

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
March 8, 2004

The City Commission met in a formal session Monday, March 8, 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
James P. Wilson, City Attorney
Martha V. (Nell) Porter, City Clerk
Timothy A. Burchfield, Chief Administrative Officer
Mark Litzinger, City Comptroller
James Whitehouse, Staff Attorney
Mark Knight, Director, Planning and Building Department
Dr. William Adams, Director, Heritage Tourism
Robert Leetch, Director of Utilities
William H. Harding, Director, Public Works
Paul Williamson, Director, Public Affairs
James Owens, Fire Chief
David Shoar, Chief of Police
Orfeo Paolini, Sound Technician
Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Dr. Robert Askren, Trinity Episcopal Church, delivered the invocation and led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

3.B/ Approval of Minutes of the Regular Meeting of February 23, 2004

The minutes of the City Commission Meeting of February 23, 2004 were approved as presented.

3.C/ Proclamations

Mayor Gardner acknowledged Morgan Dufresne, member of the Mayor's Youth Council and outstanding student, for achieving the 135 pound class 1A State Wrestling Championship. He presented Morgan with a City coat of arms lapel pin.

Mayor Gardner acknowledged Duncan David the third of three brothers to achieve Eagle Scout.

3.C.1/ Proclamation declaring Archeology Month

Mayor Gardner spoke of the achievements related to the replication of the Santa Domingo Redoubt and the Cubo Line and presented both Carl Halbirt and Billy Ray Morris with a copy of the proclamation and City coat of arms lapel pins, and he thanked them for unearthing tangible evidence of the history of St. Augustine.

3.D/ Administrative

(None)

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

Donald Sutton, 3921 Vaill Point Terrace, said that after the death of C. J. on Masters Drive he had received 100's of telephone calls, as he served as the Vice-Chairman of San Sebastian Neighborhood Association. He said that the Council had met with the County Commissioners, and they wanted to work with the City Commissioners to install some traffic calming devices on Masters Drive.

Debora Williams, 1636 Masters Drive, Chairman of the San Sebastian Neighborhood Association, stated that she had spoken to the Commission six months earlier regarding the growing dangers of increased traffic and the need for enforcing the speed limit on Masters Drive. She expressed disappointment that she had not been successful in communicating the need to the City and County, which resulted in the death of Charles Crookshank. She recommended a new collaboration between the City and County Governments to address the situation on Masters Drive. She suggested stripping and narrowing the road beds, no through truck and/or local

traffic only signs, school zone signs and warning lights, and other traffic calming options. She pointed out that extra right-of-way was not necessary for a sidewalk.

Maureen Ortigas, Master Drive, member of the San Sebastian Neighborhood Association, noted that there was an extensive amount of documentation regarding safety on Masters Drive, and she listed the documented traffic offenses. She acknowledged Chief Shoar and the police officers for their support regarding the City portion of Masters Drive. She said the neighborhood association was requesting that the City officials have input regarding Masters Drive during the subsequent St. Johns County Commission meeting.

Tom Johnson, 21 Dondanville Road, stated that the Wood Storks had left the Ponce Resort area due to removal of trees. He suggested that there were two sides to a legislative body and if the Commission passed laws they must have a clear understanding of the letter and the spirit of that law, as well as a clear understanding as to how the law would be enforced. He said that it was clear that there had been a violation of the tree ordinance permit, as Mr. Stokes had not applied for a permit.

Bea Durand, 133 Ocean Hollow Lane, offered a plea to the Commission and indicated that she was currently observing development that resulted in parking and traffic problems similar to what she had experienced in large cities. She suggested that if the matter was not addressed St. Augustine would become a ghost town.

Les Garcia, 205 West King Street, spoke again regarding the vendors, artists, rotation and grass in the Plaza, as well as the need for public telephones.

Sandra Krebs, 800 Faver Dykes Road, stated that the City had paid \$104,000 for a parking and traffic study, which indicated that efforts should focus on the Plaza area for parking bounded by Cuna Street, the bayfront, Cordova Street and Palm Row. She said the report suggested that three parking garages be constructed at the VIC, Lightner Museum and San Sebastian area. She stated that in the nine years since the study was conducted the parking situation had deteriorated. She noted that there would be less resistance to a parking garage at the sight of an existing parking lot, and adding 1000 parking spaces to the area would make the Commissioners known for doing something about the parking situation. She stated that the problem was that the north end of town already had a lot with 500 parking spaces. She said that adding 1,000 spaces would be redundant, and she suggested that the Commission move to terminate the over priced, over sized mega parking structure and do what was right.

Jean Troemel, 6 South Street, represented the Pasta Gallery, stated that if something was not done to improve parking south of King Street it was altogether possible that the gallery would have to close.

Hank Whetstone, 400 Old Quarry Road, suggested that the Commission consider four parts of the trailer train business when approving the transfer of the St. Augustine Sightseeing Trains to Ripley Entertainment:

- Physical Assets
- Real Estate
- Goodwill
- Value through City franchise

Mr. Whetstone stated that he had been on the Commission when they granted the franchise for the green trains, and he thought that considerable business value had been created by the franchise. He expressed concern that the City was not receiving an accurate percentage of revenue indicated in the franchise agreement. He advised that the City request:

- Full accounting of the value of the transfer
- Examine and increase the accountability from the franchisee

Mr. Whetstone stated that the building that was formerly the Pic & Save store, and currently used for storage, had 123 surface parking spaces that the City could consider using for City Customer Service. He said the move would help to develop that area of King Street and take City employee parking out of the Lightner Museum parking area; thereby, creating more parking for private sector commerce. He stated that moving some of the City functions from the Lightner Museum to the proposed location would allow for more tourist oriented activities in the Lightner building. He suggested that the Commissioners defer making a decision about the old fire station until they considered his proposal.

