

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
June 27, 2005

The City Commission met in a formal session Monday, June 27, 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
James Whitehouse, Staff Attorney
Paul K. Williamson, Director, Public Affairs
Kevin Stark, Assistant Chief of Police
James Owens, Fire Chief
Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

In the absence of Reverend Randy Hezekiah Jr. of the Shiloh Baptist Church, Reverend Helen Tobey volunteered to deliver the invocation and Commissioner Jones led the Pledge of Allegiance. Shortly after the meeting began Reverend Hezekiah arrived explaining that he had been detained in traffic, and he delivered his invocation.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

(None)

3.B/ Approval of Minutes

The minutes of the regular City Commission meeting of June 13, 2005 were approved as presented.

3.C/ Proclamations

(None Scheduled)

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

Helen M. Tobey, 520 Florida Club Boulevard, suggested a program between the courts and the police departments to get drug and alcohol addicts off the street and into treatment. She said that there were numbers

of addicts currently clogging the jail system. She suggested an interdenominational outreach program and said that they wanted to start the program in St. Augustine; moreover, they would give the Commission all the help they needed if the Commission worked with them.

Mayor Gardner suggested that she present an outline to the Commissioners for review.

B. J. Kalaidi, 8 Newcomb Street, stated that Ordinance 2005-19 with section 20-160 in Chapter 28 of the Code established a height restriction for nonconforming lots in RS-1 and RS-2, but the ordinance should not be read during the meeting, because there had not been a workshop for the Aggregation Ordinance as promised. She pointed out that the proposed height ordinance had been lifted from the Aggregation Ordinance that was written by the \$170 an hour attorney. She said that the public had not had their say since the work shop was proposed, and it was her personal opinion that the Commission was trying to sneak something in.

Patricia Lowe de Parets, 67 Marine Street, spoke regarding the residential parking permit program using the Charleston, South Carolina program as an example. She encouraged the Commission to initiate the parking program on Avenida Menendez.

Leslie Keys and Elizabeth Holiday, Old Town Association, presented the Commission with a certificate of appreciation acknowledging their help in accomplishing projects.

Edward Sargent McCarthy, 220 West King Street, Treasurer of SPARS (Sailors, Paddlers and Rowers), a nonprofit 501-C3 incorporated group of volunteers, spoke regarding a community driven program of small boating for children ranging from ages 8-16 and regardless of abilities or financial where-with-all. He said that the instructors were properly certified, and SPARS carried the necessary insurance and documentation to satisfy all state, county, city and US Coast Guard requirements and regulations. He listed their needs as follows:

- Clean, safe boat launch that SPARS would help maintain
- Small boat and equipment storage on a long-term basis
- Classroom facility
- Bathroom and shower facility
- Support of the local government and businesses

Mr. McCarthy said they had the support of SAYC through the availability of their five sailing dinghies for the sailing program, they acquired a 20-foot motorized chase boat and they had received donations. He welcomed further support from the Commission and the community.

Nancy Jane Campbell, 250 Parkview Drive, stated that she was an American Artist and composer. She requested use of the Lighthouse Restaurant for a theater restaurant with the Puppeteers and Players.

Gail Burnick, 101 Kings Ferry Way, suggested that the HARB demolition ordinance should be more restrictive by making the waiting period for demolition a minimum of five years, and three years being the minimum time to change the current system. She pointed out that many people would like to see HARB say no, and the only other alternative would be the courts. She concluded that two-years were not long enough. She encouraged the Commissioners to strengthen preservation.

5. PRESENTATIONS AND STAFF REPORTS

5.A/ Presentation regarding the Lighthouse Park Restaurant.

Timothy A. Burchfield, Chief Administrative Officer, reported that the former tenant had vacated the building and City crews had made necessary modifications to the building over the past two weeks. He said that the building had been a restaurant for 18-years, and he requested the Commissioners direction for the future of the building.

Mr. Harriss explained that the situation was the result of Jakes Seagull Bait and Tackle Shop. He said that when the shop had been torn down the vision of that Commission was a bait shop that sold snacks and they had tried to do so for the past 18-years; however, the situation had always been difficult.

Commissioner Boles stated that the revenue generated from the property had decreased.

Mr. Harriss said that the revenue was minimal and certainly not what the property was worth under current market conditions. He said that if the restaurant was successful the City would make more revenue; however, the neighbors would object; therefore, it was not the best area for a busy restaurant. He added that the primary reason for the business was for the restaurant restrooms which served the tennis courts, boat ramp, pier and park, which was part of the rent for the operator of the restaurant who opened, cleaned and operated the restrooms.

Commissioner Boles said that a moderately successful restaurant would work for the neighborhood, but a successful business would impact the neighborhood negatively. He said that under those circumstances he did not want to consider a restaurant in the location. He said that historically the business was a bait and tackle shop, but it had not proved successful; therefore, they would have to have a first class bait and tackle shop to attract customers or explore some other use. He stated that if they were going to explore other uses that they put the location out for RFP and see who responded, as he thought they should be considering the site a revenue source.

Commissioner Burk said that whatever they chose she would prefer that it was for public use, as the site was beautiful. She suggested that it could be a restaurant a community center or a combination of both. She said that people enjoyed the availability of food before or after boating, if only snacks. She said that she was opposed to any closed private use for the site.

Commissioner Crichlow said that he agreed with Commissioner Boles. He said that the City had to provide restrooms for the site regardless of what they decided to try at the location. He questioned whether an RFP would be based on use or the amount of money.

Commissioner Boles said that he did not want to limit the use. He suggested that they might want to put a City marina with slips in the location. He stated that he would like to hear from the community through proposals for the location.

Commissioner Crichlow questioned how they would handle the proposals.

Mr. Harriss replied that the Commission could establish whatever criterion they desired but he had no great suggestion on how to rate the proposals. He said that ideally they would rank on the established criterion and bring the list to the Commission, but there was no group to rate it. He said that perhaps they would develop a decision, based on the proposals, as to what they wanted and then go for a more specific RFP. He pointed out that they could not continue the business as it was, because the tenant had been unable to pay the rent. He added that a marina had some possibilities, and he said that perhaps the City should submit a RFP.

Mayor Gardner stated that it would be a difficult decision to make, and they had to keep the revenue aspect in mind but public space was critical to the community. He suggested that they take the maintenance cost for the property into consideration as part of the rent or make it the tenant's responsibility.

Mr. Burchfield said that the previous lease rendered the tenant responsible for the interior and the City responsible for the exterior of the building and the grounds.

Mayor Gardner suggested that they talk with a consultant about the market for rents.

Mr. Burchfield replied that he had spoken with a local appraiser about the market value,

and it depended upon what sort of business they leased to.

Commissioner Jones stated that if they divided the building and had a couple of tenants they might get a reasonable rent without burdening one tenant. He suggested that staff bring all the ideas back to the Commission to review and eliminate the inappropriate ones, followed by issuing a RFP to see who was interested in the site.

5.B/ Presentation regarding the Spanish Quarter Museum Request for Qualifications.

Mr. Burchfield stated that the Commission had instructed staff to acquire RFQ's for a business model plan for the Spanish Quarter Museum. He said that the RFQ went out in late April, and they had received three by the due date that were reviewed and graded by Dr. Adams, Jason Sheffield and himself. He said that the first three rankings were as follows:

1. Atelier, Alameda, CA
2. Lord, Toronton. ON
3. St. Augustine Lighthouse

Mr. Burchfield requested the Commission's direction to negotiate with Atelier to develop a plan to look at the operations that would not be affected by any plans for the orientation center and negotiate further after the decision was made about the center.

Commissioner Boles questioned how the RFQ was issued, and he was informed that it was through the City website and the local newspaper. He questioned whether there was a way to advertise nation wide, as it worried him that their scope was so narrow when there had to be people out there that had creative solutions to similar circumstances. He suggested that the City might have to search under historical property management, send out RFQ's and convince other consultants to submit. He concluded that he would like the City to search further before making a decision.

Mr. Harriss said that the City was not advertising the Spanish Quarter Museum as a large marketing program; therefore, they had searched as wide as they could when considering their resources.

Commissioner Boles questioned whether staff was waiting to see where the orientation center would be located and whether they would have joint tickets before doing anything else, because that situation would not address what the City was selling.

Mr. Burchfield said that they wanted the consultant to review the situation for marketing with the gift shop and the VIC gift shop until the orientation center was established.

Commissioner Boles said that he was not certain whether they were any closer to a decision regarding the orientation center.

Mayor Gardner questioned when the National Park Service would be making their decision.

Dr. Adams replied that it was supposed to be made in June or July. He said that he had a meeting with the superintendent on Wednesday, and perhaps he would get an answer at that time.

Commissioner Boles questioned whether they would know the location in a month.

Dr. Adams said that they would know the preferred location within a month, then they would try to convince them to select a different location, if they could get all the parties involved to make an offer.

Commissioner Boles said that the Park Service was not aware of the City's desire for the location.

Dr. Adams replied that they were not aware at that time.

Commissioner Burk questioned how the evaluators had felt about the three options.

Mr. Burchfield replied that based on their credentials they were qualified to work on the matter.

