

CITY OF ST. AUGUSTINE

Regular City Commission Meeting

February 14, 2005

The City Commission met in a formal session Monday, February 14, 2005, 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, Vice Mayor/City Commissioner

Joe Boles, City Commissioner

Donald A. Crichlow, City Commissioner

Errol D. Jones, City Commissioner

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 Knight, Director, Planning and Building Department

Mark Litzinger, City Comptroller

Robert Leetch, Director of Utilities

William H. Harding, Director, Public Works

Dr. William Adams, Director, Heritage Tourism

Paul K. Williamson, Director, Public Affairs

Loran Lueders, Chief of Police

James Owens, Fire Chief

James Whitehouse, Staff Attorney

Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF

ALLEGIANCE

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

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

William B. Harriss, City Manager, reported that the appellant for Item 10.A., a public hearing regarding an appeal to the PZB decision regarding property located at 36 May Street had requested that the Commission remand the item to the Planning and Zoning Board for further consideration based on the provision of new information.

Mayor Gardner stated that it was his understanding that the appellant was modifying the site plan from five to three lots.

Mr. Harriss said there were other matters involved, plus the original application was invalid; therefore, they had requested going through the process with a public hearing before the PZB.

Mayor Gardner noted that there were citizens present for the public hearing and questioned whether the Commissioners wanted to accept the request to remand or proceed.

Commissioner Jones said that in light of the appellants request they might be addressing a non-issue; therefore, he saw no reason to conduct a public hearing. He added that due to the new information the citizens in attendance might not have anything to protest.

MOTION

Commissioner Jones MOVED to remand (Item 10.A. public hearing of appeal to the PZB decision regarding property located at 36 May Street) to the PZB. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.

Mayor Gardner questioned whether the matter would go before the PZB during the subsequent meeting.

James P. Wilson, City Attorney, replied that the item was already included on the PZB agenda for the March 1st meeting.

3.B/ Approval of Minutes

Commissioner Crichlow referred to page four top right column and said that the sentence, *He said that when they outlined the program he thought it was going to be available to other groups*, should be amended to read, *He said that when they outlined the program he thought it was going to be available to only Neighborhood Associations*.

The minutes of the Regular Meeting of January 24, 2005 were approved as amended.

3.C/ Proclamations

(None Scheduled)

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

Hildegard Pacetti, 305 St. George Street, said that the current guidelines in the walled City allowed property owners to build additions to an existing structure or construct a new structure by expanding onto an adjoining lot. She noted that the lots were small and narrow. She said the guidelines applied to HP-1-2-3 and since the proposed aggregation ordinance applied to residential lots an exception should be included for the three Historic Preservation Districts. She continued that it was anticipated that the private parking lots in HP-2-3 would be replaced with new construction, and the only permitted zoning use in HP-1 was residential; therefore she hoped the Commission would give the matter consideration.

Ms. Pacetti said that, currently under state law, property owners were allowed to include adjoining lots in combination with their residents for homestead purposes. She said that denying the homestead coverage could have an adverse impact on property owners.

Mr. Harriss pointed out that the proposed aggregation ordinance did not include the HP Districts, but applied to RS-1 and RS-2 only.

Mayor Gardner questioned whether four adjacent lots owned by one person would be part of their homestead.

Mr. Harriss replied that depending on a number of factors they could or could not be. He said that most were homesteaded, as it provided a cap on future tax increases, but some might be bought and held for investment purposes.

Fernando Alonso, 1540 Arapaho Avenue, began speaking about Item 11.D.1, and he was advised that there would be a public hearing when the item went before the Commission.

Patricia Lowe de Parets, 67 Marine Street, read a petition into the record requesting a parking decal pilot program for use on the west side of Avenida Menendez, from

Bridge Street to St. Francis Street, for the benefit of the residents in the area. She said that the residents in her neighborhood were not the only impacted residents of the City; however, they felt the lack of parking for residents acutely. She said that previous requests for the program in her neighborhood had not been acknowledged, and she had been told that there was a problem regarding mixed usage parking. She said that when she bought her home there was no mixed usage, and the block had been zoned residential. She said that the existing bed and breakfast was supposed to have its own off-street parking and the St. Francis Barracks had its own off-street parking. She suggested that the east side of Avenida Menendez could be used for mixed usage and the west side could be used for residential parking.

Mr. Harriss said that according to the City Attorney's research the mixed used portion of Avenida Menendez was not the result of the bed and breakfast or the barracks, it was due to the linear park along the seawall, and when the seawall was redone the area would be further enhanced. Therefore, he said that residential decals could not be used in mixed use areas, as it would be a potential violation of Constitutional rights.

Mayor Gardner questioned whether the mixed use classification would include both sides of the street or whether there was an argument for making one side of the street restricted parking.

Mr. Harriss stated that the Staff Attorney and City Attorney both agreed about the situation.

Commissioner Crichlow stated that he would like them to research whether the west side of Avenida Menendez could be restricted to property owners only.

Mr. Wilson pointed out that the residential part of the street was short, with a park on the east side and some commercial uses on the west side boarding the residential on the north and the National Guard complex to the south, plus other uses were interspersed throughout the neighborhood. He said that the proposal would be difficult.

Mayor Gardner suggested signs indicating resident parking only on the west side of Avenida Menendez, and if the situation was challenged in court the City could back down.