Judith Fox-Fliesser, 290 St. George Street, read a letter regarding the proposed use of the old fire station expressing disappointment regarding the lack of citizen consultation on how to put the building to best public use.

Elizabeth Holiday, 11 Aviles Street, pointed out that during the April of 2003 meeting the Parking and Traffic Committee had issued a directive for the City Commission to demolish the old fire station and remodel the Lightner parking lot. She added that the committee

members had been appointed by the Commission to reach a workable solution for the traffic and parking problem. She added that the Old Town Association requested that the fire station be removed and thirty parking spaces be added to the existing parking lot, which would not solve the problem, but it would be a start. She said the previous October over 200 people had signed a petition requesting more parking south of the Plaza. She added that the fire station was out of place in the neighborhood. She discredited reasons for the current proposal for the fire station, and she suggested that the Commission do the right thing. She added that research into the minutes of the current Parking and Traffic Committee mentioned fifty five times that the parking situation south of Plaza was a large problem and that the VIC parking garage would not solve the parking problem.

Peter Romano, 62 Sanford Street, President, Lincolnville Neighborhood Association, stated that he would attempt to dissuade the Commissioners approval regarding the conversion of the fire station into a drive-thru utility payment or permit issuing facility. He said the structure was an architectural albatross and incompatible with the surrounding neighborhood. He said that he believed the proposed cost of \$200,000 was inaccurate, but the true cost considering current market value would be \$300,000 and when including a build-out of \$4 million, as well as property taxes over a 10-year period, the true cost would be \$734,000. He said that the area had substantial potential for retail, multi-use and transit and parking development. He suggested that those who drove to City Hall to pay their utility bill were delinquent and represented a minority, plus there was a drop off box for payment. He added that

directing traffic to the central core of the City was a folly and a contradiction to the values of traffic reduction. He said that there had been significant time and money put into the improvement of Washington Street and Lincolnville and the proposal was an insult and a deterrent to progress. He said that a development of a grocery store, bakery, and professional offices etc. on upper floors constructed in an architectural compatible style should be the Commissions consideration. He urged the Commission to do some comprehensive planning for the area.

Dan Holiday, 11 Aviles Street, suggested that the Commission was spending money lightly. He said that the proposed parking garage at the VIC would create a debt for the residents of the City. He said that the City could not afford the Commissioner's spend and tax philosophy. He said the proposal for the fire station was a method of insuring that there would not be a parking garage in the location. He stated that the City had a problem and that problem was the result of three Commissioners who voted down the parking garage that had been planned for years, just so they could be elected; moreover, they were currently throwing money around.

B. J. Kalaidi, 8 Newcomb Street, spoke regarding the nonconforming rooming house ordinance and said that five applications for registration had been received by the Planning Department. She said that 7 and 9 Newcomb Street had been approved and were considered nonconforming rooming houses in a residential district. She said the new ordinance stated that there could not be more than four unrelated persons living in a nonconforming rooming house. She said that a possible violation regarding 7 Newcomb Street had been reported as five people were living in the building.

She said the information was before the Commission for further investigation and enforcement of the ordinance. She stated that living with friends 3-6 nights a week created a flop house situation and allowing the situation to continue until January 1, 2005 would be a travesty, as Newcomb Street was not a commercial or red light district.

5. PRESENTATIONS AND STAFF REPORTS

5.A/ Presentation regarding transfer of ownership of the St. Augustine Sightseeing Trains to Ripley Entertainment.

Jim Wilson, City Attorney, stated that the transfer requirements were set forth in the franchise agreement indicating that the request had to go before the City Commission to determine whether the transfer was in the public interest and whether the buyer would be able to fulfill the requirements of the ordinance. He said that the Commissioners were obligated to review the request within 30-days of submittal, and if they determined that the request was not in the public interest or the buyer could not fulfill the requirements of the ordinance they had to provide a specific reason to the applicant for denial.

Jim Wettach, St. Augustine Sightseeing Trains, requested approval of transfer of ownership from A. H. Tebault to Ripley Entertainment. He said that the trains had been part of the community for over 50-years and Mr. Tebault had owned them for 20-years. He said that Mr. Tebault had always operated the trains with a sense of pride and civic responsibility; however, he had reached a point in his life when it was time to slow down, hence the transfer. He said that Mr. Tebault had determined to turn the company over to an operator with a local

presence, and Ripley's was an important part of the tourism community. He said that the St. Augustine Ripley's museum had been the first one and the company had grown from there. He noted that Ripley's had the commitment, ability, and financial resources to continue the successful operation of the sightseeing trains.

