

CITY OF ST. AUGUSTINE

Regular City Commission Meeting  
March 22, 2004

The City Commission met in a formal session Monday, March 22, 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  
John Regan, Chief Operations Officer  
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

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**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

Reverend Doug Clewis, Grace Methodist Church, delivered the invocation and Commissioner Lennon led the Pledge of Allegiance.

**3. ADMINISTRATIVE ITEMS**

**3.A/ Modification of Agenda**

Mr. Harriss stated that he would like to include in 3.D., the Administrative section, a short presentation from staff.

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

The minutes of the City Commission Meeting of March 8, 2004 were approved as presented.

**3.C/ Proclamations**

Non Agenda Item

Paul Fagundo and Wendy Tyson, representing Sister Cities, presented the City with a certificate of recognition from the School of Belles Artes, Dominican Republic, in appreciation for the school

materials the St. Augustine Sister Cities Association had sent for their students.

### **3.D/ Administrative**

#### **3.D.1/ Public hearing for a Community Development Block Grant for the South Avenida Menendez Seawall Project.**

Kate Tucker, Fred Fox Enterprises, stated that the second public hearing was required by the state to apply for a Community Development Block Grant Program. She reported that the City was applying for Commercial Revitalization Funds in the amount of \$750,000 for the existing seawall around the southern portion of the CRA, which was becoming unstable. She said there were also plans to construct a promenade with streetscaping along that portion of the CRA. She added that the City was obligated to provide \$375,000 as part of the agreement for the grant.

Mayor Gardner noted that it was a portion of the entire project.

Ms. Tucker agreed and stated that an appointed Citizens Advisory Task Force had met the previous Friday and voted unanimously to submit the application to the state.

Mr. Harriss said that the resolutions for the application and to authorize the Mayor to sign the application for the grant would be addressed later in the agenda.

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

#### **3.D.2/ Fair Housing Workshop**

Ms. Tucker distributed workshop packages to the Commission and explained that the workshop was a requirement of the grant program, and the City received points for conducting the workshop.

Commissioner Burk questioned whether they had done something of that nature before.

Mr. Harriss replied that it was a re-acknowledgement of an existing ordinance that advised the Commission and the public of what they needed to do if they felt they had been discriminated against regarding housing in the City of St. Augustine.

Ms. Tucker noted that there had not been any complaints regarding fair housing.

Mr. Harriss noted that any complaints had been handled without going before an administrative hearing. He pointed out that Commissioner Jones had been involved when the ordinance was approved in the mid 1980's.

A brief discussion resulted regarding when the ordinance had been approved and the updates.

#### **Non Agenda Item**

John Regan, Chief Operations Officer, suggested that there would be discussion regarding the old fire station during the General Public Comments item on the agenda. He stated that he wanted to trace some of the history of the parking and traffic plan. He said that when the master plan had been developed it included a section regarding remodeling the Lightner parking lot, which had been described in two different manners. He said that one was a description of tearing down the old fire station to create as many as 30 additional parking spaces, and there was a description to leave the fire station intact and remodel the parking lot. He said that, at that time, staff had recommended putting off the discussion until the summer of 2004.

Mr. Regan explained that there had been tremendous public pressure regarding

the fire station and the concept of remodeling the parking lot. He said that during the September 2003 Parking and Traffic Committee meeting the members debated the issue and recommended that the City Commission tear the fire station down. He said that the Commission had discussed the matter, but had not taken action in that direction. He said at that point staff started working on some of the concepts for adaptive reuse, and Mr. Litzinger had done an excellent job drafting a consolidated customer service facility as a reuse of the structure. He said that the proposal also played a role in the parking issue, as the approximately 100 people who normally parked in the Lightner parking lot could conduct their business faster, increasing the rate of turn over in the parking lot. He said that the proposal also created six additional parking spaces for the public.

Mr. Regan stated that during the previous City Commissioner meeting the decision had been made to adapt the structure for reuse as customer service for the City. He added that there were numerous creative ideas resulting from the parking situation that would help the south end of town that he did not want to go into at that time. He noted that all discussion was fair and one thing the City had stressed in the matter was diplomacy.

Mr. Regan expressed concern about rumors or assumptions by the public that staff had made inappropriate and perhaps illegal use of the cash flow for the bond issue with regard to the previously proposed parking structure. He stated that was the furthest thing from the truth. He explained that the ordinance specified that the funds could be used on any capital project within the CRA provided that the City counseled with the bond underwriter and bond counsel, which they had done. He said that the rumors implicating City Staff with immoral acts were out-of-bounds;

therefore, staff wanted to assure the Commission that their decision to use the bond for the Casa Del Hidalgo and other projects was an appropriate use of the funds.

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

Richard Pinto, 105 St. George Street, stated that he was a member of the Parking and Traffic Committee and President of the Historic Area Council, and the concern for additional parking south of the Plaza had been discussed often. He pointed out the recent opening of the new ballroom at the Casa Monica Hotel that had eliminated 20-25 parking spaces. He said that the City was experiencing increased growth and less space. He pointed out that the Parking Committee had voted to tear down the fire station for 30 sorely needed parking spaces, and he could not understand why 30 extra spaces was not a good idea considering the small amount of money it would cost.

Sandra Krebbs, 800 Faver Dykes Road, stated that the Commissioners decisions had gone from bad to worse by preventing parking from ever being available in the area currently occupied by the old fire station. She said that using the old structure for a drive through facility to pay utility bills etc. was ill conceived and a move toward destroying downtown St. Augustine. She questioned whether the Commission would be so quick to build the overpriced, oversized parking mega structure if they had to park there every day, pay \$5 and walk 15-20 minutes to get to their business or if they were going to be held personally financially responsible for the \$16 million dollar debt that the structure would create. She stated that the matter was not personal it was political, as usual. She

predicted that Commissioners Burk, Jones, and Gardner would be voted out of office for their ridiculous and costly mistakes. She suggested that if the Commission was of the people and for the people that they open the City employee parking lot to the public and start using the VIC parking lot for their parking needs.

Elizabeth Holiday, 11 Aviles Street, stated that while other cities across America were doing all they could to downsize, St. Augustine had embarked on a spending frenzy with the most recent total renovation price tag of \$371,000 taken from unappropriated funds for the old fire station. She pointed out that utility companies across America were moving toward internet banking as a primary means of bill payment and skyrocketing gas prices were encouraging pedestrian movement while the City of St. Augustine prepared to build a drive through facility. She stated that the current best use for the fire station property would be parking, as the last thing the City needed was more vehicles on the streets or attracting them to a drive through. She pointed out that a neighborhood and an association on both sides of the project argued against the renovation of the fire station. She stated that if the Commission thought that it took the combined vote of 6,000 citizens to make a change in the community the Commissioners should step down, because less than 2,000 votes had secured the current Commission. She disagreed that there was no parking problem, and she suggested that the Commissioners reconsider their decision.

James Pennington, 103 Dolphin Drive, chairman of the Chamber of Commerce, said they had written a letter to the Commission encouraging them to follow the master plan and conduct a workshop for due diligence on benefits to enhance the downtown parking behind the Lightner Museum. He stated that it

would be inappropriate to spend more taxpayer dollars on a facility that would encourage more traffic in the area when paying bills was so much easier with credit cards or on the internet. He pointed out that there was surplus space in City Hall; therefore, why would the City build another facility. He suggested that the issue had not been thought through, and he encouraged the Commission to hold a workshop, think the matter through and postpone any decisions.

