

## CITY OF ST. AUGUSTINE

Regular City Commission Meeting  
December 12, 2005

The City Commission met in a formal session Monday, December 12, 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:

### Roll Call:

George Gardner, Mayor/City Commissioner  
Joe Boles, City Commissioner  
Donald A. Crichlow, City Commissioner  
Errol D. Jones, City Commissioner

Absent: Susan Burk, Vice Mayor/City Commissioner (excused)

William B. Harriss, City Manager  
James P. Wilson, City Attorney  
Martha V. (Nell) Porter, City Clerk  
Timothy A. Burchfield, Chief Administrative Officer  
John Regan, Chief Operations Officer  
Mark Knight, Director, Planning and Building Department  
Mark Litzinger, City Comptroller  
Bob Leetch, Director of Utilities and Public Works  
Dr. William Adams, Director, Heritage Tourism  
Paul K. Williamson, Director, Public Affairs  
Loran Lueders, Chief of Police  
Karen Rogers, Recording

### **2. INVOCATION AND PLEDGE OF ALLEGIANCE**

Father Tim Lozier, Cathedral Basilica, delivered the invocation, and Commissioner Jones led the Pledge of Allegiance.

### **3. ADMINISTRATIVE ITEMS**

#### **3.A/ Modification of Agenda**

Mayor Gardner announced that they would add a proclamation and a resolution to the agenda.

James P. Wilson, City Attorney, referred to Items 10.A. and 10.B. and stated that Messrs. Marlowe and Davis, who were involved in the two dock appeals, recently had a hearing and the court ordered them to add the City of St. Augustine to their lawsuit

as an indispensable party. Therefore, he said it would be inappropriate for the City to hear the appeals until a decision was rendered by the courts. He added that the attorneys involved also had no objection to tabling the matter.

#### **MOTION**

**Commissioner Boles MOVED to table Items 10.A. and 10.B. Commissioner Jones SECONDED the motion.**

#### **VOTE ON MOTION**

**AYES: Boles, Jones, Crichlow, Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

#### **3.B/ Approval of Minutes**

The minutes of the regular City Commission meeting of November 14, 2005 were approved as presented.

### **3.C/ Proclamations**

#### **Non Agenda Item**

Mayor Gardner acknowledged Nease and St. Augustine High Schools for their state championship victories by reading a proclamation recognizing their outstanding achievements into the record. He added that the proclamation would be framed and presented to the schools at a later date. <sup>1</sup>

Commissioner Jones invited any community group or organization to join the City in placing the appropriate signage at the entrance of the City acknowledging St. Augustine as the current home of the state champion Yellow Jackets, and said he planned to ask the county to do likewise at the county limits.

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

Almarene C. Lowndes, 18 Christopher Street, distributed a copy of her speech and addressed the Commission on behalf of the Senior Advisory Council of the COA regarding designation of a site in the Plaza de la Constitution for a Civil Rights Monument to honor the part played by the St. Augustine citizens in effort to pass the 1964 Civil Rights Act. She explained that funding would be provided by private donations and a designated committee would schedule community forums for the community to express their views, and a final design would be submitted to the Commission for review. <sup>2</sup>

A brief discussion determined that Paul Williamson would work with the community toward the proposed endeavor.

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

<sup>2</sup> Speech attached to original minutes

Ms. Lowndes announced that on the 16<sup>th</sup> of January the COA would hold their annual commemorative Martin Luther King Breakfast at World Golf Village, with Reverend Byron Hodges, newly elected pastor of St. Mary's Missionary Baptist Church, as their guest speaker.

Reverend Byron Hodges, 69 Washington Street, expressed concern regarding the soup kitchen located across the street from St. Mary's Missionary Baptist Church. He pointed out that the church had been there for 135-years; whereas, the St. Francis House had been part of the community for approximately 20-years and creating a progressive problem due to some of the elements involved. He assured the Commission that his congregation applauded the purpose of the soup kitchen, but the work served as a magnet for those with less than honorable intentions that trashed the community and created reoccurring problems while simultaneously causing safety concerns. He asked for the Commissioner's help.

A discussion determined that the Commission would do whatever possible to facilitate a relocation of the St. Francis House, St. Mary's intended to put out-of-reach sensor lights at the rear of church, law enforcement would do their best to remedy the situation, legally the City could not interfere with private property, the St. Francis House was looking for a new location, the Reverend would talk with Tammy Byron, Executive Director of the St. Francis House and St. Johns County should be approached and included in the situation as well.