Scott Line, Ripley's Entertainment, 5728 Major Boulevard, Orlando, Florida, stated that Ripley's had a history in St. Augustine dating back to the 1940's and the museum would celebrate its 54th year of operation in December. He said that they were excited to have the opportunity to continue the tradition of the St. Augustine Sightseeing Trains. He said that the existing employees would join Ripley's Entertainment, and they would continue to operate out of the current locations. He said that their long-term goal was to grow the business.

Commissioner Lennon clarified that the existing employees would be retained.

Commissioner Crichlow stated that the City had a good working relationship with St. Augustine Trains, and the Commission wanted that relationship to continue.

Mayor Gardner questioned the amount of real estate that was involved in the transfer.

Mr. Line replied that Ripley's was not acquiring any real property, as they would be leasing the existing facilities.

Commissioner Burk questioned whether they were asking for any modification of the existing franchise, and the response was negative.

Mayor Gardner noted that there were many elements of the Ripley's

Entertainment division, and he questioned whether there was any intention of expanding in St. Augustine.

Mr. Line replied that they were always looking for opportunities, but they were not certain that their products were compatible with the community. He said that they were comfortable with the museum and the trains, but they would continue looking for other opportunities.

Mayor Gardner noted that it was the goal of the Ripley's Entertainment President to expand the market as long as the opportunity existed. He said that he liked to think that St. Augustine was unique compared to Myrtle Beach and San Antonio etc. because the concentration of visitation was small. He said that it was getting harder and harder to hang on to their main purpose as stewards of a National Historic Treasure; therefore, he hoped they would keep that in mind and work with the City.

Commissioner Burk said that the transfer would bring new life into the business, and she was pleased that a monopoly was not being created by selling to the competitor. She said the buyer would be able to fulfill the requirements of the ordinance, and she believed that it was in the best interest of the City to approve the transfer.

MOTION

Commissioner Burk MOVED to approve the transfer. Commissioner Lennon SECONDED the motion.

Commissioner Crichlow questioned whether the City was comfortable with the reporting of train revenues to the City.

Mr. Harriss replied that currently they were comfortable that they were getting a true report of revenues. He said that the percentage of the take could be more, but that was a separate subject.

Mayor Gardner questioned whether the sale price was a public record.

Mr. Line replied that as a privately owned company they would like to keep that information confidential.

Mayor Gardner questioned whether Ripley's had the option to purchase the red train real estate.

Mr. Line replied that the subject had not been addressed.

Mr. Harriss said the garages that existed for the red trains were open and Mr. Wettach had indicated that Ripley's would be enclosing and improving the presentation of those areas, which would be a benefit to the community.

Mayor Gardner clarified that the City owned the Carpet Golf on the bayfront but leased it to the red trains, and he questioned the length of the lease.

Mr. Harriss replied that lease would be transferred also.

Mr. Wilson questioned whether Ripley's was buying the corporate assets or buying the corporation and stock.

Mr. Line replied that it was an asset purchase, which would be rolled into the Ripley Entertainment Company, which was the operating company for all the assets.

VOTE ON MOTION

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

NAYES: None

MOTION CARRIED UNANIMOUSLY

5.B/ Update on approved plans for the Old Fire Station.

Mr. Harriss stated that the Commission had approved the concept of the proposal during a previous meeting; moreover, the proposal could provide a better operation.

Mark Litzinger, City Comptroller, stated that he had offered an alternative use for the old fire station, and the focal point of the proposal was moving the Customer Service Division from the fourth floor of City Hall to the station. He said that some of the benefits would be improved customer service and improved parking in the downtown area, as customer services attended to an average of 100 customers a day that required parking. He added that the City Building Services Group would be moved to the location and they would also construct a training and meeting room. He said that he had gotten an estimate of cost for the renovation as it had been presented to the Commission and an estimate to completely renovate the fire station, which would include an elevator, renovating the second floor and major work to the outside of the building. He said that the estimated cost was \$228,000, and the full renovation cost would cost \$371,000. He said that with the Commissions approval staff would like to transfer the money from the unappropriated fund balance and begin construction.

Mayor Gardner questioned whether there were any plans for the second floor of the building if it was renovated.

Mr. Litzinger replied that there were no plans currently.

Mayor Gardner questioned how much time customers spent in the Customer

Service Department and what their business was.

Mr. Litzinger replied that the majority of the customers were in and out to pay a bill, a ticket or purchase a permit, but customers establishing new services took longer.

Commissioner Crichlow questioned whether 100 customers daily was a reasonable estimation.

Mr. Litzinger replied yes on average. He noted that there were citizens who liked to go to City Hall to pay their bills.

Commissioner Burk questioned whether the existing drop-box was used for paying bills.

Mr. Litzinger replied that it was used a lot, and the use had increased dramatically since it had been relocated to the west side of the building.

Mr. Harriss indicated that they would continue to use the drop-box if they moved customer service to the fire station.

Commissioner Burk said that the proposal had been described as a drive through drop-box, and she requested a description of the proposal.

Mr. Litzinger referred to the diagram of the proposal and described the facility.

Commissioner Burk noted that the meeting/training room would have outside access so that citizen groups could sign up to use the room for meetings.

Commissioner Burk questioned whether all the parking meter operation would also be handled in the space.

Mr. Litzinger replied that the Meter Maintenance Division that worked on the utility and parking meters would also be located in the fire station, and there was an area for the electric carts to be charged. He added that currently the carts picked up the coins and then had to bring them to the fourth floor of City Hall for counting, which was cumbersome and unsafe, but a coin counting room in the old fire station would be easier and safer.