Mayor Gardner stated that he had checked the Atelier website, and their accomplishments were impressive.

Mr. Harriss said that if they were not satisfied with Atelier's work they would look elsewhere. He said that they needed expertise for the City's product regardless of whether they joined forces with the park service.

Commissioner Boles questioned how Atelier would handle the situation.

Mr. Harriss replied that the first order of business would be to do an analysis and give the City an order of aspects for the Commission to consider.

Commissioner Crichlow said that if they were leaders in the industry he did not see a need to go out for further proposals. He said that they should begin negotiations with the top ranking firm, check out the costs and see how it went.

Mr. Harriss said that a task list with the associated prices was part of the contract; therefore, they would have an idea before they signed the contract.

Dr. Adams said that they wanted the company to look at their product and determine the effectivity and then determine how to sell the product. He stated that he was not certain that the three top ranking firms were marketing specialists, but the marketing possibilities in St. Augustine were limited. He suggested that all three of the firms had the capability of looking at the interpretive program. He added that the orientation center would not change the City's product.

MOTION

Commissioner Crichlow MOVED to proceed with negotiations with the top ranking company Atelier, and to design the criterion that the Commission would like them to help the Commission with. The motion was SECONDED by Commissioner Burk.

VOTE ON MOTION

AYES: Crichlow, Burk, Boles, Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

Non Agenda Item

John Regan, Chief Operations Officer reported that the City was on schedule with the reconstruction of Charlotte Street and the ribbon cutting would be held at 10:00 a.m. on Friday July 1, 2005. He said that it was a testament to the Public Works and Utilities Departments to completely rebuild the street and add a stormwater system in less than five weeks.

5.C/ Presentation of Draft Ordinance for the Residential Parking Program.

Mr. Regan said that along with the draft ordinance the Commission would need to pick a definition for *resident*. He said staff had created two different definitions that changed who could obtain a residential parking permit. He said that he compiled a brief containing *resident* definitions from the different cities they had studied regarding residential parking programs and that was where staff had developed the two definitions for *resident* that were shown on schedule A of the ordinance. He said that one definition was strict requiring valid ID, such as a driver's license and one proof of residency, such as a utility bill. He said that the other definition was broader allowing someone that owned property but did not reside in the City to obtain a permit. He offered to answer questions.

Commissioner Boles said that he assumed that if a driver's license was required that it would mean a Florida driver's license.

Mr. Regan said that other communities had taken two directions, one requiring a driver license with an address existing within the program area but a more common method was any driver's license along with some other proof of residency.

Mr. Harriss explained that the valid ID or driver's license was to prove that the person that presented a utility bill as proof of residency was indeed that person.

Commissioner Boles said that opened the door for renters or Flagler College students.

Mr. Regan replied that it would open the door for students that had apartments in the City limits, but they might have to tighten the definition, because they did not want students that lived in school dormitories to obtain the permits, as staff was working on another program for that situation.

Commissioner Boles questioned how the out of state or seasonal passes would work.

Mr. Regan said that they proposed an annual pass.

Commissioner Burk suggested requiring two proofs of residency.

Mr. Regan replied that was possible and it would tighten the population of who could obtain a permit.

Commissioner Crichlow pointed out that a number of the cities they studied restricted permits to residents of certain neighborhoods. He said he was not certain that was a popular idea, but he wondered whether they should be looking at a neighborhood residency instead of City wide residency.

Commissioner Boles questioned whether the permit would allow any resident of the City to go into the downtown area and park anywhere as long as they had a decal.

Mr. Regan replied that basically the ordinance allowed that situation, and that had been based on the Commission's opinion; however, the ordinance could be amended.

Mayor Gardner said the decision had been based on the fact that not every resident of the City would try to obtain a permit and not every area of the City would be included in the program.

Commissioner Burk stated that she was totally against dividing the City into groups for the program, because it would not create unity. She emphasized that she would never vote for separate districts within the City.

Commissioner Jones agreed with Commission Burk. He pointed out that five of the nine cities that were studied were open rather than limiting the program to districts. He said that all the citizens paid taxes; therefore, all the citizens should be included in the program and not just those within a particular neighborhood.

Mr. Harriss pointed out that was the way the ordinance was written.

Commissioner Burk pointed out that they could always amend the ordinance in the future to accommodate business owners or employees, but they needed to start someplace.

Commissioner Boles agreed that it was a work in progress, meaning that if they started the program and it turned into a nightmare they might have to change the rules. He said that the intention was to facilitate residents parking in their neighborhoods rather than visitors or commuters.

Commissioner Crichlow agreed it might solve the problem, and he said that he was willing to agree to the ordinance.

Mr. Regan stated that currently staff proposed charging \$30 for an annual permit and \$10 for a weekly guest pass.

A brief discussion determined that the permits would be attached to automobiles to prevent a resident from purchasing more permits than necessary.

MOTION

Commissioner Burk MOVED that option A be amended to require two proofs of residency and bring the ordinance back for first reading during the subsequent City Commission meeting. The motion

was **SECONDED** by Commissioner Crichlow.

Commissioner Boles questioned whether people who owned business property within the City limits but did not reside within the City limits would be allowed to purchase permits, and the response was negative.

Commissioner Crichlow questioned whether the ordinance allowed for parking in designated areas only.

Mr. Harriss replied affirmatively saying that the areas would be established by a designated need, and he added that they could not utilize the program on state roads.

Mr. Regan stated that some of the merchants were already asking to get on a waiting list for monthly parking passes for the new garage.

VOTE ON MOTION

AYES: Burk, Crichlow, Boles, Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

6. ITEMS BY CITY ATTORNEY

(None Scheduled)

7. ITEMS BY CITY CLERK

7.A/ Notification of Proclamations.

- 2005-27 American Business Women's Association.
- 2005-28 Certificate of Recognition – Richard J. Murray High School.

7.B/ Consideration of two appointments to the General Employees Retirement System Board of Trustees.

The City Clerk reported that there were two applicants as follows:

1. Jeffrey W. Helms, 400 N. Ponce de Leon Boulevard
2. James A. Swanson, 1940 Wildwood Drive

MOTION

Commissioner Jones **MOVED** that the two applications be appointed to the General Employees Retirement System Board of Trustees. The motion was **SECONDED** by Commissioner Burk and approved by **UNANIMOUS VOICE VOTE.**¹

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 a Unit Connection Fee Mortgage.

8.A.3/ Consideration of Proposals for the Visitor Information Center (VIC) Shuttle.

8.A.4/ Establishment of closing date for the sale of the San Sebastian Property.

Commissioner Jones asked for an explanation of 8.A.3.

Mr. Harriss replied that staff had issued a request for proposal for a shuttle system asking how the system would be run and how much they would charge the City, and they had received three responses. He said that the shuttle route was from the temporary parking lot to the VIC for those that could not or did not want to walk, and the Red Trains had charged zero dollars as they wanted to use the system as a way to distribute their brochure; however, they would not be able to sell their tickets on the shuttle.

MOTION

Commissioner Burk **MOVED** to approve Items 8.A.1. through 8.A.4. on the Consent Agenda. The motion was **SECONDED** by Commissioner Jones and approved by **UNANIMOUS VOICE VOTE.**

¹ End of audio tape one

8. B/ Discussion Items

8.B.1/ Consideration of a Petition for Voluntary Annexation and a Pre-Annexation Agreement for property located west of Hernandez Boulevard.

Mark Knight, Director, Planning and Building Department, reported that the applicant wanted to develop a ten lot subdivision in a RS-2 zoning district, and they needed a pre-annexation agreement because the water and sewer service would have to be provided by the county. He said that if the Commission approved the agreement it would go before the PZB on July 5th if the.

Mr. Harriss said that for the City to extend service for 10 houses would not be cost effective.

Commissioner Boles questioned why the City wanted the property.

Mr. Harriss said the only value for the City was approximately \$36,000 annual property taxes.

Commissioner Crichlow questioned whether the annexation would contribute to furthering annexation in the area.

Mr. Knight said there was a piece of property to the south that someone might choose to develop.

Mr. Harriss stated that the problem was whether they wanted to annex the property philosophically. He added that he had not sought out the property, and there were good and bad sides to the proposed annexation. Commissioner Boles pointed out that the recent shift in the county impact fees would increase the requests for annexations into the City.

Commissioner Burk questioned whether they would be increasing the density and what the zoning was in the area.

Mr. Knight said that the matter had not gone before the PZB yet; therefore, he was not sure what the county designation allowed.

Mayor Gardner said that it looked as though there was a lot of marshland on the site.

Mr. Knight replied that there was a large piece of marshland to the west that was not part of the annexation, because annexing all the way across would create an enclave, which was against state law.

Commissioner Boles said that if there was not a long-term cost benefit to the annexation it would not be worth it, and Mr. Harriss offered to explain the situation to him privately.

MOTION

Commissioner Boles MOVED to send the annexation to PZB for their report. Commission Jones SECONDED the motion.

Mr. Knight said that the PZB would examine the request from a technical point of view and whether the land use was compatible.

Mr. Harriss said that whether the Commission agreed to the annexation would be a philosophical decision.