Michael Pounds, 21 Orange Street, said that in October or November of 2003 they had talked about a Master Plan for parking, not about a parking structure at the VIC, and they had come together as a community in support of the overall plan. He said that he was frustrated and confused, because he thought they were trying to create more parking south of the Plaza, as it was the most parking starved area of the City. He said that had been the reason for the proposed parking structure behind the Lightner Museum; therefore, the least that could be done was to tear down the fire station for more parking spaces. He said he thought that they had agreed to that part of the plan, although tearing down the fire station would not create enough parking. He said that the problem was the City's responsibility because the City allowed businesses to develop without parking; therefore, the City had to address the issue. He stated that one garage would not solve the problem; an overall plan was necessary. He said that he supported the plans for the VIC, but he thought the City should put off the decision regarding the fire station for the sake of more discussion. He concluded that he supported the City in their decision to purchase the Casa Del Hidalgo, and he offered to buy the building.

R. Andrew Fleming, 218 S. Matanzas Boulevard, stated that he lived with the

parking problem south of King Street daily, because his business was across from the Plaza. He described a situation in which he and his employees had to move their vehicles from around the Plaza and find different parking spaces, which was a daily occurrence. He said that the City intended on putting parking meters around the Plaza and create disincentives without providing alternative parking, which would squeeze the locals out that had to park on the Plaza. He said that he was sorry he had to park there, but he had no where else to park. He said that parking at the VIC and riding a bus to work made no sense when he lived five minutes from his business, as the proposal would necessitate commuting for an hour. He stated that the proposal was not realistic, and the merchants south of the Plaza were frustrated and angry. He stated that they could not understand why the Commission would not consider the future when there was 10,000 square feet of space renovated at City Hall, which would not require \$371,000 worth of work for a customer service area. He suggested that if City Staff was space starved there was sufficient space in the building the City owned. He concluded that it was the responsibility of the City Government to protect commerce by providing parking. He pointed out that 30 parking spaces represented a 30% increase in parking spaces downtown, and he requested that the Commission reconsider their decisions.

Commissioner Burk stated that the disincentives were for visitors and the VIC was intended for visitor parking, and the details had not been worked out regarding parking meters. She said parking for locals and employees was an essential part of the plan, because when visitors parked at the VIC it would free-up downtown parking. She stated that there was a plan for a decal system for designated parking for people who worked and lived in the City.

Mr. Fleming questioned where that parking would be.

Commissioner Burk replied that the City had not worked out all the details.

Mr. Fleming questioned why the Commission would take away an option when they had not worked out those crucial details.

Commissioner Burk stated that she did not want to debate the matter with him.

Mr. Fleming responded that some of the Commissioners had run on an open debate and to listen to people; however, they did not really want to listen to the people.

Commissioner Burk stated that Mr. Fleming was done, and she wanted to talk. She stated that she had heard a number of people say that they would have to park at the VIC and take a trolley to work, but that was not the plan.

Virginia Whetstone, 297 St. George Street, representing Old Town Association, stated that the association had 47 members with 60+ property owners. She said that during their November 12, 2003 meeting they had motioned and sent a letter to the City Commission requesting that the old fire station be demolished and the property converted to additional surface parking. She said that they also asked the City to clarify the signage for the Granada and DeSoto Street parking lots for public parking on weekends and after 5:00 p.m. She clarified that the City had taken action regarding the signage. She emphasized that the association felt strongly about the need for more parking; therefore, they wanted the Commission to consider their request.

Ms. Whetstone, representing herself, stated that she thought there were better

uses for the funds the City was considering spending for the renovation of the old fire station. She suggested that there was space in City Hall, which would be less expensive to renovate than the fire station. She said the parking problem was critical and she could think of numerous issues the City could spend the proposed funding on that would aid more residents and make life more convenient for more residents. She suggested that the City use a police officer to conduct traffic at the foot of the Bridge of Lions in the mornings, Monday through Friday, to help the 5,000+ people going over the bridge at a faster rate. She said that would be a low cost item. She said the City could also install some sidewalks on Masters Drive, Riberia Street could be repaired, and she suggested moving into the electronic age to allow people to pay their bill electronically.

Dan Holiday, 11 Aviles Street, stated that the Commissioners really were not paying attention to the speakers who were representing the Chamber of Commerce, the business community from north of St. George Street, Old Town Association, Lincolnville Association and residents. He said that one of the platforms the new Commissioners ran on was listening to the people and creating neighborhood organizations. He said that currently the neighborhood organizations did not agree with the Commission's decision, which indicated that there had not been any research conducted on the proposal. He suggested that the City could have special events to bring people to the City off season and during the week instead of compounding the existing events by bringing too many people to town at once. He said that the City spent millions of dollars on the new fire station, and the plan had been to tear down the old fire station, but currently the plans had changed without consideration for residents.

Mayor Gardner questioned the status regarding potential parking south of the Plaza.

Mr. Harriss replied that there were approximately ten parking spaces in the Granada Street parking lot that could be sold. He said that there were 38 spaces in the old record building, and the City had spoken with the owner to find out whether they were available, but the question was whether the City would be an intermediary or whether interested parties would deal directly with the owner of the property. He said that John Regan had suggested that they change the signage for the Granada and DeSoto Street parking lots to make parking available to the public at 2:30-3:00 p.m. to accommodate employees that worked shifts, because by that hour some of the spaces for tenants of City Hall would be available. He concluded that there was no doubt that there was a problem.

Commissioner Crichlow questioned whether the need for parking in the area was for downtown employees or tourists.

Mr. Pounds replied that the need was for residents and businesses, especially south of the Plaza. He said that residents had very little parking; therefore, they parked in the street. He added that residents were threatened by the proposed resident parking permit program and the potential for \$2.00 parking meters on the Plaza, plus there was fear among the business community, especially south of the Plaza.

Commissioner Lennon stated that before the new Commissioners were elected it had never been the intention for the parking structure behind the Lightner Museum to be designated for tourists. He said that the intention had been to provide parking for employees so they would not park on the Plaza, and meters on the Plaza would serve as an incentive

for employees to use the parking garage behind the Lightner Building. He repeated that the project had not been designed for tourists other than on weekends.

Commissioner Burk stated that because the Commissioners might not agree with the speakers did not mean that they were not listening to them. She said that she had not heard anything during the public hearing that changed her mind. She said that the proposal for a drive through customer service facility would alleviate 100 parking spaces a day, and it was not worth the convenience to the citizens for an additional 30 parking spaces. She added that not everyone was ready to enter the electronic age, and there were people that did not have checking accounts.

Commissioner Lennon suggested enclosing a postage paid envelope with the utility bills.

Commissioner Burk pointed out the cost of mailing, and she added that some people wanted a receipt for their bill.

Mayor Gardner stated that he had supported the adaptive reuse of the old fire station, but he was not happy with the proposed cost of the renovation. He said that he had been contacted with complaints that there had not been a public hearing regarding the matter. He added that the Commissioners knew that they had an obligation to listen to the community, but there was nothing that had changed his mind, but there could be more research regarding the matter. He questioned whether the Commissioners would entertain a delay for discussion during the subsequent meeting.

Commissioner Burk point out that the current Commission had been accused of never taking action. She said that it was the third meeting that the topic had been

discussed, and they had welcomed public hearing, which was more than necessary for an administrative type procedure of remodeling a City owned building. She stated that inaction was a bad thing as well. She said that they had been elected to make decisions, and they needed to move forward.