Dan Holiday, 11 Aviles Street, spoke in support of St. Mary's and the community's dilemma and questioned whether the City could address the problem through permits and licenses and perhaps solicit more support. He concluded that citizens living south of the Plaza were overwhelmed by the homeless on a daily basis.

Commissioner Jones pointed out that if they used Mr. Holiday's approach the St. Francis House might close and the homeless could

become a larger problem, as he did not believe that they would simply leave town.

Jay Bliss, 12 Oglethorpe Boulevard, suggested that the City provide a circulating pump-out boat for cruisers and live-aboard vessels in the harbor. He stated that the proposal would be proactive, favorable to the City and an essential part of the Harbor Management Plan. He concluded that there was a pump-out boat sitting idle at the Conch House.

A discussion regarding pump-out facilities ensued and it was determined that the service was ultimately in the future, but it was a matter of time and money.

Mr. Harriss pointed out that by the time the City bought the boat and organized employees and a schedule it could cost \$100,000 annually to provide the service, but it was part of the long term plan. He concluded that if the City made revenue from the moorings they might be able to pay for a pump-out service.

Commissioner Crichlow questioned the status of the derelict boats in the bay.

Mr. Harriss replied that they had awarded a contract to remove 10-13 derelict vessels from Vilano Beach to SR 312, including Salt Run, and the clean-up should begin shortly.

Aubrey Skillman, 58 M. L. King Avenue, questioned whether the Commission had read in the Collective Press about the salary situation for the employees of the sightseeing trains owned by Ripley, and the Commission agreed that they were aware of the article. He complained that the Commissioners had not responded to his e-mails, and he suggested that the Commissioners state their e-mail addresses, because they were not on the City website. He questioned whether the Commissioners would take action on the matter of the sightseeing trains at that time.

A discussion determined that the Commission had no authority over the sightseeing trains unless the terms of the franchise were violated.

Ed Slavin, P. O. Box 3084, St. Augustine, stated that the Commission had the responsibility to draft a living wage law in St. Augustine. He requested that staff begin work on the document and offered to work with them. He said that the tour guides deserved a living wage so they could support a family; moreover, if there was a decent wage there would be no homeless for the Commission to be concerned with. He concluded that Government belonged wherever there were people in distress that could not help themselves.

Mayor Gardner pointed out the potential pitfalls that could occur should government be overly involved in the lives of citizens. He questioned whether the City had the authority to write a living wage law.

Mr. Wilson replied that he was not aware of anything within Florida Law that would allow them to do so. He said that the City's power was limited in that regard, but he had looked at what other states had done and generally the cities had regulated businesses that they worked with by requiring that a certain wage be used, which was factored into their contracts and what the cities paid for services; therefore, the cities ended up paying extra money. He concluded that he would research further, but he was not aware of the City being authorized to raise the living wage.

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

### **5.A/ Update on the Multi-Modal Transportation Facility.**

John Regan, Chief Operations Officer, reported that the parking garage was on budget and timeline and should be opened for the 4<sup>th</sup> of July weekend 2006. He stated that the entranceway to the VIC had been redesigned and the building revamped to facilitate an orientation center. He said that the residential parking program was up and running, although the start was a bit rough as the signage had to be modified for visibility.

He said that the directional signage was under way.

Mr. Regan stated that the Parking and Traffic Committee had two recommendations to the Commission as follows:

- Tram class shuttle vehicle
- Public education

Commissioner Boles questioned whether the tram would be open-air.

Mr. Regan replied affirmatively and said the right side would be open, but it would have to operate in inclement weather by using a number of different materials to cover the windows.

Commissioner Boles pointed out that the City was trying to encourage the downtown employees to use the garage, but riding an open air tram would not be conducive to the employee's personal hygiene and appearance, especially considering inclement weather and/or the heat of summer. He questioned whether PAT had taken that aspect into consideration.

Mr. Regan replied that they had not considered the matter in detail, but from a statistical view point most of the riders would be visitors. He said that PAT was making the recommendation to the Commission.

Commissioner Boles questioned whether PAT discussed being deferential to the non-air-conditioned sightseeing tour trains, as some were open air and some had air conditioning.

Mr. Regan replied to some degree, but PAT was interested in studying the tram vehicles and associated issues rather than buses or vans.

A discussion resulted regarding the trolley vehicle that had been in town but the trolley had been rejected because it was a diesel vehicle similar to a bus.