Commissioner Crichlow questioned where the carts were currently stored.

Mr. Litzinger replied that they were stored at the City Garage; therefore, relocating would add to enforcement time as well.

Commissioner Burk asked Mr. Litzinger to explain unappropriated funds and how the cost of renovation would be paid.

Mr. Litzinger explained that unappropriated funds were funds that were outside of the normal course of the budget. He said that the Commission approved a budget yearly and staff was bound by the budget; therefore, they had to find the money for the renovation. He said that taking the money from the unappropriated fund had little adversity as they would depreciate the cost of the building over 10-20 years, because the project was large.

Commissioner Burk questioned whether there was a need for the space that would be vacated at City Hall.

Mr. Litzinger replied that there was a current need as the Planning and Building and Code Enforcement departments had hired new employees, plus the employees in purchasing were considerably cramped. He added that

the employees in the Customer Service Division were currently cramped also.

Mr. Harriss explained that the Customer Service area would become Purchasing allowing Planning and Building and Code Enforcement to expand into the purchasing area, which would be helpful.

A discussion ensued regarding the diagram for the proposed renovation.

Commissioner Crichlow stated that there had been numerous suggestions from the public about potential use for the old fire station; however, it appeared as though City government could operate more efficiently with the proposed renovation of the facility.

Mr. Litzinger pointed out that the renovation would actually improve the parking situation; whereas, most of the other proposals for the space would add to the parking problem.

Commissioner Lennon stated that Mr. Whetstone's idea of moving the Customer Service to West Augustine had appealed to him.

Commissioner Burk countered that to physically move some of the City offices out of town was a terrible idea. She questioned whether the suggested Pic and Save location was in the City limits, and the audience responded that it was. She stated that moving the offices from the center of town to a building the City did not own was a disservice to the employees and the citizens, because they had to keep the heart of the town alive. She stated that micro managing every decision of the City Government was not the way government should be managed, as certain functions should be left to the management of the City. She noted that the renovation would benefit every citizen of the City. She emphasized that the

proposal was a brilliant idea. She noted that there had been many requests for use of the building, but the City could not support non-profit organizations and selling the property for retail did not make sense. She said that the City owned the building, and the City should use it.

Commission Lennon repeated that he liked Mr. Whetstone's idea, as the location was across from the water plant and parking at the location was sufficient, plus a drive-in window could be included.

Commissioner Lennon noted that the first move of the new Commission had been to eliminate the planned parking garage behind the Lightner Museum, hence literally throwing away \$500,000. He said that currently the Commission wanted to put another \$300,000 into the same area without relieving the parking problem by increasing spaces. He stated that he had a problem with that. He said that the Commission had touted the philosophy of listening to the people; however, the people had just asked for 30 more parking spaces rather than move the Customer Service to the fire station and spend \$300,000. He stated that the past two parking committees had recommended tearing down the old fire station to increase parking, but the current Commission appeared determined not to tear the building down. He said that his vote was to tear the building down and increase parking.

Mayor Gardner questioned how many people currently parked behind the Lightner Museum to use Customer Service. He said that the reserved parking spaces for the City and State had been reserved 24 hours a day seven days a week, but those space were currently open to the public at night and on weekends.

Mr. Litzinger said that if he was referring to the Granada Street parking lot the answer was affirmative. He stated that the City had added signage to let citizens know when parking was available.

Mayor Gardner agreed with Commissioner Lennon that the Commission welcomed and listened to public input, but the matter had not been advertised as a public hearing. He stated that he appreciated the citizens that attended the meeting, but their input was not a reflection of the community. He said that as Commissioner Lennon had stated, "show me 6,000 people and I will listen". He agreed with Commissioner Burk that the Commission could not micro manage everything, and he thought there was so much about the proposal that made sense, as it provided additional parking without creating more spaces and provided more room in City Hall for personnel and in-house business. He stated that to be more efficient personnel, supervision and management should be kept together and not moved out by the water plant. He denied that he was ignoring the recommendation of two parking committees; because redesigning the parking lot behind the Lightner Museum was not a priority, at that point, according to the Parking and Traffic Committee's listing of elements.

Commissioner Crichlow said that the current development of the old Record Building would not require all the space for its parking. He said the project would provide 30-40 parking spaces for the public. He added that the proposal would help parking without adding physical parking spaces.

Commissioner Jones stated that he had mixed feelings about the proposal after listening to a number of citizens. He

expressed concern regarding the cost and questioned how they could reduce it.

Mr. Litzinger said that as presented there was only a shaft but no elevator, and the cost was \$228,000.

Commissioner Burk questioned whether the upstairs space could be used for storage.

Mr. Litzinger stated that the space could be used for climate control storage, which the City always needed. ¹

Commissioner Jones stated that he favored tearing the building down, because it was an ugly facility, and there was a need for additional parking. But, he said that tearing the structure down had nothing to do with whether there would be a parking garage in the location, and he did not see a need for one in the near future. He said that several groups had asked for use of the space, which put the Commission in a difficult position. He said that staff indicated a need for the space, and the Commission did not need to micro manage utilization of space. He stated that he did not feel the City was large enough to consider decentralization on land the City did not own; therefore, he was not in favor of moving Customer Service to the Pic and Save site where the lease would increase annually. He added that the City already had plans for beautifying the West Augustine area.