The audience countered that the matter had never been on the agenda.

Commissioner Burk said that it had been in the newspaper; moreover, it was not an agenda issue or a public hearing issue. She said that there was advertising criteria, and the issue was not included in the criteria. She said there had been an enormous amount of news coverage on the matter, letters to the editor, e-mails to the Commissioners and conversation. She stated that it was time for the Commissioners to be decisive and move on, as it was what they had been elected to do.

Commissioner Lennon questioned whether Commissioner Burk felt that all the people who had spoken had not done any good.

Commissioner Burk replied that she respected their opinion, but she disagreed.

Mayor Gardner addressed Ms. Krebs and disagreed that the Commission was taking the current action to prevent the building of a garage in the Lightner parking lot. He said renovating the old fire station would not prevent a future garage in the location, as the proposal was an interim use of the location; moreover, he thought it was a good use.

Commissioner Crichlow expressed appreciation for the public's input. He said that he appreciated and understood their position on the matter, but the use of the facility would benefit the vast majority of the City and not just the folks

south of King Street. He said that he understood the parking problem, and the Commission was working to relieve that problem, but they believed the proposed use would help the parking situation. He noted that the City was actively seeking 38 parking spaces adjacent to the location in question for public parking. He said that both items would ease the problem to some degree. He said the proposed facility would benefit many people; furthermore, he would support the renovation.

Mayor Gardner noted that the traffic generated by the facility already existed, but with the facility the vehicles would be at City Hall for a shorter period of time.

Commissioner Jones said that he had listened to many people regarding the proposal. He said that initially he had been in favor of tearing the old fire station down; however, when considering the other uses he felt the proposal was a reasonable option. He said that currently supporting the proposal might not fit in with the big plan; therefore, he questioned how urgent it was to proceed, because he felt the best decision currently was no decision. He suggested that they listen and use the time to address some of the other parking alternatives. He recommended taking no action. He said that in the final analysis some people would not get what they wanted, and he would be accused of not taking action, but sometimes no decision was the best decision.

Mayor Gardner questioned the reasonable delay time.

Commissioner Jones replied that he did not want to put a time limit on the matter unless there was some pressing reason why they had to make an immediate decision.

Mr. Harriss stated that until December the City had planned to renovate space in the Lightner building for expansion. He added that it would be much more expensive to renovate the Lightner building than it would be to renovate the old fire station. He said that when they renovated the building they generally renovated an entire wing, which cost approximately \$300,000-\$400,000. He stated that the City utility base had grown from 6,500 to 9,000 customers, which necessitated expanding the Finance Department, as well as the Planning and Building Department. He added that currently three enforcement officers were crowded into one small office. He said that one of the state agencies that leased space in City Hall had downsized, and he had considered expanding into that space at a minimum cost. He said that if they were going to delay the proposal he would prefer to remove the customer service center proposal from consideration, because he had to take action to keep the City running efficiently. He demonstrated the 12<sup>th</sup> award for financial reporting the City had received thanks to a number of hard working employees that were working in crowded quarters. He expressed further concern regarding people that in general thought City employees did not care about what they did. He noted that renovating the fire station was not imperative, but if the matter was delayed the City would withdraw the plan for customer service.

Commissioner Jones commended Mr. Litzinger and his staff, and he noted that the proposal for the customer service facility would be customer friendly; however, he recommended removing the proposal for the old fire station.

Commissioner Burk suggested that the City would be losing a good opportunity, as the proposal would benefit a lot of people.

Commissioner Jones stated that the Parking and Traffic Committee had bought into a total plan, and they were present to remind the Commission about it.

Commissioner Burk objected, because the parking plan was a total moving package. She said that one location for a parking structure was at the San Sebastian project, which had moved into several different things. She said that the plan was not cast in concrete it was a series of ideas.

Commissioner Lennon asked Mr. Litzinger how often he sent out utility bills.

Mr. Litzinger replied that there were four bill cycles a month.

Mr. Harriss explained that not everyone was billed at the same time, but everyone got a bill once a month.

Commissioner Lennon said that they were being told that 100 people utilized customer service daily, which amounted to 2,000 customers a month, which indicated a major traffic jam in the customer service.

Mr. Litzinger stated that he had asked the employees in customer service to make an estimate of the daily average of customers. He noted that they also handled parking tickets, occupational licensing, tour guides, and vendors etc., which amounted to a lot more than utility customers.

Commissioner Lennon said that if a citizen got a permit or a license it would be awhile before they would be back at City Hall. He explained that he was trying to paint a picture. He said if 2,000 people a month used customer service they needed more space, but it was hard for him to believe the numbers.

Mr. Harriss questioned whether Commissioner Lennon would support the proposal if they took a poll.

Commissioner Lennon replied negatively, and stated that he never thought the proposal was a good idea.

Mr. Litzinger stated that it was an honest estimate made by the customer service employees.

#### **MOTION**

**Commissioner Jones MOVED to put the renovation of the old fire station on hold until a later date. Commissioner Lennon SECONDED the motion.**

#### **VOTE ON MOTION**

**AYES: Jones, Lennon**

**NAYES: Crichlow, Burk, Gardner**

**MOTION FAILED 3/2**

#### **5. PRESENTATIONS AND STAFF REPORTS**

##### **5.A/ Presentation of the 2002/2003 Comprehensive Annual Financial Report.**

Gary Huggett, Masters, Smith & Wisby, distributed the 2003 Comprehensive Annual Financial Report, CAFR, for the City and stated that the document was in a different form as a result of GASB 34. He complimented Messrs. Litzinger and Simpson for their efforts for the huge undertaking of GASB 34.

Mr. Harriss explained that the GASB 34 was a Governmental Accounting Standards Board, which was an independent group of CPA's that had a high level of standards that the City adhered to. He said that GASB 34 was designed for government; however, it had been quite an undertaking. He recognized all the people that had been involved in the transition. He noted that

the City had just received the award of excellence for financial reporting for the previous year. He explained that they could not receive an award of excellence until the report had been reviewed by peers and agencies, but the City had demonstrated that they had a superior financial report system.

Commissioner Burk read the award for the benefit of the audience, and noted that the award was an excellent achievement.

Mr. Huggett stated that the highlight of the GASB 34 was the management discussion and analysis that provided an overview of the City's financial information with ratios, numbers and percent increase and decreases, which was a good reference to see where they were. He said the transmittal letter referred to the major initiatives of the City, as well as the problem areas, the focus for accomplishments and the upcoming agenda. He said the basic financial statements were his specialty, and he rendered an opinion of the financial statements. He said that in the past it was an unqualified opinion, which was the highest level of assurance, and their opinion indicated that the statements were materially correct. He offered to answer questions.

Commissioner Lennon questioned the cost of the audit.

Mr. Huggett replied that the cost had been in the upper \$20,000's but were in the low \$30,000's for the current year to address the additional hours required to adopt GASB 34.

Commissioner Crichlow recognized staff.

Mayor Gardner stated that there would be a copy of the CAFR in the NCO. <sup>1</sup>

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<sup>1</sup> End of audio tape one

## **6. ITEMS BY CITY ATTORNEY**

(None Scheduled)

## **7. ITEMS BY CITY CLERK**

### **7.A/ Consideration of two appointments to the Historic Architectural Review Board**

Martha V. (Nell) Porter, City Clerk, reported that there were two appointments, and she had received applications from the following:

- Donna D. Blair, 160 Anastasia Lakes Drive
- Peter L. Rumpel, 133 Marine Street
- Antoinette B. Wallace, 342 Charlotte Street
- Tom Muir, 46 Bridge Street

Commissioner Crichlow noted that there were four good candidates to fill two seats, and he spoke favorably of Mr. Muir.