Mr. Wilson said that they could also go to court to see what the ultimate result would be, which was sometimes the only way to get any results.

Commissioner Burk stated that she wanted to see residential parking on Avenida Menendez. She said that South Beach in Miami had residential parking decals next to restaurants, apartment buildings and hotels; therefore, she could not believe that the City could not designate some parking for the residents. She emphasized that the program should be instituted all over town.

Mr. Wilson replied that it was a matter of economics, as challenging parking tickets was not worth the action.

Commissioner Burk stated that she had always been a champion of a decal parking program, and she was disappointed that they had not gotten one going. She said that they did not have to wait until the garage was built, as there was no reason they should not start a program immediately. She suggested that the Parking Committee proceed on the matter rapidly, because they needed to start somewhere.

Mayor Gardner said that the Parking Committee proposal was for a pilot program in the Flagler College area that would impact the students, which was fine; however, Flagler was trying to cooperate with the City by providing parking spaces for students on Malaga Street and in the VIC parking garage. Therefore, he said that a pilot program could create conflict in a sensitive situation. He suggested that the Parking Committee could plan the program.

Mr. Harriss questioned, for the record, whether the Commission wanted him to ignore legal counsel and place decal parking throughout the City.

Commissioner Burk suggested that legal counsel had not been definitive whether that portion of Avenida Menendez could be designated restricted parking.

Mr. Harriss said that one side of the street or the other was nebulous. He said that he wanted an answer on the record, as he did not want the decision to be his responsibility, but rather, a direction of the Commission.

Commissioner Crichlow stated that the City should move forward with the decal system in some way and before the parking garage. He said that he was not suggesting the decal system for Avenida Menendez, but he would like to see the reserve parking signs on the residential portion of the west side of Avenida Menendez, and he did not know why they could not do so at that time.

Commissioner Burk suggested that perhaps some of the City privately owned parking lots, which were not subject to the type of public access and right-of-way parking laws, could be used for designated residential parking. She pointed out that they did not have to go into depth on the matter at that time, but they needed to get into it quickly.

Mr. Harriss stated that he would provide the Commission with a residential decal program prohibiting anyone from parking on the west side of Avenida Menendez for the subsequent meeting.

Commissioner Jones cautioned that the matter was not definitive, as the Commissioners needed more discussion regarding the matter.

Mayor Gardner recommended, in lieu of the content of the agenda, that the City Manager present a plan in that direction for the subsequent meeting. He pointed out that they would also have to find a means of enforcement, such as vehicle identification, how residential guests would be covered and a lot of other aspects. He suggested giving staff until the next meeting to put something together.

Commissioner Burk said it appeared that all the Commissioners agreed they would eventually have residential decals; therefore, she would like to define the

parameters, such as how the decals would be sold, design of the decals and how they would be fixed to the vehicle and all the other necessary requirements.

Mr. Harriss stated that it would be done by the following week.

Commissioner Crichlow questioned whether they were talking about a decal system or reserved parking signs.

Mayor Gardner stated that he was in favor of the reserved parking signs; however, that situation would pose an enforcement dilemma, and he questioned how enforcement would identify the vehicles.

Commissioner Burk said by using decals. She said that if they were going to provide parking for City residents there had to be a way of identifying them.

Commissioner Jones pointed out that they were discussing 3-4 issues and the current discussion had not achieved a decision on any of them. He said the speaker had inquired about the unique problem in her neighborhood and the City Attorney had provided his legal position; therefore, they had to address the speaker's issue, not the situation for the entire City. He said that they already had a parking committee working on the issues they had spent so much time talking about. He suggested that the parking committee report their progress on the matter, but currently they should separate the issues.

Mr. Harriss stated that his intention was to have one program for the south bayfront, and he would provide a report on how the program would function.

Commissioner Jones questioned whether the City Attorney was being clear about the legality; therefore, he said that he would like the City Attorney to seek a definitive answer, because he would be accountable for his advice to the Commissioners.

Mr. Jim Wilson replied that case law indicated the City could institute a decal program in an actual neighborhood, but there was not a lot of litigation regarding parking spaces in the State of Florida, simply because it was not economical. He said the current quandary was a decal program on one side of the street where there was mixed use throughout the area. He said that they could try it, see how it worked and deal with any litigation as it came up.

Commissioner Jones questioned whether the City Attorney would advise the Commission to start a pilot program on the aforementioned section of Avenida Menendez.

Mr. Wilson said that when in doubt he would restrict a pilot program to the smallest area possible.

Mr. Harriss questioned who defined a resident, and whether it would be only the residents living on the street.

Commissioner Burk said she never had the intention of splitting up residents.

Commissioner Jones responded that the residents would be of the City of St. Augustine.

Mr. Harriss said anyone that could prove residency.

Commissioner Burk added, with a vehicle registered to the address of the resident.

Mr. Harriss said he wanted to be certain that the residents were aware they would not have rights to a particular parking space.

Commissioner Jones stated that as a resident of the City he would not want to get a ticket for parking on any City street.

Commissioner Boles questioned whether they could refer the query to the parking committee.

Mr. Harriss replied that the committee had considered the matter at length, and no definitive method had been discovered.

Commissioner Boles questioned why the Commissioners would want to jump off the program with the one City parking committee that could not find a solution to the problem.