VOTE ON MOTION

AYES: Boles, Jones, Gardner

NAYES: Crichlow, Burk

MOTION CARRIED 3/2

8.B.2/ Discussion regarding proposed modifications to the Demolition Ordinance.

Mr. Knight reported that before the Commission was a set of modifications to the demolition ordinance that had been reviewed by the Historic Architectural Review Board, and they had requested that the matter go directly to the City Commission. He said the modifications included delaying a demolition for up to two years, conditions to deny certain structures under certain circumstances, provided for notification similar to a rezoning, the review criteria was more stringent and it increased fees.

Mayor Gardner said that the matter would go to the PZB with a public hearing and back to the Commission for either one or two public hearings.

Mr. Knight stated that the matter would not mandate a public hearing at the PZB level, although the board generally allowed public comment if requested.

Mayor Gardner said that the modification did not include outright denial of demolition.

Commissioner Crichlow pointed out that the modifications did not put a moratorium on demolition.

Mr. Knight said that was correct, but the modifications gave HARB more authority to deny demolition, extended the waiting period an extra year, provided a notification process and more advanced information.

Commissioner Crichlow questioned whether HARB would be looking at the structure that would replace a demolition.

Mr. Knight said that was also included.

Commissioner Crichlow questioned whether there was any provision for what could be demolished, because demolition could not be denied on principle and there were some structures that warranted demolition.

Mr. Knight replied that there was nothing in the modification indicating what could be demolished, as if the structure did not meet the criteria of national significance etc. HARB would be obligated to issue the demolition permit.

Mayor Gardner questioned the notification process.

Mr. Knight said that adjacent property owners within 150-feet would be notified and an orange sign posted.

Mr. Harriss questioned whether the new fees covered the additional cost of notification.

Mr. Knight replied that they had not conducted an analysis, but he figured it would cover the hard cost but not all the labor costs.

Mayor Gardner suggested increasing the fees further, and questioned where the modification would go from there.

Mr. Knight replied that the modifications would go to the PZB for recommendation.

Commissioner Boles stated that HARB was a citizen's board that made a recommendation that would go to the PZB and then return to the Commission with recommendations, at which point the Commission could further amend the modifications.

Commissioner Crichlow said that if the Commissioners expressed concerns the PZB might give those concerns their attention. He said that if a structure had no historical significance and contributed nothing to the neighborhood there was no reason that HARB could not grant demolition, especially knowing what would replace the structure.

Commissioner Boles said that they could decide to make the modifications stricter, but as soon as they were passed there would be a court challenge; therefore, they should start moving towards a response to that potential.

Mr. Knight said that the question was where to draw the line about which structures would be a good idea to preserve. He added that HARB had worked a good bit on the modifications.

Commissioner Boles clarified that demolition would be dealt with on a case-by-case basis, including review as to whether the structure could be preserved.

MOTION

Commissioner Burk MOVED to pass the ordinance on to the PZB for their next agenda. Commission Boles SECONDED the motion.

Mayor Gardner suggested that staff research the cost of the fees covering the modifications and a procedure for securing

vacant properties that owners were deliberately allowing to fall into disrepair. He said that property maintenance measures should be part of the modifications.

Mr. Knight said that would be demolition by neglect and the subject had been discussed, but it was determined to start with what they had and look at the matter at a later date. He said the demolition by neglect in the Code pertained to the historic district, which had only been used one time in the seven years that he had worked for the City. He added that the case had been for Code Enforcement that had lasted over three years, because it had been a matter of the property owner being unable to afford fixing the structure.

Commissioner Boles said that the City had city wide enforcement for violation of building codes and safety standards on derelict structures that allowed the City to impose a \$250 a day fine, which would mount up and the City could take the property, but they had been hesitant to use the law. But, he said that if they were worried about saving structures they could exercise the enforcement laws.

VOTE ON MOTION

AYES: Burk, Boles, Crichlow, Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

8.B.3/ Designation of a Commissioner to represent the City as a Voting Delegate at the 79th Florida League of Cities Annual Conference.

After a brief discussion it was determined that Commissioner Boles would represent the City.

MOTION

Commissioner Burk MOVED to nominate Commissioner Boles to represent the City as a Voting Delegate at the 79th Florida League of Cities Annual Conference. The motion was SECONDED by Commissioner

Jones and approved by UNANIMOUS VOICE VOTE.²

9. ITEMS BY THE MAYOR AND COMMISSIONERS

9.A./ Discussion regarding Neighborhood Grants.

Paul K. Williamson, Director, Public Affairs, reported that out of the nine eligible associations eight had applied for grants. He said that all the applicants had attended a pre-application meeting as required and each application represented a physical improvement to a public space. He said that the requested amounts ranged from \$173 to \$2,500, and five of the associations had requested the maximum amount of \$2,500. He said that the total amount requested had been a little over \$15,000 and the Commission had budgeted \$10,000.

Mayor Gardner said that they had to decide who got what. He said that for the record the Old City South Association had wanted three benches and not one to be placed by Lake Maria Sanchez and each bench cost \$173, which meant that the total amount for their grant would be increased by \$346. He suggested turning the applications over to the Neighborhood Council to make the decisions to bring to the Commission for approval. However, he said that would create a Sunshine Law committee.

Commissioner Burk suggested that because they had experienced such interest in the grants, they simply grant all the applications. She said that the Commission could give the City Manager the authority to appropriate another \$6,000 to the neighborhood grant program.

Mayor Gardner pointed out that some of the applications suggested that City staff maintain or install etc.

Mr. Harriss said some applications had included that cost and some of them had not, which was a small concern. He pointed out

² A brief recess from 7:05 until 7:20 p.m.

that originally the grant project was supposed to demonstrate a match of funds, but there was little if any involved with the applications. He said that when buying into a program if a group's sweat equity or money was involved they would be more apt to make it work. He said that his other concern was the different kind of street signs, which was a philosophical issue. He said that from observation signs that were uniform in style appeared more appropriate. He suggested discussing the two issues before making a decision.

Mayor Gardner agreed that they were elements that affected the entire community.

Commissioner Crichlow agreed that there had to be accountability for the City's costs, as there was a cost associated to the City's time and input, which was something that people did not realize.

Commissioner Burk said that if they had the grants program the following year that they could give the matter consideration; however, at that point they could not go back.

Mr. Harriss said that some of the groups had included the cost to the City so there was some progress. He said that there was no need to take action on that matter; he simply wanted the cost of City labor and equipment to be recognized. But, he said that the signs required the Commissioner's consideration.

Commissioner Jones said that originally they had discussed matching funds or sweat equity, and they should stand by that. He said the idea was to get the citizens involved in their community; however, he would concede to Commissioner Burk's suggestion of funding all the grants. He pointed out that he had cautioned the Commission that the associations would ask for the maximum grant allowance, and he had been correct. He questioned whether the neighborhood associations would benefit from the City discount for purchases.

Mr. Harriss replied that the City would be involved in that part of the process.

Commissioner Jones suggested that if they continued the grant program that they appoint a board or committee to meet once a year to handle the process and make recommendations to the Commission.

Mr. Williamson said that the Tourism Development Council had a separate funding panel with a set criterion, and it worked well for them.

Commissioner Burk questioned whether they wanted the street signs to be consistent throughout the City.

Mr. Williamson said that he had discovered through the Public Works Department that within the uniform traffic code they were limited as to what they could use. He said that they could add the name of the neighborhood across the top of the existing sign in a hump or a bubble. He suggested working with public works to see what the options were and then working within the budget.

A brief discussion determined that the signs would be uniform with a hump or a bubble for the name of the neighborhood, and the grant proposals for signs would not proceed until the two groups came up with a uniform proposal.

MOTION

Commissioner Jones MOVED to authorize the City Manager to add the additional dollars to make up the difference.

Mayor Gardner said that would be an increase of \$6,000, and he questioned what else was needed in the motion.

Commissioner Crichlow said uniform signs.

Mr. Harriss stated that the other stuff regarding matching funds and sweat equity were informational for the subsequent year

The motion was SECONDED by Commissioner Burk.

Commissioner Boles pointed out that a couple of the applications mentioned that

they would be responsible if their project exceeded the \$2,500 grant.

Commissioner Jones said that the idea was intended to be part of the grant procedure.

Commissioner Boles stated that it had not been a requirement, it had been a provision that allowed distinction. He said that they had announced to the public that they would rule more favorably for those that provided some matching funds or sweat equity, but it had not been a requirement.

Mayor Gardner said that they would be addressing the matter again during the budget meetings in August, which would be a good time to address the matter of a grants panel.

Mr. Harriss said that if they were going to put money aside it would be nice to have someone other than staff or the Commission to go through the procedure.

Mayor Gardner said the motion was to add \$6,000 to the grants program and assure uniformity for the street signs.

MOTION APPROVED BY UNANIMOUS VOICE VOTE.

Commissioner Boles – Historic Properties

Commissioner Boles stated that it was time to formulate a process to request that the State of Florida either establish a long-term relationship with the City, or give the historic properties to the City. He said that they had formulated a plan with the RFQ, which looked responsible and demonstrated that the City was a good steward of the properties; therefore, they should give it a try. He offered to talk with State Representative Bill Proctor and the state.