The Commissioners voted by written ballot and appointed Mr. Rumpel and Ms. Wallace.

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

### **8.A./ Consent Agenda**

#### **1. Preview of upcoming Commission Meetings**

#### **2. Consideration of Release of Liens on two Unit Connection Fee Mortgages**

#### **3. Ratification of Memorandum of Understanding with the Coastal Florida Police Benevolent Association regarding shift rotation.**

## **MOTION**

**Commissioner Lennon MOVED to approve Items 8.1. through 8.3. on the consent agenda. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.**

**8.B/ Discussion Items**

(None)

**9. ITEMS BY THE MAYOR AND COMMISSIONERS**

Commissioner Lennon – St. George Street

Commissioner Lennon complimented David White for the attractive renovation of 1 King Street.

Commissioner Lennon questioned when the brick portion of St. George Street would be repaired in front of the Trinity Episcopal Church.

Mr. Harriss replied that the brick streets cost ten times per square foot more than asphalt streets. He stated that although the process was easy it was a matter of money.

Commissioner Lennon questioned whether they could stamp brick the street.

Mr. Harriss replied that the historic community frowned on the imitation.

Commissioner Lennon noted that they could not tear up the brick streets without replacing the utilities.

Mr. Harriss agreed that it was unwise to repair the road when it could collapse without the proper utility repair, and it was not easy to budget.

Commissioner Lennon questioned whether the south St. George Street repair was on the horizon.

Mr. Harriss replied that it was not on a specific horizon. He said that there had been some money in the budget for re-bricking streets the previous year and he would welcome more, but some would be used for Aviles and/or Charlotte Streets, and he had no more in the current budget.

Commissioner Lennon questioned when the utilities had been replaced on south St. George Street.

Mr. Harriss replied that the City had done a lot of work there in relation to the Lyon Building when the condominiums were being renovated.

Commissioner Lennon questioned whether the owner of the Lyon Building was supposed to refund the City for damage to the street in that section.

Mr. Harriss replied that they had restored the street to the level it had been when they started working on the Lyon Building; however, they had not fixed anything other than what they had disturbed. He said that it really needed some work, but there were streets ahead of St. George that needed repair.

Commissioner Crichlow suggested that it was a high priority.

Commissioner Lennon noted that the street was getting dangerous, and the parishioners were getting older.

Commissioner Burk questioned if a neighborhood was willing to pay to re-brick a street by special assessment could it be done while the City handled the utilities.

Mr. Harriss replied that any money that they could get for a project like that would be more of an incentive for the City to move forward with the repair. He said that residents living on certain dirt

streets had approached the City about paying for paving their roads. He said the City would be willing to enter into such a program. He pointed out that the road was a government obligation and the City could not allow it to be in a dangerous condition, but the question was how dangerous was the situation.

Commissioner Burk suggested that the neighborhood associations might want to look into the potential for entering into a program with the City.

Mr. Harriss stated that the City would welcome the shared responsibility. He added that staff would review the situation, but he would bring the matter up during the budget hearings in the summer.

Commissioner Crichlow questioned whether CRA funds could be used for the repair.

Mr. Harriss replied that the CRA money could be used within the boundaries of the CRA.

Commissioner Crichlow suggested that there was grant money available for that type of repair.

#### Traffic Circle in front of the American Legion

Commissioner Lennon questioned the status with the uneven concrete on the traffic circle in front of the American Legion. He stated that someone had fallen the day before.

Mr. Harriss said that he had looked at it and saw the problem, but he could not find anything more dangerous than a 100 other situations in the City. He agreed the circle had irregularities, but it was once again a matter of having enough money for repair.

#### Commissioner Burk – Courtyard Lighting

Commissioner Burk noted that a number of restaurant owners had approached her about lighting their courtyards year round and not just for the Nights of Lights. She said that the restaurants wanted to use the lights for lighting and ambience year round. She recommended that they be exempt from turning their lights off.

Mr. Harriss explained that they made them turn the lights off if they were visible from outside but not in a contained courtyard.

Commissioner Burk stated that she did not believe the suggestion impaired the Nights of Lights event.

Mr. Harriss replied that it was a philosophical decision and an easy ordinance change, should the Commission desire.

Mayor Gardner said the scary part was that lights could start popping-up in other areas.

Commissioner Burk suggested that it would be easy to define as restaurant courtyards where food was being served.

Mayor Gardner questioned whether the change would pertain to courtyards where the lights would be visible.

Commissioner Burk suggested that the Commission look around, and she would reintroduce the subject during the subsequent meeting.

Mayor Gardner stated that he hoped the newspaper would mention the item, because if the Commission voted on the matter in two weeks they could get a storm of protests from citizens claiming that they had not been made aware of the change.

Mr. Harriss pointed out that the matter would require an ordinance change;

hence there would be Commission discussion on first reading and a public hearing on second reading.

Mayor Gardner stated that he knew it was not the newspapers responsibility to publish the matter.

Commissioner Crichlow – Town Hall Meeting

Commissioner Crichlow announced that he would hold a Town Hall meeting on Wednesday, March 24, 2004, 7:00 p.m., at the main library. He encouraged the public to attend.

Commissioner Crichlow noted that Fred Halback and the Street Tree Committee were working on strengthening the tree ordinance, and there would be a report regarding the matter in the near future.

Commissioner Jones – Traffic Circle in front of the American Legion

Commissioner Jones questioned whether parts of the traffic circle in front of the American Legion would be affected by the Bridge of Lions renovations.

Mr. Harriss said that he would have to look at the plans to be certain. He said that the Circle in front of the Slave Market would definitely be affected by the project.

Commissioner Jones questioned whether the brick portion of south St. George Street could be repaired in areas.

Mr. Harriss replied that if there was a dangerous dip in the street the City would work on the dip to bring it up. He said that if the whole street was fixed from curb to curb there would be a better quality control. He pointed out that the City had been constructed on an unstable surface, which was not a long-term stable environment for brick. He said that when the City made a repair

they used a concrete type of material underneath to make the repair last longer.

Commissioner Jones stated that the Police Chief, Tim Burchfield and he had met with County Commissioner Stern, County Administrator Ben Adams, the Sheriff and citizens from the Masters Drive area to discuss the problems on Masters Drive. He said that they began to develop short and long term plans to address the citizens concerns. He explained that there would be some change in signage, and the street had been re-striped. He said that the City and County law enforcement intended to be vigilant in the area.

Mayor Gardner – Crosswalks

Mayor Gardner added that Chief Shoar had spoken with the Uptown Neighborhood Association about speed humps or intersections to slow traffic. He said that the neighborhood association had expressed concern regarding the pedestrian crosswalks on San Marco Avenue. He said that other cities put flexible sign posts in the middle of the road at crosswalks to inform motorists of a crosswalk, but there was a question as to whether the state would allow it.

Mayor Gardner announced that there would be a Metropolitan Planning and Organization public workshop from 6-8:00 p.m. in the Alcazar room to update the 2030 Long Range Transportation Plan that was a blueprint to determine which transportation improvements and options would become a reality in the next 25 years. He said that St. Augustine was a small part of a massive MPO, but he was grateful that the FDOT, MPO and Federal Government could not deny the amount of visitor traffic the City had, and they would have to deal with it. He encouraged the public to attend the meeting.