Commissioner Jones noted that not everyone had checking accounts or computers, and there were people and elderly citizens without automobiles that walked to City Hall. He said that a facility on the ground floor would be customer friendly, whereas the current Customer Service location was not customer friendly. He reiterated that the

cost must be reduced, as he was not in favor of spending \$300,000+.

Mr. Harriss stated that the staff recommendation was to spend \$228,000.

Commissioner Burk questioned whether the proposal could be handled in two phases by examining the renovation of the second floor in the subsequent budget, and the response was affirmative.

Commissioner Jones stated that the citizens could not micro manage the City either, but they had the opportunity for input at the ballot box and otherwise, but they could not micro manage every time the City made a move. He said that he understood the parking concerns of the public, but currently the existing parking lot behind the Lightner Museum was not always utilized to its fullest extent. He suggested that when the Lightner lot was filled so was the VIC lot. He said that the City could move their vehicles out of the Lightner lot to provide more parking spaces, which staff would not like, but he was willing to move in that direction. He suggested that the public demonstrate that there were not enough parking spaces behind the Lightner Museum, before the City considered additional spaces. He noted that the referred to parking and traffic study had recommended three parking garages at particular sites; however, they had not been recommended in a particular order.

Commissioner Jones suggested that the problem was not the number of parking spaces; the problem was getting visitors to look for parking beyond Cathedral Place. He said that the City needed to organize the visitors through signage etc so that they would know their experience did not begin at Orange Street and end at Cathedral Place. He addressed the

¹ End of audio tape one

audience and emphasized that he wanted to direct tourists to the VIC and try to get additional parking for the residents, but the City could not get additional parking on Charlotte, St. George or Aviles Streets, because they were not built for more parking. Therefore, he said the City would have to provide parking in open spaces that would be a distance from the aforementioned streets. He said that he was aware that there was a need, and the City would address the need, but it would not happen overnight.

MOTION

Commissioner Burk MOVED to proceed with approved plans for the old fire station with the \$228,000 lower budget with the foresight to address the additional renovation in the next budget.

Commissioner Burk indicated that she saw the proposal as a benefit to all the citizens of St. Augustine.

Commissioner Jones SECONDED the motion.

Commissioner Jones stated that he did not like the motion including the amount of \$228,000.

Mr. Harriss stated that the amount was about as accurate as they could get until they went through the process.

Commissioner Jones stated that the amount could end up being lower. He said that the amount was a cap and staff would have to go before the Commission regarding the matter again anyway.

Mr. Harriss stated that he would keep the Commission informed, but the \$228,000 was for the renovation of the described portion of the build-out.

Commissioner Lennon questioned the square footage remaining in City Hall for renovation.

Mr. Harriss replied that approximately 14,000 square feet on the second and third floor was undeveloped.

Commissioner Lennon questioned the cost of that renovation.

Mr. Harriss responded that it would depend on what the use would be.

Commissioner Lennon said that it would be for increased government. He said that staff was asking for more space for more government and City Hall was almost paying for itself, and he questioned whether it would be wise to further renovate City Hall for increased government.

Mr. Harriss stated that staff had considered further renovation of City Hall, but the proposal was a compromise to all the suggestions for the fire station, and he liked the idea of the customer drive-through.

Commissioner Jones corrected that the proposal was not adding to City Government.

Commissioner Lennon responded that the City had hired five more employees.

Commissioner Jones stated that the new employees were added to staff as a result of the need over time.

VOTE ON MOTION

AYES: Burk, Jones, Crichlow, Gardner

NAYES: Lennon

MOTION CARRIED 4/1

5.C/ Presentation of a plaque by the Presidio Commission.

Carl Hoefler and Robert Hall of the Presidio Commission presented a plaque to the Commission in recognition of the accomplishments regarding the Santa Domingo Redoubt.

Mayor Gardner stated that he would like a directional parking sign at the area of Orange and Cordova Streets. ²

6. ITEMS BY CITY ATTORNEY

(None Scheduled)

7. ITEMS BY CITY CLERK

7.A/ Consideration of an appointment to the Police Officers' Retirement System Board of Trustees.

Martha V. (Nell) Porter, City Clerk, reported that there was one appointment and she had received one application from Phillip J. Moan, 348 Charlotte Street.

MOTION

Commissioner Lennon MOVED to appoint Phillip J. Moan to the Police Officers' Retirement System Board of Trustees. The motion was SECONDED by Commissioner Burk 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. Determination of legal sufficiency and acceptance of an

application to appeal a Planning and Zoning Board decision relative to property located at 43 Cordova Street.

3. Consideration of Release of Lien on a Unit Connection Fee Mortgage

4. Ratification of Memorandum of Understanding with the Coastal Florida Police Benevolent Association regarding take home vehicles.

5. Consideration of a Pre-Annexation Agreement relative to property located on Santander Road.

6. Consideration of an Easement Agreement on Magnolia Avenue.

7. Acknowledgment of appointments to the Citizens Advisory Task Force (CATF) for the Community Development Block Grant.

Commissioner Burk referred to Item 8.A.4. and mentioned for the benefit of the public that if they saw police vehicles parked in their neighborhood it was the result of a new program allowing police officers that lived within the City limits to take home their vehicle and hopefully increase safety in their neighborhoods.