Mayor Gardner agreed that they had talked about the matter quite a bit, and he questioned what the procedure would be. He questioned whether they would be asking the state to convey title to the properties.

Commissioner Boles said that would be the ideal situation, as Ms. Hood (Secretary of

State) had said that the state was not interested in having the property. He said that as a matter of protocol they needed to get their ducks in a row and send a representative to Tallahassee to approach the cabinet.

Mayor Gardner suggested a resolution regarding the matter for the record.

Commissioner Boles repeated either full title or a long term lease arrangement, such as 99-years.

Mr. Harriss said that he would bring a resolution to the next meeting requesting that the State of Florida convey title to the City and attach justification to send to Secretary Hood and ask her to intercede with a copy to Representative Bill Proctor.

Mr. Wilson suggested designating one Commissioner and as staff member to enter into discussion with the state.

Commissioner Burk nominated Joe Boles for the job.

Commissioner Boles questioned whether they had to go through the process for the mooring fields before they could do some enforcement.

Mr. Harriss questioned what type of enforcement he was referring to.

Commissioner Boles replied that he kept getting telephone calls from citizens complaining about the moored boats, as they had no way of knowing whether the boats were dumping sewage into the bay. He said that they did not know who owned the boats but the boaters were using City-owned bottomland. He questioned whether there was any way of tightening the freedom of the whole process.

Mr. Wilson said that they could enforce the law if they had one, but if there were things in violation of existing law they could take care of that, but there was no regulation regarding where the boats moored.

Commissioner Boles said that was because the City had not promulgated any plan.

Mr. Wilson said that most Cities did not develop a plan until there was a problem, but there were rules regarding dumping sewage.

Commissioner Boles said that the City owned the bottomland; therefore, they had some control, but he conceded that he would have to be patient.

Mayor Gardner pointed out that there were 14 boats that were derelict or abandoned. He said that the City might have the authority but not the money or resources to track titles etc.

Mr. Wilson pointed out that the City was active when they could get to a derelict vessel; however, he agreed that there were financial constraints.

Commissioner Jones – Sheriff Shoar

Commissioner Jones acknowledged Sheriff Shoar's automobile accident and his injuries. A brief discussion determined that the Sheriff was in good spirits as he awaited surgery on his injured leg.

Commissioner Jones noted that St. Johns County Public Health Department would be offering free kidney screening to the public on July 23, 2005, and the information would be available to the public in the NCO.

Commissioner Crichlow – Code Enforcement

Commissioner Crichlow stated that during every Code Enforcement meeting there were violation cases regarding the public cutting down a tree, building a fence etc. without a permit. He questioned the responsibility of the contractors in such instances considering that a contractor should be well aware of the laws regarding permits. He suggested that contractors should be held as accountable as the property owner regarding penalties.

Mr. Wilson agreed that they should be even more accountable, and he pointed out that most of the contractors were regulated, which was another means of enforcing the rules.

He assured the Commissioners that the contractors were also penalized.

Commissioner Crichlow stated that if the laws regarding cutting down trees were enforced fewer trees would get cut down. He suggested that stronger language be added to the guidelines for the Code Enforcement Board, and perhaps they should remind the board of the flexibility they had in terms of fines.

Mr. Wilson clarified that the board could not levy a charge, as it was the authority of the staff to apply charges.

Mr. Harriss pointed out that sometimes the property owner conducted the violation without the assistance of a contractor.

Commissioner Crichlow stated that he had just wanted to introduce the matter for discussion.

Mayor Gardner – Announcements

Mayor Gardner delivered announcements regarding people and community events.

Neighborhood Comment Sheets

Mayor Gardner questioned whether the completed neighborhood comment sheets regarding variances; exceptions etc. could be included in the agenda packets to aid the board members rather than receiving them the day of the meeting.

Mr. Harriss stated that the agenda was delivered a number of days before the meeting, but there was no deadline for the comment sheets to be returned; therefore, there would always be some that could not be included in the agenda packet.

Mr. Knight stated that the comment sheets were required by law to be sent out 15-days in advance of the hearing with the request for return at least one day prior to the meeting; however, staff sometimes received them the day of the meeting.

Mr. Harriss pointed out that the comment sheets represented a citizen's testimony.

Commissioner Jones questioned whether they were read during the meeting.

Mr. Knight replied that they were reviewed during the meeting, and if the form included a lot of comments they were generally read.

Mr. Harriss pointed out that it was rare that the City received many comment sheets early enough to deliver to the board members ahead of time.

Mayor Gardner suggested a deadline for the comment sheets, but said he had to bear in mind that they were considered testimony.

Mr. Harriss said that if they had a deadline, they would have to cut off testimony five days before a meeting.

Legislative Session

Mayor Gardner introduced the matter of the City's top three priorities to be included with St. Johns County priorities to be presented to the state. A brief discussion determined that the Commission would consider their priorities, and they would discuss the matter further during the subsequent meeting.

Appeals and Public Hearings

(None Scheduled)

11. RESOLUTIONS AND ORDINANCES (To include public hearing)

11.A/ Resolutions

11.A.1/ Consideration of Resolution 2005-13, authorizing the execution of a State Highway Maintenance Agreement with the State of Florida Department of Transportation.

Mr. Harriss reported that the resolution was an extension of the highway maintenance agreement the City had with the State of Florida. He said that he was satisfied with the terms of the resolution to continue with

maintenance of the state roads within the City's jurisdiction.

MOTION

Commissioner Boles MOVED that Resolution 2005-13 be approved. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.

11.B/ Ordinances - First Reading

11.B.1/ Public Hearing – Ordinance 2005-17, amending the Future Land Use Plan from Recreation/Open Space to Residential Medium Density relative to property located at 244 Iberia Street.

Mr. Knight reported that the ordinance was a request to change the future land use map designation from recreation/open space to medium density for property located at 244 Iberia Street. He said that the PZB had recommended approval in conjunction with ordinance 2005-18 designating the property as a Planned Unit Development. He explained that the land use plan amendment would be considered large scale; therefore, it would have to go to Tallahassee for review and for comments and recommendations and the City would have to respond to them during the second hearing. He added that generally it was a six month plus process, which was why there was a public hearing on the first reading. He added that the request had gone before the City Commission two years earlier in the form of an appeal to a PZB decision. He said that since that time the applicant had submitted a more complete package including architectural renderings of a quadraplex to be located on the site and the PZB had recommended a PUD to insure what would be developed on the site. He stated that the applicant was present to discuss the matter.

Commissioner Boles questioned why it was a large scale development with only four units on the parcel.

Mr. Knight replied that the Florida Statutes provided exemptions from the standard Comp Plan amendment process. He said that to qualify for small scale Comp Plan amendments the property had to be less than 10-acres with less than 10-units per acre. He said that the applicant was seeking a Residential Medium Density land use category that allowed up to 16-units per acre; therefore, although the property was .27 acres the density could not be considered small scale; therefore, by default the request became a large scale Comp Plan amendment.

Commissioner Jones questioned the current zoning on the surrounding property.

Mr. Knight replied that it was Open Land and the residential area across the street was Residential General One. He continued that a lot of the area was designated for recreation and open space, with the presumption that some day the area would become a park. He said that currently there was no park featured, but there was a restaurant that had burned.

Mr. Harriss further explained the land use as the entire west side of Riberia Street was designated Open Land, the east side was zoned RG-1 and the area behind the RG-1 was zoned RS-2 and had the Residential Medium density designation, so the request would be consistent. ³

Howard Davis, architectural representative for George Erickson, was sworn and stated that his client had wanted to develop the area commercially, but he had encouraged Mr. Erickson to develop the property residential. He stated that the existing OL zoning was spot zoning, as it was not consistent with the whole area. He said that he had gone to the PZB for RG-1 zoning and they had not asked for any variances for density, parking, setbacks or height in order to be consistent with the area. He referred to the architectural renderings and said that the design of the proposed buildings included details that currently existed in Lincolnville. He said that

the building was 76-feet wide and 31-feet tall with a peak, it had clapboard siding and the project blended with the neighborhood. He stated that when they started the project they had no idea that it would require a Comp Plan change, the PZB had suggested the PUD, retention would be on the site and the request was within RG-1 use.

Mayor Gardner opened the public hearing.

The City Clerk swore in all the interested speakers simultaneously.

Alice Terry, 242 Riberia Street, stated that the proposed building would be next to her house, it would be jammed close, storm water would pour on to her property and there was already a drainage problem. She suggested that the construction would intensify the density and cause trouble. She said that there was already a problem with traffic on Riberia Street. She stated that a single family home would be more appropriate. She concluded that she had lived there for forty years, and she wanted to continue to live out her life quietly.

Eric Terry, 242 Riberia Street, stated that the project development had gone on for two years, and it would cause more problems for the neighborhood. He suggested that the applicant build an office building because the building would be empty in the evening and there would be less traffic and noise. He suggested that his mother should be able to retire in peace. He added that there was an existing drainage problem that the Commission should take into consideration.

A discussion revealed that the site had been engineered for retention.

