

CITY OF ST. AUGUSTINE

Regular City Commission Meeting  
October 25, 2004

The City Commission met in a formal session Monday, October 25, 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  
Donald A. Crichlow, City Commissioner  
Errol D. Jones, City Commissioner  
William Lennon, City Commissioner

Absent: Susan Burk, City Commissioner (Excused)

William B. Harriss, City Manager  
James P. Wilson, City Attorney  
Martha V. (Nell) Porter, City Clerk  
Timothy A. Burchfield, Chief Administrative Officer  
John Regan, Chief Operations Officer  
Mark Litzinger, City Comptroller  
Mark Knight, Director, Planning and Building Department  
Tim Shields, Facilities Manager  
William H. Harding, Director, Public Works  
Dr. William Adams, Director, Heritage Tourism  
James Whitehouse, Staff Attorney  
Paul K. Williamson, Director, Public Affairs  
David Shoar, Chief of Police  
James Owens, Fire Chief  
John Rayno, Fire Marshall  
Karen Rogers, Recording Secretary

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

Rusty Burns, Associate Pastor, Ancient City Baptist Church delivered the invocation, and Commissioner Lennon led the Pledge of Allegiance.

**3. ADMINISTRATIVE ITEMS**

**3.A/ Modification of Agenda**

Mr. Harriss reported that the parties involved with Item 11.C.1., Ordinance 2004-20 had requested that the matter

be tabled until the subsequent meeting due to a conflict with their representation.

Mayor Gardner questioned whether there were any members of the public in attendance to speak on the matter, but there was no response.

**MOTION**

**Commissioner Jones MOVED to table Ordinance 2004-20 until the next meeting. Commissioner Crichlow SECONDED the motion.**

**VOTE ON MOTION**

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

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

Mr. Harriss informed the Commissioners that Commissioner Burk was unable to attend the meeting due to family obligations.

**3.B/ Approval of Minutes**

The minutes of the Regular City Commission Meeting of October 11, 2004 were approved as presented.

**3.C/ Proclamations**

**3.C.1/ Proclamation declaring October as World Sight Month.**

Mayor Gardner read and presented the proclamation to three members of the Lions Clubs International.

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

Andy Fleming, 218 South Matanzas Boulevard, distributed a handout and announced that the Halloween Parade, along with good family fun, would take place on October 30, 2004. He invited the Commissioners to join the event and serve as judges in the best costumes event.

Mayor Gardner questioned when Mr. Fleming thought trick-or-treating should take place, because October 31<sup>st</sup> was on Sunday for 2004.

Mr. Fleming recommended that they celebrate the event on the 31<sup>st</sup>, otherwise

people would be trick-or-treating on the 30<sup>th</sup> and 31<sup>st</sup>.

Mr. Harriss agreed stating that the City had tried changing the day for convenience in the past; however, the change had not been successful.

Dwight Hines, 150 Nesmith Avenue, stated that he had recently moved to St. Augustine, and he wanted to know when Nesmith Avenue would be paved.

A brief discussion determined that the avenue would be paved as money was available during the subsequent two-years.

Mr. Hines questioned the personal e-mail policy followed by the City and who he could speak with about the matter, and it was recommended that Mr. Hines make any appointment with the City Manager.

Mr. Hines questioned whether the City had a long term strategy for bicycle paths.

Mr. Harriss stated that the matter was according to the DOT, but he added that the City was a proponent of expanding bicycle paths.

Commissioner Jones recommended that Mr. Hines research his neighborhood streets for needs and recommendations and to determine whether the streets belonged to the City, County or State. He suggested that the neighborhood associations might address the matter.

Merrill Roland 6281 Old Dixie Drive, questioned the status for handicapped parking spaces on the Plaza and bayfront.

A discussion determined that there was not much the City could do until after

the Bridge of Lions construction was completed, and concern was expressed regarding the size of the space that would be necessary considering the width of the City Streets and whether the City, County or State owned the streets.