Mayor Gardner questioned whether the trams would be similar to the sightseeing trains.

Mr. Regan replied that they did not want the trams to be too similar to the sightseeing trains for obvious reasons. He stated that PAT was researching the nation for municipal applications of trams, and they hoped to bring further information to the Commission.<sup>3</sup>

Commissioner Jones pointed out that Mr. Regan was delivering a report and no decision had been made. He suggested that they simply share their thoughts on the matter with Mr. Regan, as PAT and the Commissioners were nowhere near making a decision; moreover, the final decisions would be up to the Commission.

Mr. Regan stated that the other vehicle classes were not out of the running but PAT was looking hard into the tram industry.

Mr. Harriss pointed out the time efficiency of an open air tram, as it would not be a single door system and having an air conditioned/inclement weather tram had been discussed, but the tourists would be the largest user of the shuttle.

Mayor Gardner questioned whether the proposed signage plan included I-95.

Mr. Regan replied that the beginning intersections were on state roads but not I-95, as the signage on I-95 indicated the exits for St. Augustine, and the proposed signage would direct people to where they wanted to go from that point; therefore, PAT's focus was on the state highway system.

A discussion resulted regarding signage from I-95 to the beaches in effort to keep the traffic flow out of downtown.

Commissioner Jones stated that he was not certain he wanted to detour visitors around St. Augustine to the beach, because those visitors might be interested in visiting the City after passing through. He addressed the public and said "you all come now, ya hear."

Mr. Regan clarified that the type of signage they were working on was the historic brown signage. He continued that the second

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

recommendation for public education was a new element of the master plan addressing accountability. He said that once the system was designed there would be a brochure indicating how to use the system, where to purchase cards, as well as the parking policies etc. He said that he would be working with Mr. Williamson regarding the matter.

Mayor Gardner questioned whether the VIC would be enlarged.

Mr. Regan replied that there would be a porch and doorway system through the existing bathrooms and remodel of the interior to create an open building plus redoing the bathrooms. He said that the remodel would create a blended experience of retail and vendors with a focus on orientation.

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

### **6.A./ Baas Cab Building Update.**

Mr. Wilson reported that the demolition permit has been issued for the Baas Cab Building, but they were trying to find a way to extend the 12 month grandfather period without penalty to facilitate the property owner's intention for the location. He said that his conclusion was to change the ordinance to always be applicable by allowing, under certain circumstances, an extension of the grandfather period. He said the party would have to go before the Commission requesting the extension before tearing a building down, and the site would have to be put to some specific public/semi-public use such as temporary parking, material storage for a public building or some such criteria. He said that they could set specific criterion for extending the grandfather period for a specific period of time. He stated that the owner of the old Baas Cab building required a couple of year's extension, but he understood that the property could be rented to Flagler College or the City for overflow parking. He said that he required the Commissioner's approval to move forward with his recommendation.

A discussion determined that there was no variance procedure within the existing ordinance, and any recommendation made by Mr. Wilson would go before HARB.

Commissioner Crichlow expressed concern for the Baas Cab building material, as the old concrete block was much sought after, and he suggested that someone oversee, salvage and sell the material, although he was not certain how to go about it.

Mr. Harriss stated that staff would work with anyone that was interested in salvaging the block.

Commissioner Crichlow stated that it would be a shame for the material to be lost.

Commissioner Boles stated that he appreciated the public use aspect of Mr. Wilson suggestion; however, it would have to be a use that the Commission approved.

The consensus was for Mr. Wilson to move forward and draft specific criterion.

Mayor Gardner pointed out that the timeframe criteria should be specific, as between the time of demolition and grandfathering everything in the area could change deeming the grandfathering a less than sensible way to reconstruct, which he felt should be considered.

## **ITEMS BY CITY CLERK**

### **7.A/ Notification of Proclamations.**

- 2005-39 Declaring December 1, 2005 as World Aids Day in St. Augustine

### **7.B/ Consideration of two appointments to the Code Enforcement Board of Adjustments and Appeals.**

Martha V. (Nell) Porter, City Clerk reported that there were two appointments to the Code Enforcement Adjustment and Appeals Board to fill the term expirations of Enid Hurst and Gary McMahon. She stated that Ms. Hurst was eligible for reappointment and Richard W. George of 201 S. Matanzas Boulevard was the only other applicant.