Mayor Gardner announced a town meeting for a skateboard park on City property, Living City Forum, and the Girl Scout clean up of the Early Learning Center.

Mayor Gardner questioned whether the City had the authority to post regulations or controls for derelict boats on the part of Hospital Creek known as the "Holy Hole".

Mr. Harriss replied that he had tried to take affirmative action a number of years earlier to clean it up, but the attorney had advised him that he could not deny access. He said that they had put up a fence with a small opening for egress/ingress, but it had not been successful. He said that the City had received grants to clean-up a number of abandoned vessels, and any others that sank the City would remove upon notification. He said that there was not much they could do about the ones floating or occupied. He said that they could advise the Marine Patrol to be certain that the laws were being followed.

Commissioner Crichlow stated that the residents in the area were putting together suggestions to bring before the Commission to remedy the situation. He said that he had advised them to bring their suggestions to the neighborhood association and the director of the shrine for their opinion. He agreed it was an ongoing problem, but he thought there were ways to address it, as it was a historic site.

Commissioner Lennon stated that 7-8 years earlier when the City had a Harbor Master they had drafted a ruling for posting that boaters could anchor for three days, and after that they became residents. He said that residents did not have a problem with the suggestion

Mr. Harriss stated that other cities used the regulation, but there was the question of enforcement and the reaction of the boating community, as in other communities there had been a public outcry against the regulation.

Commissioner Lennon agreed that enforcement had been the problem in the past, but it could be a great solution, and the City had the sheriff's deputy on the water that could handle the enforcement.

Mr. Wilson stated that there were ways to restrict where boats could be parked for an extended period of time.

Commissioner Crichlow said that Florida Statutes gave the right to local municipalities to impose restrictions.<sup>2</sup>

## **10. Appeals and Public Hearings**

### **10.A/ Public hearing and appeal of a Planning and Zoning Board decision relative to property located at 300 Anastasia Boulevard.**

Mr. Knight said that on January 6, 2004 the PZB had reviewed an application for automobile sales at 300 Anastasia Boulevard, but the request had been denied. He said that on February 4, 2004 the Planning and Building Department received the application for appeal, which was currently before the Commission. He explained that in the case of 300 Anastasia Boulevard there had been an automobile sales use by exception approved in 1992; however, the use had expired and the applicant wanted to reapply for the exception. He stated that pursuant to Section 28-29 of the City Code, the Commission must find whether error had been made and reverse, modify or affirm the action appealed, and if new information was

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<sup>2</sup> A brief recess from 7:05 until 7:20 p.m.

submitted the appeal could be denied or remanded to the PZB.

Mayor Gardner questioned whether the previous use by exception had limited the number of cars for sale.

Mr. Knight replied that he believed that the number had been limited to five.

Mac McLeod, 1200 Plantation Island Drive, representing the applicant, noted that the previous exception had been approved in 1992 with a limitation of five cars for sale. He said that if the appeal was approved his client would agree to a limitation, as his idea was to have 2-5 vehicles for sale. He pointed out that his client had believed that the exception applied, because he had not been aware that it extinguished with the change of ownership.

Mr. McLeod explained that the PZB vote had been 3/2 against the exception indicating that the requested action did not meet the requirements of Section 28-29A of the Code. He read the section of the Code and said that the PZB had determined that there was not enough room on the property, but there was plenty of room for 2-5 vehicles for sale in the front, and there were seven places to the rear of the property where his client planned to put the vehicles that were being worked on. He said that it was a use by exception and under 3A of the Code it was the first permissible use by exception. He added that currently there were no approved businesses for used car sales on Anastasia Boulevard, but there had been three. He said that when considering the area and location the area was mostly commercial.

Mr. McLeod noted that his client had done a nice job on the outside of the business, and the proposal would improve the appearance. He said his client wanted to turn the business into a boutique type shop selling higher end

cars, such as BMW or Mercedes, because that was the type of vehicle he wanted to service.

Mr. McLeod said it was suggested that the exception would be considered inappropriate for an entrance corridor. He pointed out the used car sales currently on other entrance corridors. He distributed photographs to support his claim. He said that he believed it was a reasonable use and an exception contemplated by the legislation of the ordinance. He said that the presence of nice used cars was a better look than cars under repair. He added that it had been a use by exception previously, the proposal decreased the intensity, and they believed it was currently an appropriate use.

Mayor Gardner questioned whether there were ten lots on the property and how much of the property Mr. Crabbe had developed for the business.

Mr. McLeod replied that his client had an open lot, but he was not certain of the percentage.

Rick Crabbe, 300 Anastasia Boulevard, replied that he currently had 17% developed of the 60% allowed.

Mayor Gardner questioned whether another building would be added for a boutique.

Mr. McLeod replied that boutique in the industry indicated a higher end vehicle and clientele.

Mayor Gardner stated that he was not aware that Jacalone on San Marco had a permit for used car sales.

Mr. McLeod replied that he did not know whether Jacalone had a permit, but the photograph revealed that there were quite a few used cars for sale.

Mr. Knight said that he could not tell them for sure whether Jacalone had a permit for used car sales.

Commissioner Burk questioned whether the situation required a license as a used car dealer and whether Mr. Crabbe would have to have a separate lot for the business, as she thought that used car sales could not co-locate with another business.

Mr. McLeod responded that a license was required but the rest was not correct as long as the zoning was appropriate. Commissioner Burk said that it was her understanding that Mr. Crabbe could not be approved, because he did not have the zoning, and she believed that there were other regulations.

Mr. McLeod said that if Mr. Crabbe had the zoning his request to sell used cars would be approved.

Commissioner Burk said that would be true in a fenced in area with a separate building.

Mr. McLeod stated that was not his clients understanding.

Commissioner Burk insisted that a used car lot could not exist with another business.

Mr. Harriss questioned whether that was true if the business was owned by the same person.

Commissioner Burk said that she had just gone through that, and the businesses had to be separated as she had spoken with the owner of Good Works Auto, and she had a friend that had recently opened a used car lot. She repeated that the only way that Mr. Crabbe could have a used car lot was with a fence and a separate building. She stated that her major concern was

that Good Works Auto would also apply for an exception.

A brief discussion ensued regarding the photographs.

Mr. McLeod noted that as long as Mr. Crabbe used the same name as his business for used car sales the issue that Commissioner Burk introduced would not apply.

#### Exparte Communications

Commissioner Burk reported that she had spoken with Barry Clifford at Good Works Auto.

Commissioner Lennon reported that he had spoken with Mr. Crabbe.

Commissioner Crichlow reported that he had spoken with Bruce Dufresne.

Mayor Gardner reported that he had spoken with Mr. Crabbe.

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

Ms. Porter reported that she had sent out comment sheets to twelve residents within 150-feet of the business, but there had been no response.

Commissioner Burk noted that many people put their cars at locations with a for sale sign in it. She said that Mr. Crabbe would not be selling his vehicles he would be selling other people's vehicles for them like a used car lot. She stated that Anastasia Boulevard was going away from that direction, and she did not believe that the City needed to expand in that direction. She said that lining up a bunch of cars for sale on the boulevard where traffic already moved too fast would create a distraction to drivers. She stated that she did not believe that the PZB had erred, and she was not in favor of granting an exception. She added that Mr. Clifford had informed

her that if Mr. Crabbe's exception was granted that he would also apply for the exception.