Mr. Harriss indicated the number of existing handicapped parking spaces. He stated that the City had the number of handicapped parking spaces required by Code; moreover, the City could not arbitrarily violate Florida Statutes.

Mayor Gardner suggested that the Public Affairs Department compile a list of handicapped parking spaces to make available at the Visitor Information Center.

Paul Fagundo, 15 Willow Drive, stated that the City was giving \$10,000 to the Neighborhood Councils, and he questioned why the Historic Preservation District One Association was not included to receive money. He further questioned how the money was going to be used by the councils.

Commissioner Jones clarified that the final guidelines had not been set to exclude the HP-1 Association from receiving funding.

Mayor Gardner noted that the effort would be toward beautifying neighborhoods.

Hildegard Pacetti, 305 St. George Street, questioned the status of brick streets repair on St. George Street from King to St. Francis Streets, as the area was practically impassible. She suggested that the restoration would divert some traffic from Avenida Menendez. She noted that \$15,000 of the budget dedicated to brick street restoration was not a lot of money.

Ms. Pacetti noted that \$60,000 had been designated for review of the Zoning Code including advertising and signage in the residential and commercial districts; however, the state mandated that the City of St. Augustine review the Comp Plan including public hearings. She stated that the next review was scheduled for 2008, which could conceivably reverse findings from the aforementioned \$60,000 study. She suggested that the \$60,000 could be spent more wisely.

Commissioner Crichlow noted that the mandated state review was concerning the Comp Plan and did not include the City's zoning ordinances.

Mr. Harriss noted that the Zoning Plan had to be in compliance with the Comp Plan. He added that they did not have to wait until 2008 to make any modifications to the Comprehensive Plan.

Commissioner Lennon said he believed that Mrs. Pacetti was saying that instead of spending money now they should wait until the review was required and do it all at once.

Mayor Gardner questioned the \$30,000 amount for the brick street repair, as he thought the amount they had designated was \$15,000.

Mr. Harriss replied that there was \$15,000 from the previous year's budget and \$15,000 from the current year's budget. He said that they would deplete part of the fund when they bricked Artillery Lane. He said that one small project cost approximately \$12,000.

Mayor Gardner suggested that staff look into grants for brick streets with a historic element.

## 5. PRESENTATIONS AND STAFF REPORTS

(None Scheduled)

## 6. ITEMS BY CITY ATTORNEY

### Street Entertainers

Jim Wilson, City Attorney, said that in response to Bob Jones request for an exception to perform on St. George Street because he was handicapped, his initial response had been that exceptions of that nature could not be granted and research had revealed that was the case. He stated that restriction of free speech had to be handled carefully, and preferential treatment for the handicapped would indicate one person's freedom of speech was more valuable than another's.

### Avalon Carriage Company Lawsuit

Mr. Wilson stated that Avalon Carriage Company had filed a lawsuit against the City and Stuart Gamsey's Companies, but the suit had not been served at that point. He said that if the City was served he would like the opportunity to procure outside counsel. He recommended Michael Kahn who had represented the City in the street entertainer's case, as the Avalon lawsuit was similar because of the constitutional issues, plus Mr. Kahn was a widely known expert on the subject.

### **MOTION**

**Commissioner Lennon MOVED to Hire Michael Kahn. Commissioner Jones SECONDED the motion.**

Commissioner Jones recommended that the City make every effort to recoup expenses regarding lawsuits against the City.

Commissioner Crichlow questioned whether staff was tabling the effort to determine the maximum number of horse drawn carriages on the streets.

Mr. Wilson replied that the current delay was the result of the Avalon Carriage representative, but he recommended tabling the matter until it was determined whether the lawsuit would have any affect on the current applications for horse drawn carriage permits. He said that he would keep the Commissioners up-to-date on the matter.

Commissioner Jones said that he was not certain he could agree, as he saw no harm with the City discussing the matter to determine what they would like to do.