Mr. Harriss said that the committee was concerned with the Fifth District Court of Appeals case.

Commissioner Burk stated that she would like to read that case.

Mayor Gardner stated that he would like City Staff to proceed with a resident only parking program on the west side of Avenida Menendez between St. Francis and Bridge Streets and report to the Commission during the subsequent meeting.

A discussion determined that without objection the Mayors direction was the consensus of the Commission.

5. PRESENTATIONS AND STAFF REPORTS

5.A/ Presentation by the St. Augustine High School Football Boosters.

Bonnie Hatfield and Roy Meese of the St. Augustine High School Football Boosters Club acknowledged the Commission with a plaque in appreciation for their support during the 2004 football season.

5.B/ Staff report by Paul Williamson, Director of Public Affairs, regarding Public Information Plan for the Aggregation Ordinance.

Mr. Williams reported that he would list seven different avenues to inform the community of a workshop regarding the aggregation ordinance:

- Water bill inserts

- Advertising in the St. Augustine Record in the public notice and display sections
- Local Radio and Government TV
- E-mail several times to as many people as possible
- Chamber of Commerce
- City Web site
- Information Hotline in the Planning and Building Department

Mr. Williamson said that as soon as a date was set for the workshop staff would begin working on the matter.

Mayor Gardner questioned whether it would make sense to do a mailing to property owners affected by the ordinance.

Commissioner Crichlow replied that it would be time consuming and expensive, and he was not certain that they would reach everyone that way either. He added that no matter what method the City used they would not achieve 100% coverage.

Commissioner Burk suggested that inserts in the water bills include a request that tenants pass the information on to their landlords.

Mr. Harriss agreed and suggested using language that would be eye catching for the public.

Mayor Gardner said that the strongest part of the debate had to do with the developer that had no sense of the character of the community; therefore, they would build to the max. He said the most likely candidates for the greatest profit would be the out of state property owners.

Commissioner Crichlow said that he was not sure how to reach those property owners, and he invited Irene Arriola, member of the Aggregation Task Force, to speak about the matter.

Ms. Arriola said that through information from St. Johns County and with some work on her part it would be possible to define a mailing list of those property owners that lived out of state.

Mr. Harriss questioned whether St. Johns County had the City's zoning categories in their Property Appraiser's database.

Ms. Arriola replied that they did not, but she would have to sort it out according to the City map.

Mr. Harriss said that would be a lot of leg work, as staff had done that sort of thing for properties off the tax rolls and it had taken 3-4 people approximately 3-4 weeks, as the query would have to be conducted by parcel number, plus consistency would be necessary in effort not to miss anyone.

Ms. Arriola agreed, and she stated that she would rather send a letter to all property owners.

Commissioner Boles stated that he would also want all property owners that lived in the City notified by mail. He said that he was most concerned about the local population that needed to take part in the process, so they would not feel as though City Government was trying to tell them what to do. He said the City should not try to persuade the local population about the ordinance, they should get their input about what had been recommended by the task force.

Commissioner Crichlow presented the example of the property situation they had just remanded to the PZB where there were three nonconforming lots in RS-1 with large oak trees on them. He said that if the aggregation ordinance was in force the developer would only be able to build two homes instead of three, which would have saved some of the old oak trees. He added that the developer was from Boise Idaho. He said development of nonconforming lots was happening, and they needed to address the situation. He concluded that Ms. Arriola was willing to look into the mailing situation and report to the Commission as to whether or not it was possible to separate the zoning districts for mailing purposes.

Ms. Arriola stated that with the help of real estate software it was possible to sort the properties, and she would be happy to take on the task. She stated that the task force had always wanted to get the word out to everyone as the matter was complicated.

Commissioner Boles said that it would be tougher to limit the mailing to RS-1 and RS-2 than to do a bulk mailing to the entire zip code.

Ms. Arriola noted that the proposed hotline would also help inform the public whether they lived in RS-1 or RS-2.

5.C/ Presentation by Paul Williamson, Director of Public Affairs, regarding Super Bowl XXXIX Events.

Mr. Williamson reported that the City had learned that the Super Bowl event attracted fewer people for a shorter period of time than the large regional events. He said that the weather had also been a factor in keeping the visitors at the center of the event. He said the Spanish Quarter had been open and free for 10-days with hours extended until 9:00 p.m. He said they also held the changing of the guard, which had evolved into a big City event. He said they had initiated townfolk, which was re-enactors in assigned areas on the street working in shifts to interact with visitors to provide information using a reference guide that had been developed by the Visitors Convention Bureau. He said the townfolk had been well received by the merchants and the Tourist Development Council; therefore, they would continue townfolk for the 6-8 busiest weekends of the year. He said that 70 re-enactors also worked over 2,500 hours during the 10-day period at the airport, Fort Mose and Media Nights sponsored in Jacksonville. He reported that the VIC parking was absolutely flat and right where it had been the year before, indicating that the regular visitors had not been in town. He said that the City had been successful regarding media coverage. He elaborated about the two minute piece called *Window of America* featuring the City on the Good Morning America show on Super Bowl Sunday. He emphasized that the two minutes of air time was worth \$150,000 and good public relations for the City. He concluded that Jacksonville had succeeded with the event, and it proved to be positive for the entire first coast. He offered to answer questions.

