. He said definitions that made sense would be a challenge for the Commission. He encouraged them to be diligent, methodical and resist the temptation for major reaction. He

applauded the Commissioners for their foresight regarding a potential problem.

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 8:16 p.m. ⁶

MAYOR

CITY CLERK

⁶Transcribed by Karen Rogers, Recording Secretary