Mr. Wilson stated that the Commission could resolve the problem by determining whether additional carriage permits should be issued, and if they determined to issue more, who they would issue them to.

Commissioner Jones said that if Mr. Wilson was suggesting that they should not discuss the subject for legal reasons, he would have to yield to his opinion.

Mr. Wilson said that, because the lawsuit was new, he had not had the time to review it in detail, but he would and report to the Commission during the subsequent meeting. He said that if his review indicated no affect he would direct the City Clerk to advertise for a public hearing, but if it was damaging to the City's position he would bring the matter to the Commission during the next meeting.

Commissioner Jones said that he would like the City Attorney to provide the Commission with a legal opinion.

Mr. Wilson noted that he would talk with some of the applicants for the horse drawn permits, and if they were willing to hold off on their application for awhile it would be fine. He said that he believed that Avalon had filed a lawsuit prematurely.

Mayor Gardner questioned the status of the lawsuit.

Mr. Wilson explained that the lawsuit had been filed, but once a suit was filed a subpoena had to be issued and a summons served on the City, which started the process. He said that, according to the attorney's directions, the summons would be served on him or the Mayor. He pointed out that there were complaints filed at the courthouse that were never served, and after a period of time they became null and void.

Commissioner Lennon questioned the amount of the lawsuit.

Mr. Wilson replied that the amount was \$1.9 million, but the suit provided for triple damages making the amount approximately \$6 million.

Commissioner Lennon questioned the number of horse drawn carriage permit applications that had been filed, and the response was 110.

Commissioner Lennon noted that the City was looking at 156 permits, because the Commission had not allowed Mr. Gamsey to sell his permits. He suggested that the matter was a waste of taxpayer's money.

Mayor Gardner noted that the motion was to hire special counsel when the lawsuit was served.

**VOTE ON MOTION**

**AYES: Lennon, Jones, Crichlow,**

**Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

**7. ITEMS BY CITY CLERK**

Martha V. (Nell) Porter, City Clerk, noted that there were two term expirations on the Code Enforcement Board that would be named on December 13, 2004; however, she had not received any applications, and currently it appeared that there would be a third board member replaced due to health issues. She concluded that she wanted the Commission to be aware of the situation.

Mayor Gardner noted that it was one of the City's most important boards; therefore, he was surprised that there were no applicants.

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

**8.A./ Consent Agenda**

**8.A.1/ Preview of upcoming Commission Meetings.**

**8.A.2 Notification of one upcoming term expiration on the Civil Service Board.**

**8.A.3/ Consideration of Release of Liens on Unit Connection Fee Mortgages.**

**8.A.4/ Approval of License Agreement with the Corona Del Mar Condominium Association.**

Mr. Harriss noted that the owners of the Corona Del Mar had built a retaining wall on City property and the agreement in Item 8.A.4. provided them with a license to keep the wall there, but the

City had the right to request that the wall be removed at any time.

**MOTION**

**Commissioner Lennon MOVED to approve the consent agenda items 8.A.1. and 8.A.4. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.**

**8. B/ Discussion Items**

**8.B.1.a/ Florida Department of Community Affairs Commercial Revitalization CDBG Contract.**

Mr. Harriss said that both discussion items were related to the seawall grant. He said that he required the acceptance of the award to allow the Mayor to sign the contract, and approval of the resolution authorizing him to execute documents related to the \$750,000 CDBG Grant.

**MOTION**

**Commissioner Jones MOVED to accept the grant. The motion was SECONDED by Commissioner Lennon and approved by UNANIMOUS VOICE VOTE.**

**8.B.1.b/ Consideration of Resolution 2004-26 authorizing the City Manager to execute documents related to the CDBG Grant.**

**MOTION**

**Commissioner Lennon MOVED to approve Resolution 2004-26. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.**

**Non Agenda Item – Hurricane Debris Cleanup**

John Regan, Chief Operations Officer, reported that the City had completed removal of the yard debris from the hurricanes. He said that they had processed 2,500 tons of debris for the hurricanes, and during a full year the City processed between 2,000 and 2,400. He said that they had accomplished the cleanup with the help of a number of divisions, but he extended special thanks to the Solid Waste Division. He stated that they had all put in many hours and hard work in effort to accomplish a large mission in a short period of time.