Commissioners Jones and Crichlow acknowledged the success of the event and staff's part in making it so.

6. ITEMS BY CITY ATTORNEY

Mr. Wilson reported that he had received an e-mail forwarded to him by the Mayor from one of the groups, ACCESS NOW, which sued the City. He cautioned the Commissioners that the group had no business contacting the City Commissioners, and if any of the Commissioners were contacted to please inform him. He added that he would be in contact with the group regarding the matter.

7. ITEMS BY CITY CLERK

7.A/ Notification of Proclamations.

Martha V. (Nell) Porter, City Clerk, reported that before the Commission was the list of proclamations issued for the year.

2005-01 - Arbor Day

2005-02 - Recognizing Kay Burin's retirement from the Art Association

2005-03 - R. B. Hunt Elementary School 50th Anniversary

2005-04 - Recognizing Reverend Thomas Wright and Reverend Thomas B. De Sue as heroes of the Civil Rights Movement

2005-05 - Recognition of Miss St. Augustine Scholarship Pageant

7.B/ Consideration of one appointment to the Historic Preservation Advisory Committee.

Ms. Porter stated that Robert Hall and Karen Harvey were appointed during the January 10, 2005 meeting, and the Commission should select the third committee member from the following list of applicants:

1. Algid Ambrose, 30 Desoto Place
2. Robin E. Moore, 162 Nautilus Rd
3. Rosalie Russo, 348 Charlotte
4. William Spencer, 11 Aviles Street

The Commissioners voted by written ballot and selected Robin E. Moore to serve on HPAC.

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/ Release of Lien on Unit Connection Fee Mortgage relative to property located at 470 McCullough Street.

8.A.3/ Consideration of a Submerged Lands Easement with Florida Power and Light Company.

8.A.4/ Ratification of Collective Bargaining Agreement with the Professional Firefighters of St. Augustine, Local 2282.

8.A.5/ Consideration of Memorandum of Understanding with the Coastal Florida Police Benevolent Association regarding change in shift schedule and rotation.

8.A.6/ Approval of Grant Award through the Assistance to Firefighters Grant Program.

MOTION

Commissioner Boles MOVED to approve Items 8.A.1. through 8.A.6. on the Consent Agenda as presented. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.

Mayor Gardner acknowledged Fire Marshal John Rayno for the effort he put forth in acquiring the grant.

Mr. Harriss said the Florida Power and Light submerged land easement regarded the bottomland on Vilano Beach adjacent to the Vilano Bridge to directional drill and remove the existing towers, which would improve the scenic vista.

8. B/ Discussion Items

(None Scheduled)

9. ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Boles — Mooring Field

Commissioner Boles questioned whether he was authorized to make contact with Vero Beach regarding their success with mooring fields, and he was encouraged to carry on.

City Charter

Commissioner Boles stated that the subject of potentially designating one seat as the Mayor's seat to avoid the need for Commissioners to run against one another had been a campaign issue. He said he felt certain that the matter would require a

charter amendment. He stated that he had spoken to the Supervisor of Elections, and she recommended if the City was going to have a special election that it be conducted in March of 2006. He said that if they had a special election they could do numerous things like a referendum or questions of interest; therefore, using the election for their own purposes especially if there was something controversial where they required the entire City's opinion. He said that if the City was going to pay for it they could use the election as an information gathering tool, which might help get the people out to vote. He said that it had been a topic during the campaign, and they should get started on the matter if they were going to do it.

Mayor Gardner said that Commissioner Jones had recommended four, four-year seats and one two-year seat and the two-year seat would be the Mayor's seat. He questioned how long it had been since the Charter had been reviewed and whether there were other elements in the Charter that should be reviewed; therefore, he suggested appointing a Charter Review Committee.

Mr. Wilson said that much of the Charter went back to the old Special Acts of Florida. He said that there had been a re-adoption and review of the Charter some time in the past 15-years.

Commissioner Boles said that if they were going to conduct a review they would have to get a committee working pretty quickly.

Mayor Gardner agreed and suggested that the each Commissioner appoint two members to the committee during the subsequent meeting and also encourage citizens to apply for appointment.

Mr. Harriss stated that the Commission action to place the matter in the elections office would require that once the Commission voted on the matter that an election take place within 60-120 days; therefore, a decision to hold a special election would have to be made by Christmas 2005.

A brief discussion determined that the Commission would appoint members to the City of St. Augustine Charter Review Committee during the subsequent meeting.

Commissioner Jones — Special Election

Commissioner Jones noted that he was the Commissioner that had introduced the matter of making the Mayor position a two-year seat, and he was in favor of reviewing the situation. He said that calling a special election would cost money, and he questioned what the cost would be. He said that the matter could be on the 2006 election and go into effect in 2008 without further cost to the taxpayers.

Commissioner Crichlow — Northeast Regional Planning Council

Commissioner Crichlow said that he had the opportunity to talk with Tom Rivers of the Port Authority while attending the Northeast Regional Planning Council meeting. He said that Mr. Rivers was interested in discussion regarding boat ramps and moorings etc. with the Commission. He suggested that Mr. Rivers would be a good contact for Commissioner Boles. He suggested a workshop with the Commission and the Port Authority to discuss the proposed mooring field.