Commissioner Lennon questioned how many police officers lived in the City.

Chief Shoar replied that there were currently six.

Commissioner Jones clarified that the officers' use of the vehicles would be limited.

Mr. Harriss said the use would be limited to business and to stop in the grocery

² A brief recess from 6:57 until 7:14 p.m.

store on the way home from work or pick up a child from school.

Commissioner Lennon questioned whether they were older police vehicles.

Mr. Harriss replied that the vehicles were a few years old.

Commissioner Burk noted that she had made the suggestion in hopes that it would encourage more police officers to move into the City.

Mayor Gardner referred to Item 8.A.7. and requested that Mr. Harriss read the names of the appointees to the Citizens Advisory Task force.

Mr. Harriss read as follows:

- Rosalie Russo – appointed by Mayor Gardner
- Elizabeth Holiday – appointed by Commissioner Jones
- Jerry Dixon – appointed by Commissioner Burk
- Dennis Mooney – appointed by Commissioner Crichlow
- David White – appointed by Commissioner Lennon

MOTION

Commissioner Lennon MOVED to approve Items 8.1. through 8.7. on the consent agenda. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.

8.B/ Discussion Items

Mr. Harriss stated that he had two items.

Paul Williamson, Director, Public Affairs, reported that the Florida Transportation Commission had selected St. Augustine as a site for their meeting of May 11,

2004. He explained that it was an important Commission with one of the state's most important challenges that viewed major transportation policy initiatives and recommended major transportation policies to the governor and legislature amongst other things. He stated that the Commission would arrive on May 11, 2004 and the City planned to host a reception for them and invited guests that evening; therefore, he recommended rescheduling or canceling the City Commission meeting of May 10th in order to facilitate the success of both functions.

Commissioner Burk suggested canceling the meeting and readdress the matter about a month prior to reassess the matter.

Mr. Harriss pointed out that normally a meeting was cancelled in May due to the Memorial Day holiday; however, this year was an exception; therefore canceling the meeting would probably not affect business.

MOTION

Commissioner Lennon MOVED to cancel the May 10, 2004 City Commission Meeting. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.

Mr. Harriss reported that a citizen had requested the right to proceed down St. George Street in a segue motorized transport vehicle. He said that state law indicated that the segue (a two wheel self balancing vehicle) was gaining some notoriety around the country by police departments and citizens and there were currently a few in St. Augustine. He said that the aforementioned citizen stated that he had the right to use a segue on St. George Street, because it was a form

of pedestrian transportation. He said that the City was concerned about safety and wanted to ban the vehicle from St. George Street, and Florida Statute allowed banning for safety purposes. He noted that the vehicle was not being used for handicapped transport.

Commissioner Lennon said that it was designated a commuter vehicle.

Mr. Harriss said that it was an electric personal assisted mobility device according to Florida Statutes. He requested that the Commission move to ban the vehicle from St. George Street.

Commissioner Crichlow stated that the City already banned bicycles and skateboards from St. George Street, and the vehicle mentioned should fall into the same category.

Mayor Gardner stated that the vehicle was basically a motorized scooter.

Mr. Wilson stated that the manufacturer of the product had taken a nationwide offensive campaign to have the vehicle declared an alternative to pedestrian transport. He said that it was supposed to be compatible with pedestrian areas; however, statute allowed them to travel at speeds up to 20 mph, but the device normally ran from 5-15 mph, plus the vehicle was rather wide. He said that according to statute the City would have to declare the vehicle unsafe in that particular area and it did not appear to require an ordinance to do so.

Mr. Harriss stated that his request was only for St. George Street, as he did not find the vehicle unsafe in others areas at that point.

Mr. Wilson pointed out that the vehicle was designed for commuting and transportation, but the pedestrian traffic

on St. George Street was more like strolling and window shopping, which made the vehicle inappropriate.

Commissioner Burk agreed with Mr. Wilson, but she said that she did not see a problem at that point.

Mr. Harriss responded that the vehicle owner had asked to ride the vehicle on St. George Street.

Mr. Wilson stated that the vehicle owner had stated that he had entitlement by statute to ride the vehicle on St. George Street.

Commissioner Burk stated that no one had done it thus far.

Mr. Harriss replied that the vehicle had been driven on St. George Street, and the police had tried to intervene.

Commissioner Burk MOVED to ban the segue from St. George Street based on the comments made by the City Attorney that the thoroughfare was not appropriate for such a vehicle where the traffic was meandering and not destination oriented and in the interest of safety. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.

Mr. Wilson asked to clarify that the motion only included the area of St. George Street from Orange Street to Cathedral Place.

Commissioner Burk amended the motion for the area of St. George Street from Orange Street to Cathedral Place.

9. ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Crichlow – Condolences

Commissioner Crichlow extended condolences to the City's Chief Operations Officer, John Regan and his family for the loss of his father.

**9.A/ Sidewalk Cafe Tables -
Commissioner Burk**

Commissioner Burk noted that the matter had been before the Commission a number of times, and she felt that the Commission agreed that it would be a great idea; therefore, she wanted to instruct staff to bring the Ordinance before the Commission in a formal manner.