**Cleaning St. George Street**

Mr. Regan announced that beginning October 31, 2004 until November 4, 2004 City Staff would be pressure washing St. George Street north of Cathedral Place. He said that City crews would be working from 10:00 p.m. until 7:00 a.m.

**Street Resurfacing**

Mr. Regan explained that the City had a street assessment of all City streets that were graded by their condition and a priority list was established based on funding levels, which was submitted to the Engineering Department to coordinate utility work. He said that there were paved and unpaved streets and in terms of the total budget the City spent 30-35% of the budget paving dirt roads and 65-70% of the budget was spent to resurface streets. He covered some scenarios regarding what determined the amount of work on streets.

**Utility Maps**

Mr. Regan said that utility maps were data bases of information regarding the City Utilities.

Property Services Supervisor

Mr. Regan announced that Mark Harrington had earned the promotion to Property Services Supervisor, a position formally held by Orefeo Paolini.

Commissioner Lennon acknowledged City Staff for the efficiency of the cleanup after the hurricanes.

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

Commissioner Lennon – Announcements

Commissioner Lennon delivered announcements regarding people and community events.

Commissioner Crichlow – Campaign

Commissioner Crichlow acknowledged the current campaign and wished the candidates the best, as there would not be another meeting until after the election.

Mayor Gardner – Apology

Mayor Gardner apologized to Dr. Scott Michaels for referring to his home at 28 Dolphin Drive as an elevator house during a recent debate. He noted that Dr. Michaels house was built according to Code.

Mayor Gardner expressed concern that new construction was not acknowledging the existing character of the neighborhoods. He noted that the Commission had authorized \$60,000 for a Code review to determine whether it was adequate. He said he continued to believe that Dr. Michaels' house did not

fit in the neighborhood, and that ultimately the decision to update the City Code was up to the citizens.

Mary Peck House

Mayor Gardner questioned the status for moving the Mary Peck House.

William H. Harding, Director, Public Works, reported that the next morning all the parties involved would meet to work out the details.

Mayor Gardner delivered announcements regarding people and community events.

**10. Appeals and Public Hearings**

(None Scheduled)

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

**11.A/ Resolutions**

(None Scheduled)

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

**11.B.1/ Introduction and consideration of Ordinance 2004-22, increasing the Maximum Archaeology Fee.**

Mark Knight, Director, Planning and Building Department, stated that the ordinance established a maximum archaeology fee of \$25,000. He said that several years earlier a fee of \$15,000 was established; however, at that time development activity was on a smaller scale in St. Augustine. He said that currently the City was experiencing larger scale projects, such as the Monson, 11 Tremerton Street and the Ponce. He said that the fee would impact different projects differently and the maximum impact would be on a \$1.67

million dollar project, for which the fee would be increased from \$15,000 to \$25,000.

Commissioner Lennon expressed concern about increasing the fee \$10,000 to dig on a piece of property.

Mr. Harriss pointed out that the change would not affect any houses or small commercial properties, but it would affect larger structures. He added that generally it would not affect a lot of situations.

Commissioner Lennon noted that it amounted to raising prices.

Mr. Knight pointed out that it could cost \$40-\$150,000 to hire a private archaeologist.

Commissioner Lennon conceded that if the increase pertained to larger jobs, there were few of them left.

Commissioner Jones pointed out that St. Augustine was one of the only cities in the nation that cared enough to employ a full-time archaeologist. He questioned whether it was critical for the City to employ a full-time archaeologist.