**7.C/ Consideration of one appointment to the Civil Service Board.**

Ms. Porter reported that there was one appointment for the Civil Service Board to fill the expiring term of Joan Broudy who was eligible for reappointment, and Ms. Boudy's was the only application that she had received.

**7.D/ Consideration of two appointments to the St. Augustine Firefighters' Retirement Board of Trustees.**

Ms. Porter reported that there were two appointments to the Firefighters' Retirement Board to fill the expiring terms of David Quinney and James Zimmerman, both were eligible for reappointment and theirs were the only applications that she had received.

**MOTION**

Commissioner Jones **MOVED** to accept the applicants in item 7.B., 7.C. and 7.D. The motion was **SECONDED** by Commissioner Boles and approved by **UNANIMOUS VOICE VOTE**.

**8. ITEMS BY CITY MANAGER (Includes Consent Agenda)**

**8.A/ Consent Agenda**

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

**8.A.2/ Consideration of 2006 City Commission meeting schedule.**

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

**8.A.4/ Approval of Bad Debt Write-Off.**

**8.A.5/ Consideration of Riberia Street Lease Agreement with Stuart Gamsey.**

**8.A.6/ Approval of appointments to the Neighborhood Grants Review Panel.**

**8.A.7/ Visitor Information Center Improvements.**

**8.A.8/ Notification of appointment to the Parking & Traffic Committee.**

Mr. Harriss read the Consent Agenda items.

Mayor Gardner requested that the City Manager read the appointments to the Neighborhood Grants Panel, and remove item 8.A.5. for discussion.

Mr. Harriss replied as follows:

- Rae Schwecke
- Erika Jones
- Beth Upchurch
- John Danahey
- Becky Nolan Greenberg

**MOTION**

Commissioner Crichlow **MOVED** to approve Items 8.A.1. through 8.A.4. and 8.A.6. through 8.A.8. The motion was **SECONDED** by Commissioner Jones and approved by **UNANIMOUS VOICE VOTE**.

**8.A.5/ Consideration of Riberia Street Lease Agreement with Stuart Gamsey.**

Mayor Gardner stated that the Riberia Street lease would be \$840 a month for five-years, which was an option to renew from a previous five-year lease. He said that the lease increase reflected the cost of living increases over the previous five-years. He asked the Commissioners to consider putting an accelerator into the lease by increasing the rent annually based on the cost of living adjustment.

Mr. Harriss stated that based on a 4% cost of living adjustment the proposal would add a couple of thousand dollars to the lease over the term.

After a discussion it was determined as followed:

**MOTION**

**Mayor Gardner MOVED to put the CPIS accelerator into the lease in the form that the City currently used for leasing. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.**

**8.B/ Discussion Items <sup>4</sup>**

**8.B.1/ Discussion Regarding Chase Park/Boys & Girls Club.**

Mr. Harriss said that the Boys and Girls Club had requested the conveyance of property on West King Street, The Bottoms/ Chase Field, for the club's use. He stated that the City had always been careful of involvement with community programs; however, he said that after consideration of what the club provided staff had recommended the exception, as it would be a good use of the City's resource. He suggested donating the property with reverter clauses or some form of lease.

George McClure, Chairman of the Local Advisory Board of the Boys and Girls Club, introduced some members of the board and the club and stated that his experience with the organization had been positive, as the efforts of the club were an enormous contribution of the community. He said that the organization had existed formally for 100-years to address the needs of the young men and women ages 6-18, grades 1-12 in the community without the advantages that other children experienced. He said that the club addressed the recreational, educational and social needs of the young people, as well as providing interaction with positive role models. He explained that they had opened a temporary facility in the old community club house for Flagler Village, but it was entirely too small to facilitate the needs of the club.

Mr. McClure stated that the club had received a contribution of \$750,000 from the Tournament Players Championship Tour, the Jacksonville Kennel Club had contributed \$150,000 and the Falcon Group had contributed \$50,000 for construction of a

permanent facility. He said the requested site was on West King Street just before the railroad tracks, and it had been donated to the City without restriction, but it had not been used and had fallen into disrepair since donation. He stated that it would be a wonderful opportunity for the Boys and Girls Club of northeast Florida. He proposed that the City consider donation of the site with an appropriate deed restriction to be retained and used forever by the club for the administration of the project objectives, but should the use cease or if the club lost tax exempt status the property would revert to the City of St. Augustine.