Mayor Gardner — Announcements

Mayor Gardner delivered announcements regarding people and community events.

10. Appeals and Public Hearings

10.A/ Public hearing and appeal of a Planning and Zoning Board decision relative to property located at 36 May Street.

(Remanded to PZB)

11. RESOLUTIONS AND ORDINANCES

(To include public hearing)

11.A/ Resolutions

11.A.1/ Consideration of Resolution 2005-03, amending Resolution 2004-30 pertaining to the issuance of Proclamations.

Mr. Harriss reported that the resolution clarified the notification and wording for proclamations.

MOTION

Commissioner Burk MOVED to approve Resolution 2005-03. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.

11.A.2/ Consideration of Resolution 2005-05, modifying the Architectural Guidelines for the Historic Preservation (AGHP) to incorporate pre-approved replacement materials.

Mr. Knight reported that the resolution had been developed in response to a presentation by Robert Hall during the previous HARB meeting, as concerns had been raised about roof repairs after the hurricanes. He explained that many people had to wait for HARB approval. He said they had included shutters that met the building code that would not require HARB approval in the resolution. He said that the HARB had also established a building height regulation guideline, a paint scheme schedule and a sign guideline for standard pre-approved fixtures for lighting signs.

Commissioner Crichlow expressed concern about how they would define the items, as nebulous references could be misinterpreted. He said the height requirement did not limit the height, but required that the height be compatible with surrounding structures.

Mayor Gardner noted that the resolution gave the HARB the authority to limit height.

Mr. Knight replied that the resolution provided the HARB with more direction regarding height in terms of mass and scale.

Commissioner Boles suggested that the height requirement would be difficult to determine without measuring buildings, and without clarity it would cause trouble in the future. He said that the community awareness was that the maximum height for the City was 35-feet. He suggested eliminated the term *surrounding buildings*, because the term was nebulous. He recommended tightening the resolution.

Mr. Knight said that the Commission could further revise the resolution.

Mayor Gardner questioned whether the resolution would provide the HARB with a higher level of comfort regarding applications concerning the HP districts.

Mr. Knight stated that he believed the resolution was a response to Mr. Hall's concerns.

Mr. Harriss stated that he had a problem with the height guideline as it was inconsistent with the existing Code allowing a 35-foot height restriction, and he said that the City Attorney agreed with his concern.

Mayor Gardner stated that there came a time when governmental elected bodies had to stand up and say they were going to change the law. He said that in the HP districts the City was telling people what they could do with their property, which was an invasion of property rights, but it was the community's sense of what they wanted the HP districts to be. He said that HARB and PZB had met and spent extensive time on the resolution, and they had done an extraordinary amount of work, but so much was subjective. He said that legally there came a time when they had to try to set forth what they believed the community wanted.

Commissioner Burk said that the wording was less subjective than using mass and scale.

Commissioner Jones questioned how the City Attorney had advised the boards regarding the recommendation.

Mr. Wilson replied that the resolution was developed more from Mr. Hall's presentation than what the boards had discussed. He said that the resolution was somewhat vague and hard to apply or enforce and when in conflict with an ordinance it would not hold any power. He said that if it was up to him he would leave the height for ordinance control

Mayor Gardner said that he would rather put something on the books with Commission endorsement in any form that indicated what the community would like than be scared into doing nothing because of the possibility of someone suing the City. He stated that they could not continue to run away from lawyers, and he referred to the Entrance Corridor Guidelines, which were subjective.

Commissioner Burk stated that there was no way that the guideline could be construed to allow a height greater than that allowed by zoning. She said that they did not want the resolution to be interpreted as subjective beyond the zoning laws.

Mr. Wilson agreed, but he said that the way to handle the height portion was by ordinance and not resolution. He said that it was not a matter of running away from

lawsuits it was a matter of doing it right the first time. He said that it was the will of the Commission and the people to do something, but it should be done under the correct procedure in order to be enforceable.

Commissioner Jones stated that Mr. Wilson was legal advisor to the Commission, and he would appreciate it if Mr. Wilson was prepared to provide his legal opinion regarding the legality and appropriateness of an action as well as the risk involved, because he had to base his vote on the risk involved. He said that he did not want to put the citizens at risk or deny them their rights because of the desire on the part of some others. He asked that Mr. Wilson be prepared. He agreed that the height portion of the resolution was vague, and he suggested striking that portion for further examination and development of a clearer definition.

Commissioner Burk questioned whether mass and scale was part of the HARB Architectural Guidelines.

Mr. Wilson responded affirmatively but said that mass and scale had never been used to change the height of a structure.

Commissioner Burk stated that mass and scale had been used numerous times regarding the Monson (Hilton); therefore, the City had received a great product. She said that the resolution was less subjective and ambiguous than mass and scale, which was part of the guidelines.

Commissioner Jones pointed out that if there was one 35-foot tall structure in the vicinity and another 29-foot tall structure it could create a problem in terms of mass and scale.

Mr. Wilson said that the new Hilton had been constructed to meet the proportions of the surrounding structures, but mass and scale had never been used to regulate building height, because height was established in the Code. He said that he would prefer to handle the matter by ordinance to avoid concern regarding legal challenge. He said that they could have an ordinance through the public process in 4-6 weeks, which would be sustainable.