Mr. Knight responded affirmatively and said that approximately a third of the City was an archaeology zone. He noted that the City received approximately 4,000 hours of volunteer time because of the strong interest in archaeology.

Commissioner Jones noted that the volunteer time was good because the City had shown the initiative to employ a full-time archaeologist. He said that he assumed records would indicate that the archaeologist's time far exceeded the money that was collected for projects. He emphasized that large development should bear the cost not the citizens.

## **MOTION**

**Commissioner Jones MOVED to place Ordinance 2004-22 on first reading, read by title only and approved. Commissioner Crichlow SECONDED the motion.**

Mr. Wilson read the title as follows:

### **ORDINANCE NO. 2004-22**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 6-8 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO INCREASE THE MAXIMUM ARCHAEOLOGY FEE FROM \$15,000 TO \$25,000; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

## **VOTE ON MOTION**

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

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

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

**11.C.1/ Public Hearing - Ordinance 2004-20, concerning adding Assisted Living Facility to the Residential and General Office (RGO) Zoning Category.**

(Tabled until the subsequent meeting)

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

**11.D.1/ Public Hearing - Ordinance 2004-17, amending the Tree and Landscape Code.**

Mr. Knight said that the PZB and Street Tree Advisory Committee made three

significant changes to the Tree and Landscape Code as follows:

- Increase in minimum replacement trees size from 1¼ inch diameter to 2 inch diameter
- A change in the credit/debit system for developments with a number of trees to be cut down and a number of trees to save – the incentive being to plant and maintain larger trees for credit and to avoid large debits
- Tree permit application fee increased from \$10 to \$20

Mr. Knight added that there were also cleanup changes for consistency within the Code.

A brief discussion determined that the acknowledgement of the Sweadners Hairstreak Butterfly had been added to the ordinance, and the minimum height for replacement trees was established as 10-feet throughout the Code.

Mayor Gardner questioned whether a tree could be taken down in the footprint of a proposed building regardless of the size of the tree.

Mr. Knight replied that if the tree was less than 30 inches in diameter and in the footprint it could be administratively permitted, but if the tree was over 30 inches in diameter the matter had to go to hearing for removal regardless of whether it was in a footprint.

Mayor Gardner questioned whether there had been discussion regarding reducing the diameter requirements that necessitate going before the board.

Mr. Knight replied that the matter had not been discussed by the PZB.

Fred Halback, Chairman, Street Tree Advisory Committee, added that the

Street Tree Advisory Committee had not discussed the matter. He added that the review was not intended to reinvent the Code but an effort to clarify interpretations and strengthen some items.

Mayor Gardner opened the public hearing.

Mrs. Porter read a letter from Arthur H. Runk Sr. (former Commissioner and Mayor) into the record indicating that Mr. Runk thought the ordinance was discriminatory, and he felt that if challenged it would be thrown out of court. <sup>1</sup>

Hildegarde Pacetti, 305 St. George Street, said that currently she had eleven trees on her property, which she considered more than enough, and she wanted to remove some of them. She said that she had not had the opportunity to read the revised ordinance. She described the palm tree she wanted to replace and questioned the policy, as she wanted to replace it with another type of tree. She also questioned whether she would be able to remove an Oak Tree that was damaged during the hurricanes.

Mr. Knight responded that a palm tree could be replaced with any type of tree according to the Code, but in general the Code indicated that trees were to be replaced with same type of trees. He said that if Ms. Pacetti's oak tree was badly damaged and application determined that it was a threat to the public health and safety, an administrative permit could be issued but if the tree appeared to be dying and not a threat, Ms. Pacetti could go to hearing for approval to remove it and plant a replacement tree or contribute to the Tree Mitigation Fund.

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<sup>1</sup> Letter attached to original minutes

Ms. Pacetti inquired whether she would have to replace the trees within 30-days.

Mr. Knight replied that there was a 30-day clause if the permit was issued administratively, but if she went before the board they could permit for 90-days.