Mr. Harriss clarified that the matter was currently being introduced for discussion.

Mayor Gardner stated that he did not see a time guideline included in the proposal.

Commissioner Lennon pointed out that the ordinance indicated 5:00 p.m. until 1:00 a.m.

Mayor Gardner questioned whether staff had prepared physical locations and formulated a layout to avoid conflict.

Mr. Harriss said the language of ordinance was an attempt to avoid a bottleneck any place on St. George Street; however, the ordinance before them encompassed more than St. George Street. He stated that there was language in the ordinance that referred to 50-feet on either side.

Commissioner Lennon stated that he thought it was 10-feet.

Mr. Harriss replied that 10-feet provided 20-feet plus the width of the building. He said that people that had shops

would probably sell their rights for other businesses to use.

Commissioner Burk stated that she did not want the matter to be overwhelming. She said that they could always expand the 10-feet, but she would like to start out with that amount.

Mayor Gardner questioned whether it meant 10-feet on either side of the entrance or owned property.

Mr. Harriss replied that it was 10-feet of the owned property.

Mr. Wilson agreed that it was a wonderful idea; however, he said that recently the county sign ordinance had been thrown out as a result of a lawsuit, because the ordinance put commercial interests above the rights of free speech. He suggested that the proposed ordinance would fall into the same category. He said the City had banned certain activities with rights under the first amendment from St. George Street due to safety, health and welfare considerations, and the 11th Circuit Court had supported the ordinance, which included that tables and chairs would not be placed on St. George Street. He said that the proposed ordinance allowed commercial activity to take place on a public street where the City had banned certain fundamental rights activities. He said that if they approved the ordinance they would have to include a finding that because of the time place and manner of the activity the street entertainers would have to be allowed during the same hours and share the allotted space. He pointed out that the proposed ordinance was based on a Miami Beach ordinance; however, Miami Beach allowed street entertainers, in fact he believed that the street entertainer challenged the café table ordinance for interfering with their rights on the street, but he would research the matter. He

cautioned that in order to deal with a café ordinance the Commission would have to address the street entertainer issue. He added that the street entertainer ordinance had survived, because it was narrowly drawn and content neutral. He further cautioned that the proposed ordinance would endanger the street entertainer ordinance, plus should they decide to eliminate the café tables in the future it would be difficult to ban the street entertainers again. He added that Mr. Kahn, the attorney who had written and fought for the street entertainer ordinance agreed with him, and he said that Mr. Kahn would be happy to talk with the Commissioners regarding the matter.

Commissioner Burk stated that she would be willing to allow the street entertainers at the same time as the café tables.

Mayor Gardner stated that he would favor shorter hours ending at perhaps 9-10:00 p.m. due to the fact that St. George Street was a residential area. He said that he believed the proposal was an outline for evening entertainment for families and not an extension of bar activities. He questioned whether entertainers would have to get permission from the property owners if they were included in the ordinance.

Mr. Wilson said that the area in front of the businesses was a public forum and business owners would not have rights regarding the area.

Mayor Gardner said that the café table owners would require permission if they put their tables in front of someone else's business.

Mr. Wilson pointed out that the café tables would require the City's

permission and the café table owners would have to acquire written permission to put the tables in front of other businesses. He noted that they would also have to amend the ordinance regarding sales on the street, because the City had to remain content neutral, and they could not let commercial take priority over first amendment activities.

Mr. Harriss pointed out that citizens would have to purchase food and drink inside the restaurant and carry it out to the café tables. He noted that they would also have to address the matter of alcohol.

Commissioner Burk noted that there had not been a lot of message bearing material sold on St. George Street.

Mr. Wilson pointed out that most of the vendors claimed that they were exercising their freedom of speech; therefore, the City would have to be prepared to deal with the issue.

A brief discussion ensued.

Commissioner Jones suggested that if they pursued the ordinance Mr. Wilson had more work to do on it, and the Commissioners would have to have more discussion, perhaps in a workshop.

Commissioner Crichlow stated that from a legal standpoint the City would be crazy to go near the street entertainer matter again. He emphasized that he did not want to go anywhere near it. He said if there was a way to have the tables without that aspect he could support the matter.

Mayor Gardner interjected that if the City had a cultural tourism task force with all the stake holders involved they could thrash it about and make recommendations, but the City did not;

therefore, he favored a workshop with public input as an avenue to look at the various elements of the matter before preparation of an ordinance for first reading.

Commissioner Burk stated that unless the Commissioners were prepared to allow the street entertainers on St. George Street at the same time as the café tables, they need not waste their time in a workshop.

Mayor Gardner said that the City did not want to address the challenge of looking at new ideas for expansion of the visitor experience because of previous experiences; therefore, he would stand with Commissioner Burk.

Commissioner Burk questioned whether the Commissioners had changed their minds about allowing street entertainers on St. George Street after 5:00 p.m.

Mayor Gardner stated that there was the assumption that if they allowed café tables on St. George Street that they would have to allow the street entertainers also.

Commissioner Burk stated that she had to agree with the City Attorney regarding the matter.

Commissioner Jones replied that he had not changed his mind regarding the entertainers, because there was no compromise involved with the matter. He suggested that café tables might require more study.

Mr. Wilson stated that the entertainer ordinance hung by a thin thread, because that was the case anytime the fundamental rights of the Constitution were restricted. He said that although he had spent hundreds of hours on the issue he would conduct further research.