Commissioner Crichlow stated that some zoning was okay for the use, but to him Anastasia Boulevard was changing and he was not certain whether allowing the exception would be in the best interest of the public welfare; moreover, he did not want to set a precedent. He admitted that he was leery of allowing the exception, and he believed the PZB had felt the same way; therefore, he thought the PZB had made the right decision.

Mayor Gardner referred to the PZB minutes and questioned whether Mr. Crabbe would be agreeable to an exception for only 2-3 cars without advertising, such as the price in the car window, and the response was affirmative. He said that he had been prepared to deny the appeal; however, there was an existing garage whether they liked it or not, but some of the remaining businesses along Anastasia Boulevard provided character to the entrance corridor, as far as he was concerned. He said the day would come when the boulevard would be lined with hotels. He said that currently there was an existing use for a car repair facility with cars parked outside it and the addition of 2-3 cars without signage would not tell the public more or less about the facility. He said that when the facility was sold or the use changed the existing use would cease, as a use by exception ended with the ownership, or the exception could specify that the exception would go with the ownership. He said that he did not believe that the request created a big enough ripple in the stream of how the Commission wanted the corridor to evolve.

#### **MOTION**

**Mayor Gardner MOVED to over rule the PZB decision to the extent of**

**upholding the appeal with the condition of no advertising signage and a limit of three (3) automobile. Commissioner Lennon SECONDED the motion.**

Commissioner Lennon stated that approving the appeal did not set a precedent. He said that sometimes citizens were naive of the law, and the owner had assumed when he purchased the property that the exception for used car sales was part of the deal; therefore, there was no precedent involved whatsoever. He concluded that he believed that Mr. Crabbe deserved the exception.

Mayor Gardner pointed out that his motion was not to find error with the PZB decision. He said that it had been a 3/2 vote with Mr. Dixon stating in the debate that the previous owner was allowed 2-3 vehicles, and he did not want to exceed what had been allowed previously. Therefore, in a limited situation he might support the exception. He said that he would not have a problem granting the same exception to the other repair shops on Anastasia Boulevard with the same conditions of no advertising or flags and with a limit of three vehicles.

Commissioner Jones referred to the Good Works repair shop and questioned whether they were operating illegally. He said the photographs indicated automobiles on the lot with signage.

Commissioner Burk said that there were four photographs of a dealer's car that was being repaired.

Commissioner Jones said that the owner of Good Works repair shop could possibly request the same exception. He clarified that the exception would not transfer to the subsequent owner. He said that the Commission would not be saying *owner beware* for this owner but the next time the term would apply.

Mr. Knight stated that with a use by exception they had the option.

Commissioner Jones stated that the next owner of the property would not get the right to auto sales on the property, but they would be granting that right to the current owner.

Commissioner Burk stated that the Commission could not take into consideration that the current owner was not aware of the situation when he purchased the property. She said the owner was supposed to know, and the City could not fix it for him; therefore, the exception should not be granted on that premise.

Commissioner Jones questioned whether Mr. Crabbe had sold any vehicles on his property, but he said that if he had done so it was because he had not been unaware that he was not licensed to do so. He questioned what brought the situation to Mr. Crabbe's attention.

Mr. McCloud replied that Mr. Crabbe had sold vehicles on his property, but apparently, due to a scrivener's error, the occupation use permits Mr. Crabbe had up until the current year specifically indicated that sale of used motor vehicles was permitted, but he had noticed on the current year permit that the sales aspect was not included. He said that rather than not being in compliance Mr. Crabbe had sought to rectify the situation, and he was suffering the effects of coming forward in efforts to be legal. He added that there were businesses on the boulevard that were currently selling used cars, and in 1992 Mr. Crabbe had a use permit that did not indicate a change in use, but it should not have been that way. He said that there would always be cars in front of the business in disrepair, but Mr. Crabbe wanted to put those vehicles in the seven parking places he

had in the rear and put 2-5 nice repaired vehicles in front without signage.

Commissioner Burk stated that if Mr. Crabbe was willing to limit the vehicles to three without signs or flags it could be considered.

Mr. McCloud said it would not be that way, as it was not what Mr. Crabbe's sales were about.

Commissioner Burk stated that if they granted the exception they had to be certain that would be the case.

Mayor Gardner said that limiting the number to three without advertising was part of the motion.

Mr. Harriss added, without flags and other advertising accoutrements.

Commissioner Burk suggested using the term "attention getting devices."

Mr. Wilson stated that there needed to be a sign that identified that Mr. Crabbe was a dealer licensed by state law.

Mr. McCloud referred to the photograph showing the sign that would be amended to indicate certified repair and sales.

Commissioner Burk stated that they had to add, "not putting the vehicle hoods up."

Mr. Wilson stated that cars displayed for sales should not have their hood up.

Mayor Gardner said that his motion did not include the statement that the exception would run with the owner, and he questioned whether that would have to be clarified.

Mr. Knight said that the exception would end with the current owner unless the Commission specified that the exception ran with the land.

Mr. Harriss suggested that the Mayor restate his motion for clarification.

### **MOTION**

**Mayor Gardner MOVED to grant the appeal with the condition that sales be limited to a maximum of three (3) vehicles, no advertising, no signage, no flags, or attention getting devices, or hoods would not be raised unless a car was being repaired.**

Mayor Gardner questioned whether the second accepted the clarification and Commissioner Lennon said he agreed absolutely.

Commissioner Crichlow said that the exception was not critical to the corridor, but he pointed out that when there was a change of use or occupancy the owner was required to upgrade the facility for handicap requirements and landscaping etc. He said the current situation was another opportunity for improvements.

A brief discussion ensued regarding the conditions connected to the Solano Cycles exception.

Mayor Gardner questioned the situation for landscaping with the proposal.

Mr. Knight replied that the main thing Mr. Crabbe would have to do was finish the floor elevation for flood purposes, bring up the handicap accessibility requirements and landscaping on all four sides of the property.

Commissioner Burk stated that Mr. Crabbe was trying to make a boutique establishment; therefore, she was certain that he wanted to do that anyway.

Mr. Knight said that four years earlier there was an addition built, at which time a portion of landscaping had been improved. He stated that the total

landscaping would include five trees and 25 shrubs per hundred linear feet, and he did not believe that Mr. Crabbe met that requirement for the perimeter of the property.

Commissioner Crichlow stated that the situation was not a change of use, but it was an opportunity to exercise their prerogative to eliminate some uses in areas, but that situation might not be the case.

Commissioner Burk questioned whether the Commission could require Mr. Crabbe to bring the property up to landscaping code if they granted the exception.

Mr. Wilson said that if the Commission determined that the change required additional safeguards they certainly had the right to impose conditions upon an exception.

Mayor Gardner suggested looking at the landscaping and questioned whether there was a need.

Commissioner Crichlow said that in that case if the landscaping had not been achieved four years earlier he would like to see the requirement met.

Commissioner Burk suggested amending the motion to add that condition.

Commissioner Lennon stated that Mr. Crabbe had put the required landscaping in for the addition; therefore, he questioned why he would have to put in more landscaping at that time.

Mr. Crichlow said that Mr. Knight indicated that Mr. Crabbe had not put the landscaping in.

Mr. Knight said that he had put in what was required for an addition.

Commissioner Lennon stated that Mr. Crabbe had met the criteria.

Commissioner Burk debated that Mr. Crabbe was asking for an exception and the Commission had the opportunity to ask him to make it prettier.