Ms. Pacetti questioned whether she could reduce the number of trees on her property. She pointed out that there was property with no trees, and the owners were not required to plant trees. She suggested that trees that grew out over sidewalks and beyond the curb be cut back by some sort of regulation in the ordinance, as the regulation would reduce the leaves in the landfill. She added that tree debris consumed a great deal of the landfill. <sup>2</sup>

Gina Burrell, 27 Seminole Drive, expressed appreciation for the modification to the ordinance.

Mr. Halback addressed Mr. Runk's letter and noted that the ordinance was not designed to stop citizens from doing what they wanted to do, they simply had to go through the normal process. He added that the ordinance was the same as it had been for the past 10-years, with only the aforementioned modifications.

Mayor Gardner closed the public hearing.

Commissioner Lennon reported that his walking survey of the neighborhoods revealed that citizens did not want any changes to the ordinance; moreover, they did not like the ordinance as it was without further tightening the regulations. He said that he had spoken with a woman that had four pine trees that she had cut down because they

were ruining her lawn, and the City had fined her. He said that it was his understanding that citizens could cut bulk wood trees down.

Mr. Knight replied that it was his understanding that in the County a pine tree within 100-feet of a house could be cut down without a permit. He said that some citizens telephoned the County about their trees by mistake, hence they cut down their trees, after which they could be taken to hearing by the City, in which case they would do tree mitigation. He said that City Code did not provide distinction for Pine Trees, a native species. He added that there was credit given for planting native species to avoid invasive tree species.

Commissioner Lennon questioned whether they should change the Code concerning bulk wood.

Mr. Knight replied that the matter could go before the Street Tree Advisory Committee for consideration.

Commissioner Lennon said that, according to the citizens, the current modifications "tightened the noose". He said citizens were claiming that City Government was taking more privileges away from the people with the new tree regulations. He said that if the City had to have an ordinance they should leave it as it was.

Commissioner Crichlow stated that Commissioner Lennon was not talking to the same citizens that he was, because everyone he talked to wanted more trees, wanted to preserve the existing trees, and they felt that the ordinance was not strong enough. He added that Mr. Runk's letter appeared to be supporting an over-all reduction of trees in the City.

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<sup>2</sup> End of audio tape one

Mr. Wilson replied that there could be a reduction in trees as a result of Mr. Runk's suggestion, but he was not sure he understood the suggestion.

Commissioner Crichlow stated that he could see how the tree ordinance could be weakened to the point of allowing a reduction of trees in the City. He pointed out the emphasis on preserving trees in the City, State, and Country. He suggested further strengthening the tree ordinance as it pertained to new construction. He suggested that future construction be located to save trees on properties. He added that the trees in St. Augustine were part of the attraction for City visitors. He encouraged the Street Tree Advisory Committee to continue their efforts and to bring further recommendations to the Commission.

Commissioner Jones agreed with Commissioner Crichlow, and he said that they lived with tree preservation and they had a responsibility for the trees. He said that no one liked change, but most people liked the trees in St. Augustine. He said that the ordinance did not prevent citizens from applying for tree removal permits or from asking for exceptions.

Mayor Gardner pointed out that on first reading there had been voluminous suggestions to further strengthen the ordinance.

Mr. Knight said that the Street Tree Advisory Committee would be focusing on the Arbor Day celebration until February

**Commissioner Crichlow MOVED to place Ordinance 2004-17 on second reading, read by title only and approved. Commissioner Jones SECONDED the motion.**

Mr. Wilson read the title as follows:

**ORDINANCE NO. 2004-17**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 25 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO TREES AND LANDSCAPING; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE.