Mr. McClure stated that the proposed 15,000 square foot facility would cost approximately \$2 million and it would consist of computer labs, gymnasium, arts and crafts facilities, music facilities with congregation and tutoring areas and costing the members \$10 annually. He offered to draft a proposed deed with the aforementioned restrictions for execution during the subsequent meeting, and he invited questions.

Mayor Gardner stated that the club was a community organization, and he questioned whether Mr. McClure had approached the county for support. He offered the Commission's support to approach the county.

Mr. McClure replied that they had not contemplated what the county could do, but transportation would be one important element. He added that there were grants available, and they were participating with the Police Athletic League and other organizations. He assured the Mayor that they would leave no stone unturned, but they were waiting until they had a home before seeking out more support.

Commissioner Boles stated that the county did not give away property to charitable organizations they leased property, and he saw no detriment to the idea. He said a lease would indicate that the City had not given property away but made it available on a long term basis. He said that would eliminate a reverter clause or deeding with

<sup>4</sup> Item 8.B. was heard before Item 8.A.

restrictions etc., which the City would not have to deal with in the event of failure.

Mr. McClure stated that he personally had no objection to the concept, but the lease duration would have to extend beyond the useable life of the structure. He added that it was not the objective of the Boys and Girls Club to own property; the objective was to meet the needs of the children.

Mr. Wilson stated that as long as the property was being used for a public purpose he had no problem with a lease.

Commissioner Crichlow offered his complete support for the effort and agreed that a lease situation would be easier to deal with.

Mr. McClure suggested drafting a lease leaving the duration blank and making that determination during the subsequent meeting.

Mr. Wilson suggested directing staff to work with Mr. McClure to develop a lease agreement to convey the City's interest in the property.

Commissioner Jones added that he had spoken with the Chase family, and they were in full agreement for the proposed use of Chase Field. He said that there was a monument on the field in honor of Leo C. Chase Jr., and if the agreement went through the City would work with the Boys and Girls Club to upgrade the monument. He suggested that the location was perfect, especially for the children in the area that had no recreation facilities. He added that the proposal could bring about a diverse population that would broaden all the children's experience.

## MOTION

**Commissioner Jones MOVED to direct the City Attorney to take the necessary steps to move forward with the agreement and bring it back to the Commission at a future date. The motion was SECONDED by Commissioner Boles and approved by UNANIMOUS VOICE VOTE.**

Debbie Burgess, President, Boys and Girls Club of Northeast Florida, expressed appreciation to the Commission and City Staff. <sup>5</sup>

## ITEMS BY THE MAYOR AND COMMISSIONERS

### Commissioner Boles – Harbor Management Plan

Commissioner Boles reported that he and Mr. Regan had attended the Port and Waterway Authority meeting, and the board had been totally receptive and voted approval to develop a Harbor Management Plan for St. Augustine at their cost. He concluded that they would attend the next Port Authority meeting to touch base with progress for the plan.

### Commissioner Jones – City's Infrastructure

Commissioner Jones stated that currently he would introduce the topic of the Cities above and below ground infrastructure and the need for a long term plan and increased staff to handle the situation; moreover, he promised to reintroduce the topic during every meeting until the Commission agreed to address the matter. He added that he had asked staff to research the amount of time and over-time pay the City was investing to have employees work on the infrastructure on an emergency basis. He talked about the heavy usage of Riberia Street, which was in horrible condition and how a portion would be repaired through CRA money, and he added that the City was old and most of the streets were in need of repair. He pointed out that there was not enough staff to handle the current City projects that were way behind schedule, because staff was constantly being pulled off projects to handle emergencies. He stated that they could not take money from other areas to put into the infrastructure; they needed a plan and to designate the necessary money toward that plan.

### Commissioner Crichlow – Shell Gas Station

<sup>5</sup> A recess from 6:50 p.n. until 7:22 p.m.

Commissioner Crichlow reported that the DOT would soon put up a traffic signal on Malaga and King Streets and they would need a small piece of the property where the Shell Gas Station was located. He said the situation necessitated that the owner relocate his sign or deal with the threat of condemnation and under the Entry Corridor Guidelines when a sign was relocated it had to abide by the current guidelines, which would not allow an interior lit sign. He stated that under the circumstances the gas station owner should be allowed to retain his existing sign. He requested the Commissioners approval for his proposal, as Mr. Tringali did not want to change his sign.

Mr. Wilson stated that he was not certain that there was a variance procedure; therefore, he would have to create such procedure.