Lula May Palmer, 121 Kings Ferry Way, spoke against the project.

Gale Burnick, 101 Kings Ferry Way, President of the Lincolnville Neighborhood Association, stated that four townhouses would be too dense for the area, the project was not compatible with the surrounding neighborhood, and there was already traffic congestion. She challenged the Commission

³ End of audio tape two

to consider the character and quality of life in the neighborhood. She suggested that a Comp Plan be in place prior to developing the area rather than developing piece meal and determining the character of the neighborhood by default. She recommended a more creative use of the property.

Irene Arriola, 81 Magnolia Avenue, agreed with Ms. Burnick and suggested that the project represented an opportunity for the Commission to take a proactive stance to control the future of Iberia Street. She suggested a comprehensive program envisioning Iberia Street to establish control of the development.

B. J. Kalaidi, 8 Newcomb Street, was sworn and stated that the situation addressed how the Comprehensive Plan had been abused over the years through variances, exceptions and PUD's, which all went back to money. She suggested that the applicant used the PUD process to avoid certain zoning laws. She suggested listening to the people who lived in the neighborhood.

Mayor Gardner questioned the setbacks for the property.

Mr. Knight stated that the applicant had wanted a PUD as a way to avoid standard setbacks. He said that the drawings were attached to the PUD ordinance information.

Mayor Gardner noted that the setbacks were 10-feet on the side for the project, and the water retention was in the setback. He questioned the parking requirement for two-bedroom units.

Mr. Knight replied that it was two cars for two bedrooms, but if there were three bedrooms the requirement was 2.25 cars.

Commissioner Crichlow questioned what was allowed in the current zoning.

Mr. Knight replied that it was zoned Open Land, which allowed a multitude of uses such as a marina, a game preserve and business offices. He said that as far as density there was no restriction other than 25% lot

coverage with a 35-foot height limitation. He concluded that the logical use outside of residential would be business office.

Commissioner Burk questioned the lot coverage for the proposed project, and the response was less than 30%.

Mayor Gardner questioned whether there was a plan in place for Iberia Street improvements.

Mr. Harriss replied that the City had a plan for improved drainage and paving, and although staff was proceeding with the design they would not start the project until the Sebastian Inland Harbor project was under control.

Commissioner Jones questioned what could be built if the project was single family.

Mr. Knight said that the parcel would have to be rezoned, but they could get two single family structures on the site.

Mayor Gardner said they must have anticipated that the Sebastian Inland Harbor project would have an effect on Iberia Street. He stated that the City needed an overall plan as to how development on Iberia Street would proceed from the Sebastian Inland Harbor project. He said that currently the zoning was not consistent, and the area could become a major focal point of the community. He noted that Mr. Erickson's property had been tied up; however, during that time the property value had tripled.

Commissioner Boles stated that realistically the RG designation had been given to the east side of Iberia Street a long time ago, and it had been designated in that manner to recognize existing uses and to provide a barrier for the RS-1 and RS-2 zoning on the interior of Lincolnville. He pointed out the different uses at the end of the street along with the history of derelict buildings. He said that it had been anticipated that speculators would snatch up the multifamily property with a view of the marsh, and he anticipated that the whole east side of Iberia Street would be multifamily luxury homes. He said that the City was aware when they sold the San

Sebastian property that it would impact Iberia Street with increased density and traffic, as well as greatly enhance property values. He added that they should have put a parking garage on the San Sebastian property in 1991.

Mayor Gardner stated that they could not deny growth but they could plan for it. He questioned how much of the west side of Iberia Street was park land.

Mr. Knight replied that the area was approximately 600-feet.

Mr. Harriss pointed out that the City did not own any of the park land.

Commissioner Boles stated that the only other changes that they could make would be to rezone to RS-1 or RS-2, but if they were going to do that they had better get on with it.

Commissioner Burk said that they could leave it OL.

Commissioner Boles stated that he was not excited about it being a commercial district.

Commissioner Burk pointed out that it could not be a 7 Eleven or a restaurant, as zoning provided for professional business offices, which one of the neighbors had said they would prefer to avoid traffic and noise at night. She pointed out that by going from Open Land to a PUD they were going from 20% lot coverage to 30% lot coverage.

Commissioner Jones questioned whether the proposed units were rental or condominiums, and the response was town homes.

Mayor Gardner closed the public hearing.

Commissioner Crichlow questioned what the cost of the town homes would be.

Mr. Davis replied that the Comp Plan amendment would take a good year before construction could begin, and the market at that time would determine the cost.

Commissioner Boles pointed out that prospective buyers should be made aware of the communities concern regarding crack users and drug pushers in the neighborhood.

Mr. Davis agreed that there were comments about drug traffic, but the units would not be cheap or bring the neighborhood down. He continued that according to the City's ordinance the property owner was required to retain the first 3.1 inches of the impervious surface, and the retention area would probably be underground retention cavities that had been used in other areas of town, because they did not like wet ponds or indentations in the ground that got full of trash. He concluded that the property would be landscaped and a lot of money invested by the developer.

Mayor Gardner questioned whether they would have to elevate.

Mr. Davis replied that they were required to put retention structures a certain height above the water table. He said that the center of Iberia Street was approximately 5.75' or 6.0' and the finished floor of the residence would be 9.0' and the site would build up, but they would have a wall around the property.

Commissioner Jones questioned whether there would be run-off to the neighbor's property.

Mr. Davis replied negatively and said that there would be a masonry structure on both sides, and the elevations averaged 7-feet on the parking areas. He pointed out that City engineering allowed water to run-off the site after retaining the first 3.1 inches. He added that the retention would be more than any properties in the area because none of the existing properties had retention structures.

Commissioner Crichlow questioned why Mr. Davis wanted a PUD as opposed to the RG designation.

Mr. Davis replied that initially they had gone to the PZB requesting RG-1 without variances, but the City Attorney had

suggested a PUD to tie the zoning down, and his client had agreed.

Commissioner Jones questioned what could be worse than the proposal.

Mr. Davis said that his client was proposing a building that was residential within scale and within the confines of the zoning. He said that it was 31-feet to the roof peak, it was not a three story flat roof building, and in other words they were tied to their proposal.

A discussion determined that if they sent the ordinance to Tallahassee the intent would be to adopt it without issues, because the process would give the applicant the ability to appeal the Commissioner's refusal.

Mayor Gardner questioned whether there would be additional expense to the developer.

Mr. Knight replied that a quarter page advertisement was required for the second hearing, an Objections, Recommendations and Comment Report would be issued out of Tallahassee for the developer to respond to, and there would be a fee for the continuation of the process.

Commissioner Jones questioned the last time the City had gone through the process.

Mr. Knight replied that it was either 1999 or 1998.

Commissioner Crichlow commented that the project had gone to the City two years earlier, and he had thought that residential was best for the neighborhood then and he still felt that way. He said the use was common with the area and it was a well done project, which he could not say for other multi-housing along the street; moreover, the PUD would prevent a repetition of that situation. He said he agreed that they needed some land use planning for Lincolnville. He pointed out that if they put two single family houses on the site there was no way of knowing who would buy them, and they could both become crack houses, but the value of the multifamily would go a long way to prevent that element.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2005-17 on first reading, read by title only and approved The motion was SECONDED by Commissioner Boles.

Commissioner Burk commented that the lot was 100 X 160 and they would be allowing four living units, which would require a concrete parking area for eight cars. She stated that it was too dense and currently the zoning would only allow a professional office building and a few other uses with 20% lot coverage. She concluded that the proposal did not fit the neighborhood, and the neighbors did not want it.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2005-17

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CITY OF ST. AUGUSTINE COMPREHENSIVE PLAN, FUTURE LAND USE MAP, TO RECLASSIFY A PARCEL OF LAND LOCATED AT 244 RIBERIA STREET, BETWEEN SOUTH STREET AND LOVETT STREET, CONTAINING APPROXIMATELY 0.27 ACRES IN THE CITY OF ST. AUGUSTINE, AND BEING MORE PARTICULARLY DESCRIBED HEREINAFTER, FROM RECREATION/OPEN SPACE TO RESIDENTIAL MEDIUM DENSITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Crichlow, Boles

NAYES: Burk, Jones, Gardner

MOTION FAILED 3/2

Mayor Gardner said that they had to figure out what to do with the area.

Commissioner Boles recommended having a workshop about the matter quick. ⁴

⁴ A brief recess from 9:17 until 9:27 p.m.

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

11.C.1/ Introduction and consideration of Ordinance 2005-18, rezoning property located at 244 Riberia Street to Planned Unit Development (PUD).

Ordinance not adopted.

11.C.2/ Introduction and consideration of Ordinance 2005-19, establishing a Height Restriction for Non-conforming Lots of Record in RS-1 and RS-2.

Mr. Knight reported that the ordinance was initiated during the previous PZB meeting by board member Carl Blow who asked the board to consider the ordinance. He explained that the ordinance would proportionately limit the height on nonconforming lots of record in the RS-1 and RS-2 zoning districts. He further explained that if one had a 50-foot wide lot in RS-1 it would not meet the minimum 75-foot wide width requirements as it would be 2/3 of the width of the requirement; therefore, rather than a 35-foot height requirement it would limit the height to 23-feet tall.