Commissioner Jones questioned whether the Commissioners objected to dealing with the height matter by ordinance as recommended by the City Attorney.

Commissioner Crichlow questioned whether any consideration had been given to limiting the height of buildings according to their style. He said that different styles, such as Spanish Colonial or Victorian etc. were fairly definitive in height.

Mr. Knight said there had been some focus on Spanish Colonial buildings and their height, but he did not recall any further discussion regarding individual buildings and heights.

Commissioner Crichlow stated that if they wanted to be more objective regarding height, looking at specific styles could be an approach. He said that some folks felt that many of the Colonial buildings were not being built according to true scale. He reiterated that there might be a way to define height as it related to architectural style.

Mr. Wilson stated that Mr. Hall's concern was regarding the first and second period Spanish structures.

Commissioner Crichlow stated that there were other buildings within the districts that were not Colonial. He said that they currently had a resolution on the books indicating that any style could be built in an area as long as it was compatible with the surrounding structures, but the buildings could not be built out of proportion.

Commissioner Burk suggested that they bring the resolution back for a better definition of roofs and perhaps Commissioner Crichlow could help define the specifics and take the building height guidelines out of the resolution, as that portion required more work.

MOTION

Commissioner Crichlow MOVED to approve Resolution 2005-05, but removing the portion regarding building height guidelines.

Commissioner Burk interjected that they could not approve the resolution at that time, as the amendments had not been defined.

Mr. Harriss suggested that Mr. Crichlow write down the specifics regarding the amendments.

MOTION

Commissioner Boles MOVED to table Resolution 2005-05. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.

11.B/ Ordinances - First Reading

11.B.1/ Introduction and consideration of Ordinance 2005-03, concerning a Petition for Voluntary Annexation of property located at 21 Casanova Road.

Mr. Knight reported that the property in question was approximately 1.5 acres located on the south side of Casanova Road with half of the property located in the City and the other half located in the County. He said that the portion located inside the City was in the residential low density land use category and residential single family two zoning category. He explained that the applicant was seeking to subdivide the property into five lots, which had been approved by the PZB contingent upon annexation, with a designation of residential low density on the portion located inside the City and a zoning designation of RS-2 on the portion outside of the City. He said that all three ordinances brought the property into the City while remaining consistent with the portion existing inside of the City. He offered to answer any questions.

Mayor Gardner questioned the difference between residential low density and single family two.

Mr. Knight replied that residential low density allowed for residential single family one and residential single family two with a maximum of eight units per acre and provided for single family dwellings. He said that RS-1 and RS-2 zoning had different lot sizes, lot coverage and setbacks.

Mayor Gardner noted that RS-2 was more lenient than RS-1.

Commissioner Crichlow questioned whether the lots were conforming and the response was affirmative.

Mr. Wilson recommended approving the petition first and making separate motions on each ordinance.

Mayor Gardner said that he had received communication from one party that was opposed to the Commission taking action. However, he said that there would be opportunity for public hearing during the second reading.

Mr. Knight stated that the public hearing would be held during the March 14th meeting in order to provide time for appropriate advertising.

MOTION

Commissioner Burk MOVED to approve the petition for voluntary annexation. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.

MOTION

Commissioner Burk MOVED to place Ordinance 2005-03 on first reading, read by title and approved. Commissioner Jones SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2005-03

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ANNEXING APPROXIMATELY 1.51 ACRES OF PROPERTY IN ST. JOHNS COUNTY, FLORIDA, LYING ON THE SOUTH SIDE OF CASANOVA ROAD, WEST OF FANCHER COURT, 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, Jones, Crichlow, Boles,

Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

11.B.2/ Introduction and consideration of Ordinance 2005-04, designating property located at 21 Casanova Road as Residential Low Density.

MOTION

Commissioner Burk MOVED to place Ordinance 2005-04 on first reading, read by title and approved. Commissioner Jones SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2005-04

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CITY OF ST. AUGUSTINE COMPREHENSIVE PLAN, FUTURE LAND USE MAP, TO INCORPORATE AND DESIGNATE APPROXIMATELY 1.51 ACRES OF PROPERTY, LYING ON THE SOUTH SIDE OF CASANOVA ROAD, WEST OF FANCHER COURT, AS RESIDENTIAL LOW DENSITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Burk, Jones, Boles, Crichlow,

Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

11.B.3/ Introduction and Consideration of Ordinance 2005-05, establishing a zoning classification of Residential, Single-Family-Two for property located at 21 Casanova Road.

MOTION

Commissioner Burk MOVED to place Ordinance 2005-05 on first reading, read by title and approved. Commissioner Crichlow SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2005-05

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ESTABLISHING THE ZONING FOR PROPERTY CONTAINING APPROXIMATELY 1.51 ACRES LYING ON THE SOUTH SIDE OF CASANOVA ROAD, WEST OF FANCHER COURT, AS MORE PARTICULARLY DESCRIBED HEREINAFTER, TO THE CLASSIFICATION OF RESIDENTIAL, SINGLE-FAMILY-TWO (RS-2); REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Burk, Crichlow, Boles, Jones,

Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

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

(None Scheduled)

11.D/ Ordinances - Second Reading Public Hearing

11.D.1/ Public Hearing — Ordinance 2004-12, concerning a Petition for Voluntary Annexation of property located Northeast of Nix Boatyard Road.