A discussion determined that Mr. Wilson would research the options.

Commissioner Crichlow wished the Commission and the public a merry Christmas.

#### Mayor Gardner – Announcements

Mayor Gardner delivered announcements regarding people and community events, and he extended best wishes for the holiday season.

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

#### **10.A.1/ Tabled – Public hearing and appeal of a Planning and Zoning Board decision relative to property located on East San Carlos Avenue**

(Tabled)

#### **10.A.2/ Tabled – Public hearing and appeal of a Planning and Zoning Board decision relative to property located at 5 Indian Mound Drive.**

(Tabled)

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

### **11.A/ Resolutions**

#### **11.A.1/ Consideration of Resolution 2005-33, authorizing a Christmas Bonus for City officers and employees.**

Mr. Harriss explained that the Christmas Bonuses were based on the longevity of the employee and according to Code the Commission was required to consider the matter separately.

### **MOTION**

**Commissioner Jones MOVED to approve Resolution 2005-30. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.**

After inquiry Mark Litzinger, City Comptroller, reported that the total amount delegated for the Christmas bonus was approximately \$50,000.

Mr. Harriss announced that Toby Plozner would be retiring after 32-years of service to the City.

#### **Non Agenda Item – Resolution 2005-34 – Maintenance of the Heritage Tourism Program through Legislative Delegation**

Mayor Gardner read the resolution and explained that it was the first step in a long procedure in effort to secure funding to maintain the historic properties currently under the City's auspices.

### **MOTION**

**Commissioner Jones MOVED to approve Resolution 2005-34. The motion was SECONDED by Commissioner Boles and approved by UNANIMOUS VOICE VOTE.**

Commissioner Crichlow recommended that they also get letters of support from the

organizations that the Commissioners continually supported through their letters.

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

#### **11.B.1/ Introduction and consideration of Ordinance 2005-38 modifying the North Florida Commerce Center Planned Unit Development (PUD)**

Mark Knight, Director, Planning and Building Department, delivered a brief history of the property, and he said that currently the PUD included 104 residential units and 20,000 square feet of low intensity commercial and using the affordable housing density point bonus system; however, there was no such provision in the existing PUD to insure that the homes were sold as affordable housing in order to use the density bonus points. He stated that there was a site plan included, and he offered to answer questions.

Mayor Gardner questioned the threshold for affordable housing.

Mr. Knight replied that it was based on median income; therefore, the cost would be determined when they sold the units and the cost would be based on the 80% threshold of median income. He said the developer had to sell 15-units at the affordable housing rate, which would have to be included within the PUD to secure the units as affordable housing for a limited time.

Mayor Gardner questioned whether the affordable units would be isolated or mixed with the non-affordable housing, and he was informed that the matter was not included in the PUD, but according to the PUD ordinance the Commission could make the determination that designated affordable housing would be scattered throughout the development.

Commissioner Jones stated that from the exterior it would make no difference; however, it would help diversify the community; therefore, he did not believe that the contractor would object to that stipulation.

Mayor Gardner expressed disappointment that the project had evolved from office space to another 104 residential units resulting in at least 208 more vehicles on the highways. He said that the mixed affordable housing could be a small step in ending the rampant economic segregation. He suggested that it could become another gated community.

Mr. Knight stated that when they met with the developer he had indicated that he would like that consideration, and he also believed that the agreement had been for the developer to have that option.

Commissioner Jones pointed out that areas could be secured without locked gates; however, the opportunity to eliminate the option had passed.

A brief discussion determined that there would be an advertised public hearing on second reading of the ordinance.

### **MOTION**

**Commissioner Boles MOVED to place Ordinance 2005-38 on first reading, read by title only and approved. Commissioner Jones SECONDED the motion.**

Mr. Wilson read the title as follows:  
ORDINANCE NO. 2005-38

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, MODIFYING THE NORTH FLORIDA COMMERCE CENTER PLANNED UNIT DEVELOPMENT (PUD) PURSUANT TO SECTIONS 28-286 THROUGH 28-291 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO ESTABLISH THE WHISPERING CREEK TOWN CENTER PUD; PROVIDING FOR TERMS AND CONDITIONS OF THE WHISPERING CREEK TOWN CENTER PUD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Commissioner Jones pointed out that affordable housing was a positive aspect of the PUD.

Commissioner Crichlow stated that the project had changed drastically since its inception, and he questioned whether the PUD would be at the affect of the new PUD ordinance, and he was assured that any further modification to the site plan would have to go before the Commission for approval.