Commissioner Burk clarified that the ordinance did not affect setbacks, but had a simple formula for limiting height.

Commissioner Crichlow pointed out that setbacks were affected on nonconforming lots according to Code.

Mr. Knight agreed and said that according to Code nonconforming lots received 10% side yard setbacks and not to exceed four feet.

Commissioner Jones stated that he was somewhat surprised to find the ordinance as a part of the agenda and separate from its origination. He said that it was part of a larger plan regarding the aggregation proposal, and the height limitation had been a concern to the citizens. He said that the Commission had met with citizens that had many concerns regarding the aggregation ordinance; therefore, for the Commission to even consider the ordinance would be a betrayal of the public trust when they had

promised the public that there would be a public hearing before the Commission passed any component of the aggregation ordinance. He said that the height limitation was now floating on its own, and he did not care how it got to the Commission, it was originally part of the aggregation ordinance and to go to the Commission without the public's awareness appeared that they were trying to slip it under the wire without drawing any attention to it. He said that the height ordinance should proceed as a part of the aggregation ordinance. He reiterated that he could not understand how in good conscience they could even consider the height ordinance.

Commissioner Burk said that she totally disagreed with him, because she did not believe that the height restriction should have ever been part of the aggregation ordinance.

Commissioner Jones replied but it was.

Commissioner Burk agreed, but she stated that there would still be a public hearing on second reading of the proposed ordinance. She stated that the aggregation ordinance had become unwieldy, because there were elements in the ordinance that should not have been there. She said that taking the height element out of the aggregation ordinance and further simplifying it helped citizens, as separating the elements was a benefit to the people not a detriment.

Commissioner Jones said that the height ordinance would not have the same amount of publicity and he was not certain whether the citizens were just as concerned about the height component. He emphasized that maybe height should not have been part of the aggregation ordinance, but it was; therefore, they should let the matter ride out.

Mayor Gardner stated that anything that was happening in the City due to outdated zoning got thrown into a pile with other stuff, and then they carried them out for six months to a year while trying to decide what to do, and by the time they made a decision it would be too late. He said that the Aggregation Task Force was formed to do away with smaller

nonconforming lots and the height to lot ratio did not do away with smaller lots, it preserved them but regulated them in terms of proportion to neighboring properties. He said they were seeing tower houses going up all over the City and every day that they delayed doing something more and more would go up. He concluded that if they wanted to include the height ordinance in the aggregation workshop that would be fine, as anything they did at that table could be undone, but at that time he felt there was a particular urgency to act on the height element.

Commissioner Boles said that he had served on the PZB and he did not remember board members proposing ordinances as they received agendas for their meetings, but that did not mean such action had not been taken in the past. He said that he had a problem with embracing PZB's co-opting the Aggregation Task Forces two years worth of work. He pointed out that the aggregation ordinance had not gone to the Commission as a result of a ground swell of fear from the public; he said that it came to them as a feud between two neighbors, so they should be realistic. He said the task force was appointed, they worked hard, they started a presentation and for whatever reason it had not come off, but the aggregation ordinance was difficult to discuss or present. He said that he was supportive of the task force narrowing the scope of their presentation by identifying one or two major community ills. He agreed that portions of the aggregation ordinance should be tossed out, but he was uncomfortable with the height element rifling-up from the PZB as a proposed ordinance. He said that he had to agree with Commissioner Jones. He stated that no one in the community had come to him expressing fear about 35-foot tall homes, and there were a lot of people that liked a tall house to be able to see over their neighbor. He said that he did not even know how many stories could be crammed into 23.32 feet. He cautioned that if they started restricting height they were going to end up with a bunch of flat roofed houses, and that was something he was real scared of.

Commissioner Jones said that he knew that there were homes being built that neighbors had expressed concern about, but in all fairness he did not believe they could fast track the height ordinance in good conscience.

Commissioner Crichlow addressed Commissioner Boles comment that the aggregation ordinance was the result of a disagreement between two neighbors. He said that he had proposed the aggregation ordinance, and he assured the Commission that it had never entered his mind, as he did not know about two neighbors having a problem. He said he had introduced the ordinance because he could see the writing on the wall and he could see the need for the future of the City, and it had nothing to do with any individual situation; moreover, he could assure that.

Commissioner Crichlow stated that the Aggregation Task Force was ready to set a date to present the draft ordinance to a public workshop. He said that the draft would contain one item to restrict tearing down one house and building on the nonconforming lots that the house sat on. He suggested that, to prevent any suspicion of back door tactics, they take the height ordinance with the aggregation ordinance for discussion at the public workshop. He said both ordinances were simple and easy to explain and they could not be convoluted. He said that to squelch suspicion, which was never his intention, they should take the ordinance to the public workshop.

Commissioner Jones expressed appreciation to Commissioner Crichlow.

Mr. Wilson said that the Commission could pass the height ordinance at that time, have the workshop and they could have the second reading after the workshop.

MOTION

Commissioner Crichlow MOVED to pass the ordinance on first reading, schedule the workshop and the meeting immediately following the workshop they

would have a second reading. The motion was SECONDED by Commissioner Burk.

A discussion determined that they would have the workshop with a public hearing at the same time and staff would work on scheduling the workshop as soon as possible.

Mayor Gardner questioned whether Commissioner Crichlow and the task force planned to present the two items or the original ordinance.

Commissioner Crichlow replied that it would be the two items but until then it was going to be only the one item because they had eliminated the height element of the aggregation ordinance, but now they were introducing the height ordinance at public workshop as well.

Mayor Gardner said he thought that Commissioner Jones had wanted the whole package open to public hearing.

Commissioner Jones corrected him stating that he was only referring to the height ordinance.

Mayor Gardner suggested that they might not need an auditorium for the workshop.

Commissioner Crichlow agreed that the task force had eliminated the controversial parts of the aggregation ordinance. He said that the two elements that would be discussed were the most supported parts of the ordinance in its previous form. But, he said that they had to assume the same citizens that attended the postponed workshop would attend the next workshop.

Multiple discussions commenced simultaneously.

Commissioner Crichlow pointed out that they could bring the aggregation workshop to first reading at the July 11th meeting.

Commissioner Burk said that would provide the two ordinances at the workshop as well

followed by another public hearing during the Commission meeting after the workshop.

Commissioner Boles suggested approving the first reading of the height ordinance during the July 11th meeting also, so the ordinances would be on the same track.

Mr. Wilson said that they would be on the same track anyway, as they would bring them both to second reading with public hearing on July 25th

Commissioner Jones suggested presenting both ordinances for first reading on July 11th, and it was agreed that they would table the matter until July 11th and Commissioner Crichlow withdrew his motion.

Mr. Wilson said that they would schedule a workshop between the 11th and the 25th and if the ordinances passed they would go before the Commission for second reading on the 25th.

MOTION

Commissioner Crichlow MOVED to table the ordinance until July 11, 2005 and include the aggregation ordinance at the same time. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE

11.D/ Ordinances - Second Reading Public Hearing

11.D.1/ Public Hearing – Ordinance 2005-07, establishing the Coquina Shores Planned Unit Development (PUD) zoning designation relative to property located at 36 May Street.

Mr. Knight summarized that the PUD originated as a five unit single family residential development when it went to the PZB. He said that originally the request was denied, but the applicant appealed and submitted a modification for a three unit development. He said that the property was going from Single Family One and Open Land to a Planned Unit Development, and it was located on the north side of May Street

just before the bridge. He offered to answer questions.

George McClure, 170 Malaga Street, representative for the applicants, introduced his clients Mr. and Mrs. Weinstein as a well known family in the community, and he gave a brief summary of their history in St. Augustine and how they came to own the family property in question. He said that their original application to the PZB conformed to the Comp Plan, which allowed for eight units an acre, but they had applied for five single family units, which was consistent with the density permitted by the Comp Plan. He said that during the PZB meeting a number of the neighbors from the Nelmar subdivision had expressed opposition to the application, because the proposed uses were inconsistent with the surrounding neighborhood, but three lots had been suggested.

Mr. McClure said that the PZB denied the request and while considering appealing the board's decision the Weinstein's decided to amend the application to conform to the neighbor's wishes. He said that it was possible to develop the site for three residential lots with the existing zoning. He explained that the areas zoned RS-1 could be divided into two conforming lots and meet the RS-1 zoning. He said that the remainder of the land was zoned Open Land and had a variety of uses that might not be consistent with the surrounding area, but it would permit one single family residence as long as it was not platted. He said that they had decided on the PUD to make the lots equivalent in size, which made sense for the use of the property and to have a single controlled access onto May Street. He explained that without the PUD each property had the right to individual access and driveways onto May Street.