Mr. Harriss noted that they could conduct one public hearing for the three ordinances, but they had to address the motions separately.

Mr. Knight reported that the property in question was located at the end of Nix Boatyard Road, and the applicant had requested annexation with a Marine Industrial Land Use Designation and a Planned Unit Development zoning category to accommodate a dry boat storage facility. He explained that approximately three years earlier the City had dealt with an application for a land use designation that allowed for a 50-foot height limit with a Marine Industrial Land Use Designation and a PUD that allowed a 50-foot height but restricted the lot coverage. He offered to answer questions.

Exparte Communications

Commissioner Crichlow reported that he had spoken with Mr. Polli and Mr. Genovar about the matter.

Commissioner Burk reported that she had spoken with Robert Genovar about the matter.

Commissioner Boles noted that he had spoken with Mr. Genovar.

Ron Brown, 66 Cuna Street, stated that he represented the applicants Phillip B. Genovar and Sonja Genovar-Janson. He said that the merits of the application had been discussed at length by the PZB and also by the Commission on first reading. He said that traditionally the property had a commercial use for a marina type of operation, but the property was currently in a dramatic state of disrepair. He said that the property had been owned by the Genovar family, and the Pellicer family had acquired a portion in the neighboring area. He explained that the Genovar's made their homes on the property, but none of those residential properties were a part of the application. He said that the idea was to turn the property in question into a working marina with a storage facility, which would provide improvement for the area along with a consistent use.

Mr. Brown stated that he wanted to control rumors, as there was rumor that the property in question would be used for some activities related to the construction of the Bridge of Lions. He said that Sonja Genovar had been approached with the proposition; however, she had refused the offer and she would continue to refuse it. He stated that the Genovar's planned to use the property for their purposes; they would not sell the property or acquire the development rights and sell them, as they wanted to operate a marina as a family business on the property. He said that the property in question was the ancestral property of the Genovar's, and they planned to continue to live there. He added that the Pellicer's owned some adjacent property and Genovar's had controlled a portion of the application process with 1.2 acres that they had purchased from the Pellicer's in a closing with title insurance issued. He read a letter from Hunt Bowman, President, St. Augustine Marine, Canvas and upholstery on Nix Boatyard Road in support of the Genovar's project.

Mayor Gardner questioned whether there were any current uses of the creek that would be cut off by the proposed project.

Mr. Brown replied that they anticipated no interference with any current uses, navigational uses or wildlife and marine circumstances.

Mr. Brown pointed out that the Pellicer's had another marine operation in the area and boats docked there, but his client's proposal would not interfere with any existing activities.

Commissioner Burk questioned whether all the property to be annexed was deeded to the applicants.

Mr. Brown replied that it was not yet deeded, as there was an easement purchased by the Genovar's the previous year, there was a purchase and sale contract and the closing would occur in the next couple of months.

Commissioner Burk stated that she had a problem annexing property which the applicant did not own. She said she could not annex property that was not deeded in the applicant's name.

Commissioner Crichlow questioned whether the Home Depot and Target property had been annexed into the City prior to the sale finalization.

Philip Genovar, 1715 Old Moultrie Road, was sworn and stated that he had annexed the Home Depot and Target property prior to closing.

Commissioner Burk stated that Mr. Pellicer was not on the application for the annexation. She said that she had no problem with the project, but she had a problem annexing someone's property that was not asking her to do so.

Commissioner Boles stated that contingent contracts went under City scrutiny all the time. He questioned whether the City had any application or any (inaudible).

Mr. Wilson said that the City had an affidavit on file from Jonathan Pellicer indicating that he owned the property, and he approved of and endorsed the petition for annexation into the City made by Philip and Sonja Genovar.

Mr. Brown stated that Mr. Pellicer had signed the authorization.

Commissioner Crichlow reiterated that it was an affidavit stating that the Pellicer's were in favor of the action.

A brief discussion revealed that a copy of the signed affidavit was included in the agenda packet.

Commissioner Boles said that the City Attorney was telling them that the affidavit would serve as a power of attorney.

Mr. Wilson responded that it was the procedure the City had followed on a number of previous occasions.

Commissioner Crichlow questioned whether anyone currently using the waterway would be adversely impacted by the proposal.

Mr. Brown replied that no activity currently existing would be adversely affected.

Commissioner Crichlow clarified that he was referring to adjacent property owners that had to traverse the channel.

Mr. Brown replied not to his knowledge.

Sonja Genovar Janson, 320A SR 312, was sworn and stated that no one would be affected, as the only deep water was in front of the boatyard. She described the area as it was related to the common channel.

Mr. Brown noted that any use of the water would be subject to all the agencies that had jurisdiction over it.

Mayor Gardner opened the public hearing.

The following speakers were sworn by the City Clerk:

Fernando Alonso, 1540 Arapaho Avenue, said that the channel was small and he had a boat that drew 5.5 feet; therefore, he could only use the channel at high tide. He said that he had been concerned that any work at the marina would cause him and his neighbor's problems. He said that the proposal should not disturb the waterway or the extensive wild and marine life in the waterway. He said that he had used and appreciated the channel since his childhood, and he wanted to be certain that it remained accessible.

Rick Barile, 5115 Shore Drive, stated that he was definitely in support of the dry boat storage proposal, because the local boat ramps were miserable. He concluded that the business would be an asset to the community.