Mayor Gardner stated that he had driven by the property and observed that there had been a tremendous improvement; moreover, he believed that Mr. Crabbe would like to do the right thing. He said that it was an area where they wanted cooperation rather than regulation. He stated that he favored the landscaping addition to the motion if it did not create a hardship.

Mr. Knight stated that it would probably be about five trees and 25 shrubs per linear foot along the front.

Commissioner Jones said that the Mayor had also mentioned that the PZB had not erred.

Mayor Gardner reiterated that he did not believe the PZB had erred, as the vote was split and not all the board had been present. He said that it was a judgment call and rather than uphold the appeal due to error it should be a modification.

Commissioner Jones said that if the PZB had not erred could the Commission overrule.

Mr. Wilson stated that the Commission had the final word.

A discussion resulted regarding the matter, and it was determined that technically it would be an error.

Mayor Gardner noted that it would give the lower boards a degree of guidance for future situations regarding what the Commission wanted.

A discussion resulted regarding the landscaping and Commissioner Lennon was not in favor of the landscaping, but Commissioner Burk said that she would second a motion including the amendment, and the Mayor questioned whether Commissioner Crichlow would like to make an amendment to the motion.

#### **MOTION**

**Commissioner Crichlow MOVED to amend the previous motion to add landscaping to meet City Codes. Commissioner Burk SECONDED the motion.**

#### **VOTE ON MOTION**

**AYES: Crichlow, Burk, Gardner**

**NAYES: Jones, Lennon**

**MOTION CARRIED 3/2**

Mayor Gardner clarified that there was a motion on the floor including landscaping, car limit of three with no advertising and all the aforementioned as a part of upholding the appeal.

Commissioner Burk stated that basically they were granting the appeal to the degree of the motion and denying the planning and zoning board decision.

Mayor Gardner added, "with conditions."

Commissioner Jones stated that they were overturning the PZB.

Commissioner Burk said they were voting on the amended motion, three cars, no advertising and landscaping.

#### **VOTE ON MOTION**

**AYES: Gardner, Lennon, Burk,**

**NAYES: Jones, Crichlow**

**MOTION CARRIED 3/2**

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

**11.A/ Resolutions**

**11.A.1/ Consideration Resolution 2004-08, adopting a Community Development Plan relative to the South Avenida Menendez Seawall Project.**

**MOTION**

**Commissioner Lennon MOVED to approve Resolution 2003-08. The motion was SECONDED by Commissioner Jones and approve by UNANIMOUS VOICE VOTE.**

**11.A.2/ Consideration of Resolution 2004-09, authorizing the Mayor to execute documents relating to the submittal of the Community Development Block Grant application relative to the South Avenida Menendez Seawall Project.**

**MOTION**

**Commissioner Lennon MOVED to approve Resolution 2004-09. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.**

**11.B/ Ordinances - First Reading**

**11.B.1/ Introduction and consideration of Ordinance 2004-07, concerning a petition for voluntary annexation of property located on Santander Street.**

Geoff Dobson, 66 Cuna Street, offered to answer any questions.

**MOTION**

**Commissioner Burk MOVED to place Ordinance 2004-07 on first reading, read by title only and approved. Commissioner Lennon SECONDED the motion.**

Mr. Wilson read the title as follows:

**ORDINANCE NO. 2004-07**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ANNEXING APPROXIMATELY 2.6 ACRES OF PROPERTY IN ST. JOHNS COUNTY, FLORIDA, LYING SOUTH OF S.R. 312 AND WEST OF SANTANDER STREET, AS DESCRIBED HEREIN; REDEFINING THE BOUNDARY LINES OF THE CITY OF ST. AUGUSTINE TO INCLUDE SAID PROPERTY; AMENDING SECTION 1.08 OF THE CHARTER LAWS OF THE CITY OF ST. AUGUSTINE, FLORIDA; PROVIDING FOR FILING OF A COPY HEREOF WITH THE CLERK OF THE CIRCUIT COURT OF ST. JOHNS COUNTY, FLORIDA, WITH THE CHIEF ADMINISTRATIVE OFFICER OF ST. JOHNS COUNTY, FLORIDA, AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE.

**VOTE ON MOTION**

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

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY <sup>3</sup>**

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

(None Scheduled)

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

**11.D.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 a

<sup>3</sup> End of audio tape two

portion of the property, located in the northeast corner of the City, had been annexed when the Ponce resort was annexed into the City, and it had been rezoned as part of the PUD. He said that the people who owned the Ponce sold the parcel of property, and the buyer assumed that it was zoned RS-2. He said that it could possibly be considered a scrivener's error except that it had been necessary as part of the annexation; therefore, the owner had applied to rezone the property to the original RS-2 zoning designation, which was before the Commission.

Commissioner Lennon questioned whether the property would remain within the City limits, and the response was affirmative.

Mayor Gardner referred to the map of the platted subdivision and questioned whether the lots were conforming.

Mr. Knight replied that they were not, as they were approximately 4,500 square feet and the minimum for RS-2 was 5,450 square feet. He added that most of the lots were approximately 50 X 86 and part of the Fort Mossa Gardens plat.

There was no exparte communications.

Mayor Gardner opened the public hearing.

Deborah Andrews, 11 North Roscoe Boulevard, Ponte Vedra, representing Jeanne and Martin Toder, stated that the Toder's lived at 30 Poinciana Avenue, which was a block away from the property in question. She said that the property had been included in the annexation and there were two separate legal descriptions. She stated that they were currently hearing that only 5% of the property had been outside of the City limits. She stated that the matter regarded the Poinciana neighborhood and access to the property in question.

She said that it was clearly the understanding of her client that the property was included in the Ponce PUD and access would be through the interior of the Ponce PUD. She said that her clients were asking that the Commission deny the rezoning and leave the property in the PUD.

Ms. Andrews read from the Code that the minimum lot area in RS-2 was 5,450 square feet, but the lots in question were only 4,500 square feet, indicating that the lots did not meet the criteria of the Zoning Code; therefore, the Commission should not approve the rezoning. She said that basically the lot lines would have to be redrawn, but what was currently shown was an additional unnamed road running through the center of the property, and it was her understanding that there was not an existing road on the plat; moreover, she was not certain whether the road was considered in Mr. Knight's lot size calculations.

Ms. Andrews said that the intent of Section 28-11 of the City Code relating to nonconforming uses was to discourage survival of lots that did not meet the zoning regulations; therefore, the Commission should not take action to encourage the nonconforming lot sizes. She added that the property had been under common ownership and intended to be part of the PUD and under private ownership at that time, but since that time the lots had been sold.

Ms. Andrews said that the situation raised some issues. She said that when the PUD was adopted into the City there were restrictions on the density. She questioned whether the City counted those units in the density cap, as currently the owner wanted to remove the property from the PUD, and she questioned how the units would be calculated. She suggested that the proposal was a piece meal tearing apart

of a PUD, which was not the intent of a PUD. She stated that there was a process for taking parcels of land out of a PUD, and it was not a rezoning process it should be an amendment modification.

Mayor Gardner questioned the concerns regarding access.

Ms. Andrews replied that during the annexation process concern had been expressed regarding traffic on Poinciana Avenue; therefore, the PUD contained language indicating that there would be no direct vehicular access to Poinciana Avenue.

Multiple simultaneous discussions resulted regarding the old plat, egress and ingress, lot size and the addition of a center road for the proposed development.