Mr. McClure stated that the property had 1.38 acres and approximately 60,000 square feet and the total amount that was not jurisdictional was in excess of 34,000 square feet. He said their application provided that no single lot would be less than 10,890 square feet, which was the criterion for RS-1. But, he said that they had modified the plan

to three lots with more square footage and exceeding the minimum size in excess of 10%. He said that they had also provided front and rear setbacks that were required in the RS-1 classification. He said that they had originally asked for a 10-foot side yard setback and 35% lot coverage, which did not meet the RS-1 criterion. He said that they had agreed to keep the side yard setbacks required in RS-1 next to the neighbors. He stated that they had also agreed to limit the lot coverage to the RS-1 criterion, which was 25% down from the 35% they had requested in the original application. He introduced Karen Taylor who was the planner for the site.

Mr. McClure said that they had also agreed to limit fill to the necessary limit for positive drainage and construction would meet the minimum FEMA elevations to the finished floor through stem walls or gears and floor trusses. He said that the PZB recommended the application based on the aforementioned concessions, but his client had continued to experience opposition from some of the neighbors. He pointed out that the application was not detrimental compared to what could be constructed on the site under the existing zoning. He stated that in his opinion the proposed PUD accomplished what was intended for a PUD by asserting control and specificity about the development of the property.

Mr. McClure said that the two single family lots in RS-1 were not a problem; however, the Open Land zoning allowed nursing homes, restaurants, offices, day care centers and a variety of other uses. He pointed that the property across the street was zoned OL, and it was being marketed for offices and restaurants. He concluded that the application was consistent with the Comp Plan, and he offered to answer questions.

Mayor Gardner questioned the anticipated elevation for proper drainage.

Mr. McClure replied that approximately a quarter of an inch a foot was necessary;

therefore, with small ponds the maximum flow would be 2-2.5 feet.⁵

Commissioner Crichlow questioned whether the water would be directed to May Street and the storm drain, and the response was affirmative.

Commissioner Burk stated that a conservation zone required a 25-foot setback from the wetlands but there was no legend on the map, and she questioned one of the boundaries.

Mr. McClure said that the boundary depicted the approximate edge of the bank or the point that the slope began to drop.

Commissioner Burk stated that it only showed a 10-foot setback from that line.

Mr. McClure said that it was rip-rap and essentially it was bulkhead, and he suggested that Karen Taylor address the matter.

The City Clerk swore in all the potential speakers.

Karen Taylor, 307 Old Harbor Drive, stated that it was not part of the conservation zone because it was rip-rapped as shown on the survey. She said that they had a 20-foot setback, but in those locations where the property line moved west, the property actually went into the water. She added that the line the Commissioner was referring to was the bulkhead or rip-rap.

Commissioner Burk questioned whether the bulkhead was currently in existence.

Ms. Taylor responded affirmatively and stated that if it was not they would have to go through the conforming process.

Commissioner Crichlow questioned why they would not maintain the same setbacks for all the lots if the lots were so ample.

Mr. McClure said that by having the common driveway and parking area stretching across the front of the lots the middle lot was constrained; therefore, they were trying to get a permissible building footprint for a standard home size.

Mayor Gardner opened the public hearing.

Ron Brown, 93 Orange Street, stated that he was representative for Walter and Debbie Saul's whose property was located on lot 35 immediately to the west of lot 36. He stated that the Saul's were directly affected by the development, and they were concerned as a sizable portion of the property in question was not legally owned by the Weinstein's. He stated that the RS-1 lots were part of the original subdivision, but the OL piece was in question, as it literally seemed to have materialized at some point in time since the development of the subdivision. He distributed a variety of maps, documents and photos to the Commission. He referred to one map depicting the three lots and pointed out that almost all of lot two and all of lot three was located in the OL portion of the property. He referred to the aerial photograph from 1942 on page four indicating no fill at the site and there appeared to be an access way that followed the curvature of the water. He said that the locals who remembered it called it a promenade. He referred to the 1960 aerial photograph with no indication of fill.

Commissioner Boles stated that he was having trouble seeing just what Mr. Brown was referring to.

Mr. Brown said that the promenade was not quite so evident in the 1960's aerial photograph. He referred to page seven and a 1970's aerial photograph indicating that the fill had materialized. He referred to page eight and the 1993 aerial photograph indicating that the lot had been squared off and some vegetation added. He referred to page four and the 2003 aerial photograph indicating how the property currently looked. He stated that it was questionable whether the property had been filled etc. in an appropriate manner.

⁵ End of audio tape three

Mr. Brown referred to page 25 and said that in 1950 the City had passed a resolution instructing the City Clerk and City Manager to convey to the Weinstein's who owned all the lots in the easterly portion of the subdivision that the lands east of the lots lines went into the creek, which include submerged land at that time. He said that in 2002 the City issued a disclaimer of any interest in the property eastward of lot 36.

Commissioner Boles clarified that the disclaimer purported to convey to the Weinstein's any land that the City held title to, and asked what was wrong with that.

Mr. Brown said that they had no authority to disclaim or convey property that was submerged lands.

Commissioner Boles questioned whether it was a title issue.

Mr. Brown replied that it was a legal issue.

Commissioner Boles questioned whether he was asking the City to review for legal sufficiency.

Mr. Brown said that it was their belief that it was an improper conveyance or disclaimer, because the City, as the trustee of the submerged lands, had no authority to disclaim or convey them. He added that why the City had decided to disclaim the property 52 years later was a mystery.

Commissioner Boles questioned whether Mr. Brown's client was claiming ownership to the property.

Mr. Brown replied that his client thought the City owned the property, and if the City owned it the City could not give it away.

Commissioner Boles questioned where Mr. Brown was going with the matter.

Mr. Brown submitted that the Weinstein's did not own the property that was zoned OL. He referred to two law suits supporting the opinion that submerged lands were held in

trust for the public and could not be divested; therefore, the Weinstein's did not own the property outside of lot 36. He reiterated that giving away the promenade by resolution was questionable. He continued that constructing three homes on a lot was not consistent with the surrounding neighborhood. He stated that the citizens had a right to rely on the plat as the authority of what could be built in a particular neighborhood, and the plat showed lot 36 but not the OL property located east of lot 36. He said it was questionable as to how the property was filled in, as until 1960 to 1961 it had still been submerged land.

Debi Sauls, 65 Magnolia Avenue, said that her property was adjacent to the property in question, and she expressed concern for three large structures with driveways exiting onto May Street, a busy over crowded road. She said that two or three-story tower houses were not consistent with the neighborhood and would impede her view of the marsh, and there would probably be windows, decks and porches overlooking her backyard. She concluded that she and her neighbors were concerned about 35-foot tall houses, as it was not consistent with the neighborhood. She suggested that there was a problem with the lot coverage for the OL portion of the property. She said the project would negate access to the promenade; therefore, she encouraged the Commission to say no to the project.

Edward Dennis, 352 S. Ocean Trace Road, said that he represented the Weinstein's in the sale of the property, and he had taken them to a land developer who established the best use for the property. He said that according to the Code three houses could be built on the property, and the Weinstein's had determined to develop the property themselves. He pointed out that the houses the Weinstein's planned to build would be 2,700-3,200 square feet, which did not constitute monster houses, and he added that there were already three story homes in the neighborhood. He stated that the property as they presented it was described on the deed; moreover, he could not see any path along the edge of the property. He

concluded that he would like to see the PUD with only one entrance to May Street.

Skip Hutton, 82 Magnolia Avenue, pointed out that the structure shown on lot two looked like it was approximately 4,200 square feet.

Commissioner Crichlow added that the buildable area was 4,200 square feet and 25% of the lot could be built upon.

Mr. Hutton stated that they should be able to know the floor plan of what was going to be built on the property, and he was informed that the applicant was not required to produce that information at that juncture of the project.

Mayor Gardner explained that a Planned Unit Development was the most restrictive zoning that the City could have, as it gave the City control over everything, but as it turned out lawyers were using PUD's to work the loopholes. He said that according to a PUD the City Government should be able to design the houses. He added that he was not certain whether the neighbors would be happy if the houses were two stories. He stated that currently the Commission was more comfortable with what they could do through the use of PUD's.

Mr. Hutton stated that elevations had been presented at a previous meeting detailing a fence, a wall and a driveway, but currently the Commission was being asked to approve something they knew little about. He expressed concern about the rip-rap, where it came from and why it was there. He said that it was his opinion that the lot had been filled illegally; therefore, they should not reward the property owner for filling an area of marshland. He questioned whether the homes would conform to what existed in the neighborhood. He expressed further concern for parking and safety on May Street. He stated that the PUD was not a good idea; but if they were going to approve a PUD the Commission should have a lot more control.

Tom Tibbitts, 17 May Street, President of the Nelmar Terrace Neighborhood Association, stated that the neighborhood association had

met and did not approve of the PUD. He said that, speaking for himself, May Street was an entrance to the City and should be a nice buildable lot that the City could be proud of. He continued talking against the project and the PUD. He requested that the Commission consider the neighborhood and the desires of the residents.

Irene Arriola, 81 Magnolia Avenue, spoke against the project and suggested that the commission make the PUD ordinance stronger. She suggested that they do something to control the development in the neighborhoods.