Darrell Polli, 89 Magnolia Avenue, spoke in support of the project, as the services for the marine community were lacking.

Doug Crane, 3105 4th Street, stated that he had been a yacht broker for years and the City/County had a lack of slips. He said that there was a desperate need to eliminate some of the boat ramp traffic; therefore, the proposal would help for the time being.

Michael Nolan, 42 Water Street, stated that on behalf of the St. Augustine Yacht Club he wanted to express support for the marina and boating facility, as it was greatly needed in the community.

Mayor Gardner closed the public hearing.

Commissioner Crichlow questioned whether there was any way the City could do some maintenance dredging of the creek to have more water accessibility.

Ms. Genovar replied that it was Gonzales Creek and had nothing to do with her application, although she heard someone had broached the subject for accessibility to the Creekside Restaurant.

Commissioner Crichlow questioned whether the boat repair north of the property in question had access to the deep water channel.

Ms. Genovar replied that they used the same channel.

Commissioner Crichlow stated that they needed to see if they could get the channel tended to.

Mayor Gardner questioned whether the facility would be visible from US 1.

Ms. Genovar replied that it would not be visible from US 1.

Mayor Gardner questioned whether the boats would have direct access to the waterway.

Ms. Genovar replied that the building would not be located on the water to help with the visibility from the SR 312 Bridge, and they would use a big fork lift to get the boats to the water.

Mayor Gardner questioned the purpose of the PUD.

Mr. Brown replied that they wanted the PUD for the 50-foot height, which was necessary for the 192 storage units in the building. He added that they had situated the building to minimize visibility from the bridge and US 1, and the height was consistent with some of the other structures in the area. He added that they were trying to find a way to provide flexibility while complying with City Codes in a manner that would maximize the use of the property; moreover, the PUD worked.

Commissioner Crichlow questioned what specifically the marine zoning would not provide that the PUD would provide.

Mr. Knight replied that the land use category was established for a dry boat storage facility on Iberia Street, and the only way to get the 50-foot height had been through a PUD within that Marine Industrial Land Use Category, as without the PUD the height would have been limited to 35-feet. He added that for conservation zone development approval the archaeology ordinance would be automatically exercised.

Mr. Harriss added that while the land use allowed for the project, developers would not be allowed to build automatically, as they would have to go before the Commission with the PUD.

A brief discussion ensued regarding the previous Marine Industrial Land Use and PUD on Iberia Street.

Mr. Brown pointed out and assured the Commission that they were not asking the City for approval of something that had not been available to them through the County. He stated that the Genovar's preferred dealing with the City.

Mayor Gardner questioned whether the project would be going before the PZB again.

Mr. Knight replied that the Genovar's had submitted their site plan; therefore, they would not be required to go before the PZB again as long as they developed according to the plan.

Mr. Harriss said that as a result of Commissioner Burk's recommendation they were making strides toward changing the ordinance to require that the site plan be part of the PUD from the beginning, which would allow the Commission to see what they were voting on.

Commissioner Jones questioned what the City was getting out of the PUD.

Mr. Knight replied that there was no dry boat storage facility parking space criterion; therefore, the City knew the exact number of parking spaces that would be available on the project. He said that the property would also require archaeological excavation according to the ordinance.

Commissioner Jones questioned whether the applicant would have to provide any type of buffers or landscaping.

Mr. Knight replied negatively.

MOTION

Commissioner Jones MOVED to place Ordinance 2004-12 on second reading, read by title only and approved. Commissioner Crichlow SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2004-12

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ANNEXING APPROXIMATELY 8.92 ACRES OF PROPERTY IN ST. JOHNS COUNTY, FLORIDA, LYING EAST OF U.S. HIGHWAY 1 AND NORTHEAST OF THE TERMINUS OF NIX BOATYARD ROAD, 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: Jones, Crichlow, Burk, Boles,

Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

11.D.2/ Public Hearing — Ordinance 2005-01, designating property located Northeast of Nix Boatyard Road as Marine Industrial.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2005-01 on second reading, read by title only and approved. Commissioner Jones SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2005-01

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CITY OF ST. AUGUSTINE COMPREHENSIVE PLAN, FUTURE LAND USE MAP, TO INCORPORATE AND DESIGNATE APPROXIMATELY 8.92 ACRES OF PROPERTY, LYING EAST OF U.S. HIGHWAY 1 AND NORTHEAST OF THE TERMINUS OF NIX BOATYARD ROAD, AS MARINE INDUSTRIAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Crichlow, Jones, Boles, Burk,

Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

11.D.3/ Public Hearing — Ordinance 2005-02, establishing a Planned Unit Development (PUD) zoning designation relative to property located Northeast of Nix Boatyard Road.

MOTION

Commissioner Boles MOVED to place Ordinance 2005-02 on second reading, read by title only and approved. Commissioner Crichlow SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2005-02

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ESTABLISHING THE GENOVAR ANNEXATION PLANNED UNIT DEVELOPMENT (PUD) PURSUANT TO SECTION 28-289 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR TERMS AND CONDITIONS OF THE PUD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

VOTE ON MOTION

AYES: Boles, Crichlow, Jones, Burk,

Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

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 7:44 p.m.

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MAYOR

CITY CLERK