Commissioner Burk pointed out that the proposal used the original plat and carved a road out of the center; thereby, reducing the size of the lots.

Mr. Wilson stated that it would be done by easement; therefore, the land was still part of the lots. He said that from a legal standpoint it would be a private access easement rather than utilize the public roads on either side of the property. He said that Hybiscus Avenue was a City road and Poinciana Avenue was a County road. He stated that the property, except for a corner section, had always been a part of the City and when it was annexed the same legal description had been used to save the cost of redoing legal descriptions; therefore, they could not legally cutoff access to the aforementioned roads.

Commissioner Crichlow questioned whether they should be having that discussion at that time.

Commissioner Burk suggested that they did not have to approve the plat, because it already existed.

Mr. Knight said that the plat existed, but the theoretical impact concerned the number of lots in the subdivision.

Commissioner Burk said that when they rezoned the property to a PUD the plat had not disappeared.

Mr. Knight replied that the plat remained and they would have entitlement to 13 units out of the PUD, because technically it was currently under the Ponce PUD.

Mr. Wilson stated that the Plat was not erased by the PUD, but the zoning changed. He said that if the property reverted to the original RS-2 zoning the lots would remain as they had always been and precisely the same as the lots directly to the west of the property.

Mayor Gardner suggested proceeding with the public hearing.

Commissioner Burk pointed out that the situation was another example where platting prior to the City's zoning laws was prevailing over zoning. She suggested that if the Commission approved the rezoning it did not mean they had to allow the developer to build on nonconforming lots.

Mr. Knight said the only thing that could be changed was the setbacks and the number of lots.

Commissioner Jones said that prior to the Ponce PUD the property was zoned RS-2 even though they were nonconforming lots.

Mr. Wilson said that the property would revert to exactly what it had been and it was the same as the other property in the subdivision.

Mr. Harriss stated that the property had never been owned by Mr. Stokes nor was it a part of that proposed development.

Gary C. Carter, 41 Hybiscus Avenue North, stated that he had witnessed the property in question change hands 3-4 times, but it was the first proposal for major development. He stated that he would like to see as many of the trees saved as possible by reducing the density. He suggested that there were better ways of making the development more compatible with the neighborhood. He said that his father had dug an artisan well on the property, and he used the well for irrigating his lawn; therefore, he wanted access to that water. He indicated on the map where the well was located.

Mayor Gardner questioned whether there was a written agreement regarding the well, and the response was that it had been a handshake agreement. He questioned whether the pipe was above the ground.

Mr. Carter replied that it was below the ground.

Mr. Wilson said that was an issue that the Commissioners should not be considering at that time.

Commissioner Crichlow noted that in the past it had been common to have a community well to share the cost; however, the well belonged to the person who owned the property it was on. He said that Mr. Carter could seek a well agreement with the property owner. He warned that if the well was old it could break and seal and capping it would be expensive, and Mr. Carter would be expected to share the cost with the property owner.

Mr. Carter stated that was risk mitigation, and he would accept the responsibility.

Mayor Gardner closed the public hearing.

Commissioner Jones questioned Ms. Andrews as to what her client's objection was to the property reverting to its original zoning.

Ms. Andrews replied that it was a matter of density and traffic on Poinciana Avenue. She added that once the property was eliminated from the PUD the owner would not have to comply with the PUD elements. She said for example they would not have to comply with the 35-foot wetland buffer and access through Poinciana Avenue.

Commissioner Jones said that they were not dealing with a large developer, and the property was zoned RS-2 five years earlier. He again asked for the objection to the rezoning.

Ms. Andrews said that in the City Code the lot line was defined and the private road violated the definition. She said that it was her opinion that the developer was trying to hang on to the old platted subdivision; thereby, not complying with the Code. She suggested that it was an abuse of the Code to allow them to continue to change the designation of the property, put in a road but call it an easement while continuing the benefit from the nonconforming square footage.

Commissioner Jones questioned what the difference was between the proposed road and an alleyway that allowed access to backyards.

Ms. Andrews said that there was a section of the PUD under County regulations indicating that if roads were put in they had to be up to standard.

Commissioner Jones clarified that the property had always been in the City.

Ms. Andrews stated that apparently a couple of the lots were not within the City.

Mr. Wilson said that he suspected a scrivener's error when the City lines were redrawn, because the lots should never have been taken out of the City. He said that the line actually split a couple of the lots sometime during the de-annexation of the area in the 1920's or 1930's, but the City was unable to track the error.

Commissioner Crichlow said that he could not condone holding the piece of property to the PUD or denying access to the property through public roads. He said that the property should be zoned RS-2, but the zoning required a certain conforming lot but the lots in question were nonconforming. He said that if the property was replatted to conform to the zoning a couple of lots would be eliminated.

Commissioner Lennon stated that the platting had occurred before the zoning and the property was buildable; therefore, why were they continuing to address the subject.

Commissioner Crichlow stated that he did not believe it was right.

Commissioner Burk stated that she agreed with Commissioner Crichlow.

Commissioner Crichlow questioned whether the Commission had the authority to modify the density.

Mr. Wilson said that it was not a matter that the Commission could address at that juncture.

Commissioner Crichlow stated that it was a matter that the aggregation ordinance would address when the ordinance was drafted. He stated that the density would increase the traffic in the neighborhood and more trees would

have to be removed; however, it was not the time or place.

#### **MOTION**

**Commissioner Lennon MOVED to place Ordinance 2004-06 on second reading, read by title only and approved. Commissioner Crichlow 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.

Mayor Gardner questioned whether Poinciana Cove had submitted an application to the Planning and Building Department.

Mr. Knight said the matter had gone to PZB and had been approved.

Mayor Gardner said the lots were nonconforming, and they would not even be 50 X 86 because of the addition of the road.

Mr. Knight stated that the lots were still retained at 50 X 86 with a road easement.

Mayor Gardner questioned whether the lot line would be from the center line of the road.

Mr. Knight replied that the setbacks would be from the lot line, so it would be from the center of the road.

Commissioner Crichlow stated that they could build a home right on the street.

Mayor Gardner stated that the footprint would be roughly 30 X 60.

Mr. Knight replied that they would be limited to the lot coverage of RS-2, which was 30%.

Mayor Gardner stated that the structures could be 1,800 square feet.

Commissioner Crichlow added that they could build three stories.

Mayor Gardner stated that was the point that he was making, and he wanted the community to know that there was not a lot the Commission could do about it.

Commissioner Crichlow stated that the Aggregation Task Force was working on an ordinance to prevent the situation in the future.

Mr. Wilson pointed out that, if the ordinance and the easement were approved, there were a lot of trees in the right-of-way of Poinciana and Hibiscus Avenues that would have been removed if the developer chose to use those roads for access. He said that the City could be certain that the trees were saved by forcing the developer to use the easement for access, but it would require their consent.

Commissioner Burk questioned whether they could vacate the road once the center access road was constructed.

Mr. Harriss said that the road went to water so it would be difficult for anyone to vacate.

Mayor Gardner said landscaping requirements in the Code would provide the City the leverage to retain the trees.

**VOTE ON MOTION**

**AYES: Lennon, Crichlow, Jones**

**NAYES: Burk, Gardner**

**MOTION CARRIED 3/2**

**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 9:00 p.m. <sup>4</sup>

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MAYOR

\_\_\_\_\_  
CITY CLERK

<sup>4</sup>Transcribed by Karen Rogers, Recording Secretary