Mayor Gardner closed the public hearing. ⁶

Mr. McClure stated that his client had title insurance including a description of the property, and the property had not been simply vacated, it was conveyed by the City in 1949. He said everyone that received the land was named in the resolution, and if it was contended that there had been an illegal conveyance all those owners would have to be notified to give back their front yard. He said the Butler Act that encouraged filling marshland had been adopted in 1921, because at one time the public thought marshland was bad, and it had remained that way until 1975 when it became apparent that marshland represented an important part of the welfare of our eco system. He added that was the basis for which the FSD&B had been constructed. He explained that the Butler Act had been intended to allow private ownership of wet bottomlands, but it was not intended to convey title to navigable waterways, but the conveyance in question was to the bed of Hospital Creek and therefore appropriate.

Mr. McClure requested that the Commission analyze the opposition to determine what the people were objecting to and whether denying the application facilitated any public interest. He said that his client's title company was confident enough of his client's title to the land that they would be willing to pay the fair market value of the property. He said that his client would have to go before

⁶ End of audio tape four

the Commission with the platting process and any question could be resolved at that time. He added that after nearly a year of hearings on the matter it was not fair to hear about the title question at the last minute.

Mr. McClure said that they had proposed conditions that represented the most restrictive zoning classification for residential in the City, and he could not understand how that could be objectionable. He said that the neighbors seemed to think that different rules applied to his client than applied to them. He continued that there were houses in the Nelmar subdivision that were stately and not single family bungalows. He said that according to Code his client could build three 35-foot tall houses on the site, but the future property owners would have to back their vehicles onto May Street. He pointed out that currently there was no indication of a wall, because the neighbors had said they did not want a wall, but there was a landscape easement for the frontage of the road. He stated that his client had done everything to comply with Code requirements and to deliver a safer project than would be allowed under the existing classifications. He concluded that the proposal was reasonable and consistent with the neighborhood and goals and objectives of the Code and Comp Plan.

Mayor Gardner questioned whether three-story homes were planned for the site.

Mr. McClure said they had no definite plan at that point other than the outside parameters.

Mayor Gardner said that subsequent steps in the PUD process gave the Commission or other boards the opportunity to examine the style of a proposed home.

Mr. McClure replied that currently there was no provision for the specific approval of architectural appearance, size or scale. He said that they would have criteria in respect to the plat approval with grading and drainage plans. He added that currently the Weinstein's had not decided whether to build the homes themselves or sell the lots.

Mayor Gardner said that the power in the PUD was not in regards to architectural design, but if the applicant would not allow the Commission to look at the design they could deny the PUD.

Mr. McClure replied that the Commission had that alternative, but he urged the Mayor to recall that in the event of two RS-1 lots and one OL nonplatted lot the Commission also did not have the power over architectural design.

Mayor Gardner stated that it was not a one way street as government had to begin cooperating with property owners and builders, and perhaps they might have to relax setbacks in some cases to allow lower profile houses that would fit the neighborhoods.

Mr. McClure stated that some communities had tried that. He said that his client's lots were large and they conformed to the Code and the neighborhood; therefore, he was asking that the same rules apply to his client that applied to his client's neighbors.

Commissioner Burk expressed concern whether the development had to abide by the 25% setback. She said that a bunch of concrete rubble thrown into the marsh did not constitute a retaining wall in which one would not have to abide by the 25-foot setback. She said that the property was located on the marsh and there was a conservation easement that meant one could not build within 25-feet, but according to the plat the Commission would be permitting a 10-foot setback. She questioned whether permits had been issued to put in the retaining wall or whatever they were calling it.

Mr. McClure replied that the fill occurred before 1971 as Mr. Brown demonstrated, which meant that it had not required permitting. He said that it was his understanding that in the past owners of the property in question and the property across the street had encouraged the City to bring concrete and construction debris there for dumping.

Commissioner Burk said that she still did not believe that meant they did not have to recognize the 25-foot setback from the marsh.

Mr. McClure pointed out that the Code requirement was from the natural shoreline, and it was not a natural shoreline.

Commissioner Burk stated that there was concrete for a foot or two and then there was marsh grass and marsh grass growing up between the concrete. She said that did not get them out of the conservation zone.

Mr. McClure said that was the first they had heard of the issue, and he suggested that Messrs. Knight and Wilson might advise her on the matter. He said that it might require an inspection of the property to determine; however, from the inception of the application the 25-foot setback had not applied.

Commissioner Burk looked at the photographs and stated that there was marsh grass on either side of the so called rip-rap, which was nothing like a seawall, berm or retaining wall.

Mr. McClure stated that the application had been prepared in conjunction with the advice and information received from the Code and City Staff. He added that if it was determined that they should conform to the 25-foot setback they would do so.

Commissioner Boles clarified that the applicant was asking for a PUD to have a common driveway.

Commissioner Burk added that he also wanted to build within 10-feet of the marsh and rezone an Open Land designation to allow another house. She emphasized that it was more than just a driveway.

Mr. McClure pointed out that his client could build a home on the OL portion.

Commissioner Boles stated that the neighborhood did not want the three houses, but if the Commission turned down the PUD, based on the Code, the applicant could build

three houses up to 35-feet tall. He added that there were two and three-story houses and all kinds of houses in the Nelmar subdivision; furthermore, the Commission had no say about conforming to design. He stated that they were being asked to consider the plat with a common driveway. He questioned why three neighbors would need a PUD to have a common driveway. He questioned what the City was getting for the PUD. He suggested that a common driveway was better for the neighborhood than three driveways.

Mr. Knight said that the concessions the applicant made were a common driveway, additional landscaping and drainage, and in exchange the applicant got the lots reconfigured, driveway entranceway as a common area and three individual lots.

Commissioner Boles stated that if the Commission would not agree to the PUD there would be three lots and three driveways and neither option provided the Commission control over height, type of building or lot coverage.

Mr. Knight stated that there was 10% lot coverage in OL, but he believed that they could still build a significant size house considering the size of the lot

Commissioner Jones stated that he saw the common driveway as safer; moreover, if the Commission did not approve the PUD the applicant could still complete the project. He said that once the first house was built the marsh view would be blocked; therefore, the second and third houses were really of no consequence. He said that the applicant could build up 35-feet, and truthfully the landscaping would have been done one way or the other. He said that he understood Commissioner Burk's idea about the setbacks; however, they would only affect the sides of the house and three structures would still be built. He stated that the configuration of the lots only affected the people that owned the lots, and three homes would be built and with three driveways.

Mayor Gardner questioned whether the DOT would interfere with the driveways.

Commissioner Jones interjected that the DOT had to allow access to the street. He said that ultimately there would be three structures, and the Commission could not dictate the design of the homes. He suggested that the best they could do was offer a compromise.

Mayor Gardner stated that he would not be opposed to approving the PUD subject to the Commission conducting an architectural review.

Commissioner Crichlow stated that people were afraid of "Mac Mansions", which was a phenomenon that was occurring all over the country. He said that currently there was no ordinance in place that allowed for architectural control, but maybe one day there would be. He said that they were considering a PUD, and there was no reason that the Commission could not say that they wanted the homes to be no more than two stories or 30-feet high with 3,200 square feet.

Commissioner Jones stated that he could agree with that suggestion.

Mr. McClure further explained how oddly the lots would be configured should they deny the PUD, and he said that the process was intended to divide the uplands equally.

Commissioner Crichlow stated that a two story, 3,200 square foot home was a marketable commodity; therefore, the request was reasonable.

Commissioner Boles pointed out that the applicant could request tabling the matter until the subsequent meeting.

Mr. McClure stated that his client felt that the requested limitations were too much, and his client wanted to submit the PUD as it stood.

MOTION

Commissioner Crichlow MOVED to deny Ordinance 2005-07. Commissioner Burk SECONDED the motion.

Commissioner Boles pointed out that honoring the request of the residents could result in a "be careful what you ask for" scenarios. He stated that he would vote against the denial because he liked getting something.

VOTE ON MOTION

AYES: Crichlow, Burk, Gardner

NAYES: Boles, Jones

MOTION CARRIED 3/2

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

Philip McDaniel, 51 Water Street, said that the remodel for the skateboard park on Anastasia Island had started a year earlier. He said they had interfaced with the neighborhood and discovered interest in a traffic light study; however, putting a traffic light on a state owned road was a complex process involving activities of multiple government agencies. He said that after consideration it was determined to leave the issue of the traffic light to more qualified parties. He said that they wanted to proceed with development of the recreation for the betterment of the community. He said that they developed several aerial design views including an easement for the possible relocation of Red Cox Road should that be considered. He said that they were continuing to work with the neighbors to collect ideas of what elements they would like to see in the design process. He said that the majority wanted a supervised skate facility and others mentioned passive recreation. He said that they planned to return to the Commission the end of July or the beginning of August with a summary of requirements to design, develop, fund and construct the project for the Commissioner's review. He said that they would also include a list of things the committee was prepared to undertake and deliver, as well as a list of things they wanted from the City for the partnership. He said that they would need some time from City Staff to develop a survey, some site work and modest financial resources for the parking area and curb work. He offered to answer questions.

Commissioner Crichlow stated that he hoped they could move the project forward without moving the road.

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

(None Scheduled)

13. Adjournment

There being no further business, the meeting was adjourned 11:47 p.m. ⁷

MAYOR

CITY CLERK