He pointed out that no one had ever succeeded as the City had with the street entertainer ordinance, because it was a difficult balance, which needed to be protected.

Mayor Gardner suggested asking how it could be done, not why it could not be done.

Mayor Gardner – Meeting – Plaza – Pay Telephones – Meter Rates – Ripley’s

Mayor Gardner questioned the situation concerning the meeting between the City and St. Johns County regarding Masters Drive.

Mr. Harriss reported that the joint meeting would include the Police Chief, someone from his office, and Commissioner Jones would represent the City for the meeting. He said that it was not an advertised meeting and only one Commissioner would attend, and the County had chosen Commissioner Jones.

Mayor Gardner questioned whether the vendors were permitted to set-up before one 1:00 p.m. on Sundays, and the response was negative that they could not setup until 1:00 p.m.

Mr. Harriss stated that while on the subject he wanted to clarify that it was not the vendors that destroyed the grass in the Plaza it was the customers of the vendors that damaged it; therefore, they would continue to rotate the vendors locations. He noted that the only change the City had made was to move a couple of vendors into the market that were clearly commercial.

Mayor Gardner questioned the status on pay telephones.

Mr. Harriss said that research had revealed that companies were charging

as much \$100 monthly for pay telephones. He said staff felt that there should be some pay telephones available; however, the telephone companies did not appear to believe in them anymore.

Mayor Gardner stated, for the benefit of the public, that there had been no decision made regarding raising meter rates or free shuttles that would compete with the sightseeing trains. He said that they were elements of the master parking plan that would be addressed in the future.

Mayor Gardner noted that Ripley's was the second major corporation to move into the City with the transfer of the red trains. He said that Ripley's was a \$5.5 billion dollar multinational corporation and so was Historic Tours of America. He expressed concern for the local influence in tourism considering that emphasis should be focused on heritage tourism. He said the Heritage Tourism Department was constantly struggling financially, and the suggestion had been made to privatize the Colonial Spanish Quarter by turning the state historic properties back over to the state and converting the museum buildings to commercial rentals. He stated that he hoped the Commission would get more serious about the situation to find some kind of visitor generated revenue stream to support the historic tourism before the City became a by-product of modern entertainment.

Commissioner Lennon stated that the Mayor had expressed some really negative thoughts about the City. He said that the Mayor's interjecting a 27-foot height limit and the other restrictions he had introduced were so negative, but the City appeared to be running quite well. He said the Mayor expressed only negative for the future;

however, he thought the expression should be positive.

Mayor Gardner agreed that he was happy with the way things were, but he was interested in keeping them that way.

10. Appeals and Public Hearings

(None scheduled for this meeting)

11. RESOLUTIONS AND ORDINANCES (To include public hearing)

11.A/ Resolutions

11.A.1/ Consideration Resolution 2004-07, supporting the submittal of a grant application to the Florida Inland Navigation District (FIND).

Timothy A. Burchfield, Chief Administrative Officer, reported that the resolution supported submittal of a Florida Inland Navigation District grant to start the process of looking into a breakwater for the marina. He said that northeasters and hurricanes pounded on the north dock. He noted that construction probably would not take place until after renovations of the Bridge of Lions.

MOTION

Commissioner Burk MOVED to approve Resolution 2003-07. The motion was SECONDED by Commissioner Lennon.

Commissioner Crichlow questioned whether it would be a permanent of floating structure.

Mr. Burchfield replied that it would be a permanent floating dock that they were considering using as a dock as well as a breakwater.

Mayor Gardner questioned whether the grant was for feasibility and design, and the response was affirmative.

VOTE ON MOTION

AYES: Burk, Lennon, Jones, Crichlow, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

11.B/ Ordinances - First Reading

11.B.1/ Introduction and consideration of Ordinance 2004-06, rezoning property located east of Mi Hogar Avenue from Planned Unit Development (PUD) to Residential Single Family-Two RS-2).

Mark Knight, Director, Planning and Building Department, explained that the location was a city block in the northeast corner of the City that had been a necessary part of the legal description in the annexation and rezoning of the Ponce Resort PUD; however, they wanted the zoning to be RS-2 as it had been prior to the annexation.

MOTION

Commissioner Jones MOVED to place Ordinance 2004-06 on first reading, read by title only and approved. Commissioner Burk SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2004-06

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, REZONING PROPERTY LOCATED EAST OF MI HOGAR AVENUE, CONTAINING APPROXIMATELY 1.42 ACRES IN THE CITY OF ST. AUGUSTINE, AND MORE PARTICULARLY DESCRIBED HEREINAFTER, FROM ITS CURRENT CLASSIFICATION OF PLANNED UNIT

DEVELOPMENT (PUD) TO THE CLASSIFICATION OF RESIDENTIAL SINGLE FAMILY-TWO (RS-2); REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Jones, Burk, Crichlow, Lennon, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

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

(None Scheduled)

11.D/ Ordinances - Second Reading Public Hearing

(None Scheduled)

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

(None)

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

(None scheduled for this meeting)

13. Adjournment

There being no further business, the meeting was adjourned at 8:17 p.m. ³

MAYOR

³Transcribed by Karen Rogers, Recording Secretary

CITY CLERK