**VOTE ON MOTION**

**AYES: Crichlow, Jones, Gardner**

**NAYES: Lennon**

**MOTION CARRIED 3/1**

**11.D.2/ Public Hearing - Ordinance 2004-18, relating to Fireworks.**

John Rayno, Fire Marshal, stated that the ordinance updated and refined a currently existing ordinance and restricted the use of model rockets, firecrackers and fireworks that left the ground and exploded. He said that the ordinance restricted the use and possession of the fireworks; therefore, a citation could be issued even if an officer had not observed a person setting-off fireworks. He indicated that sparklers and a long-range of devices would still be legal. He said that they were attempting to control the amount of fireworks coming into the City over the holidays; thereby, allowing families to enjoy the fireworks exhibit presented by the City.

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

**MOTION**

**Commissioner Lennon MOVED to place Ordinance 2004-18 on second reading, read by title only and approved. Commissioner Jones SECONDED the motion.**

Mr. Wilson read the title as follows:

ORDINANCE NO. 2004-18

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, REPEALING SECTION 18-78 OF THE CODE OF THE CITY OF ST. AUGUSTINE; CREATING A NEW SECTION 18-78 OF THE CODE OF THE CITY OF ST. AUGUSTINE, ENTITLED "REGULATION OF FIREWORKS," SETTING FORTH REGULATIONS FOR THE SALE, POSSESSION, USE, OR EXPLODING OF FIREWORKS; PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

**VOTE ON MOTION**

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

**NAYES:** None

**MOTION CARRIED UNANIMOUSLY**

**11.D.3/ Public Hearing - Ordinance 2004-19, concerning the St. Augustine Police Officers' Retirement System.**

Mr. Harriss said that the modified ordinance increased benefits for the Police Officers with little cost to the City, and it made the retirement system more competitive with other Police Departments.

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

**MOTION**

**Commissioner Jones MOVED to place Ordinance 2004-19 on second reading, read by title only and approved. Commissioner Lennon SECONDED the motion.**

Mr. Wilson read the title as follows:

ORDINANCE NO. 2004-19

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE X, SEC. 10.02, OF THE CHARTER LAWS OF THE CITY OF ST. AUGUSTINE RELATING TO THE POLICE OFFICERS RETIREMENT SYSTEM, REVISING THE DEFINITION OF "CREDITABLE SERVICE" TO INCLUDE A PROVISION FOR THE PURCHASE OF CERTAIN MILITARY AND PRIOR LAW ENFORCEMENT SERVICE; AMENDING ARTICLE X, SEC. 10.08, OF THE CHARTER LAWS OF THE CITY OF ST. AUGUSTINE TO REVISE SERVICE RETIREMENT ELIGIBILITY; CREATING ARTICLE X, SEC. 10.13, OF THE CHARTER LAWS OF THE CITY OF ST. AUGUSTINE TO PROVIDE FOR A DEFERRED RETIREMENT OPTION PROGRAM (DROP) FOR POLICE OFFICERS; CREATING ARTICLE X, SEC. 10.14, OF THE CHARTER LAWS OF THE CITY OF ST. AUGUSTINE TO PROVIDE FOR DIRECT TRANSFERS AND ROLLOVERS INTO THE POLICE OFFICERS RETIREMENT SYSTEM; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE.

**VOTE ON MOTION**

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

**NAYES:** None

**MOTION CARRIED UNANIMOUSLY**

Non Agenda Item – Lawsuit

Commissioner Lennon questioned the status on the David White and Barbara Rice's lawsuit.

Mr. Wilson replied that the suit had been filed regarding the City's denial for a type

of windows in a building on the bayfront. He said that currently the suit was in the legal process.

Commissioner Lennon questioned whether they had 20 days to respond or whether the 20 days were already up.

Mr. Wilson replied that it had not been 20 days, but the City had the opportunity to extend the deadline.

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

(None)

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

(None Scheduled)

**13. Adjournment**

There being no further business, the meeting was adjourned at 6:59 p.m. <sup>3</sup>

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MAYOR

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CITY CLERK

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<sup>3</sup>Transcribed by Karen Rogers, Recording Secretary