**VOTE ON MOTION**

**AYES: Boles, Jones, Crichlow**

**NAYES: Gardner**

**MOTION CARRIED 3/1**

**11.B.2/ Consideration of Petition for Voluntary Annexation of Property located on the West Side of South Whitney Street, South of Madeore Street.**

Mr. Knight explained that the property in question was partially located within and out of the City. He stated that the portion within the City had been approved for a three lot subdivision, but the applicant had decided he wanted to add the portion outside of the City to make the lots bigger, and to do so they had to annex the property to be part of the three lot subdivision.

**MOTION**

Commissioner Jones **MOVED** to approve the petition for voluntary annexation of property located on the west side of South Whitney Street, south of Madeore Street. The motion was **SECONDED** by Commissioner Boles and approved by **UNANIMOUS VOICE VOTE**.

**11.B.2.a/ Introduction and consideration of Ordinance 2005-39, Annexing Property located on the West Side of South Whitney Street, South of Madeore Street**

**MOTION**

Commissioner Jones **MOVED** to place Ordinance 2005-39 on first reading, read

**by title only and approved. Commissioner Crichlow SECONDED the motion.**

Mr. Wilson read the title as follows:

**ORDINANCE NO. 2005-39**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ANNEXING APPROXIMATELY 0.57 ACRES OF PROPERTY IN ST. JOHNS COUNTY, FLORIDA, LYING ON THE WEST SIDE OF SOUTH WHITNEY STREET, SOUTH OF MADEORE STREET, AS DESCRIBED HEREIN; REDEFINING THE BOUNDARY LINES OF THE CITY OF ST. AUGUSTINE TO INCLUDE SAID PROPERTY; AMENDING SECTION 1.08 OF THE CHARTER LAWS OF THE CITY OF ST. AUGUSTINE, FLORIDA; PROVIDING FOR FILING OF A COPY HEREOF WITH THE CLERK OF THE CIRCUIT COURT OF ST. JOHNS COUNTY, FLORIDA, WITH THE CHIEF ADMINISTRATIVE OFFICER OF ST. JOHNS COUNTY, FLORIDA, AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE.

**MOTION CARRIED BY UNANIMOUS VOICE VOTE**

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

(None scheduled this meeting)

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

**11.D.1/ Public Hearing - Ordinance 2005-36 regarding Hazardous Trees on Private Property.**

Mr. Knight stated that the intent of the ordinance was to eliminate a lengthy process in the event that a tree on private property posed a threat to public safety. He said that under those circumstances the Planning and

Building Director could order that a tree be removed.

Commissioner Boles stated that the portion of the ordinance allowing an arborist to go onto private property to make a determination whether a tree was diseased or bug infested and could infect or damage nearby public vegetation could subject the City to endless criticism. He questioned whether they could insert limiting language for that portion.

Mr. Harriss replied that the ordinance pertained to trees that might fall on public property, which served to limit citizens from messing with their neighbors.

A brief discussion ensued further clarifying the language of the ordinance.

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

#### **MOTION**

**Commissioner Crichlow MOVED to place Ordinance 2005-36 on second reading, read by title only and approved. Commissioner Jones SECONDED the motion.**

Mr. Wilson read the title as follows:

#### **ORDINANCE NO. 2005-36**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ESTABLISHING SECTION 25-31 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO PROVIDE FOR THE PRUNING, TREATMENT OR REMOVAL OF HAZARDOUS TREES ON PRIVATE PROPERTY THAT POSE AN IMMEDIATE THREAT TO LIFE SAFETY ON PUBLIC PROPERTY OR RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

**MOTION CARRIED BY UNANIMOUS VOICE VOTE.**

#### **11.D.2/ Public Hearing - Ordinance 2005-37, Modifying the Process of Establishing and Amending a Planned Unit Development (PUD)**

Mr. Knight reported that the intent of the modification to the PUD ordinance was to insure that a citizen applying for a PUD included a detailed plan that could not be changed without going before the Commission. He continued that the 10-acre clause had been removed from the ordinance, as it had been challenged and not upheld at the court level. He said that they had also clarified the language to insure that the intent of a PUD was for multi uses.

Mayor Gardner opened the public hearing.

Gina Burrell, 27 Seminole Drive, stated that overall the PUD revisions were good; however, she suggested the following changes:

- The expiration of time limits on page seven letter E. should be worded as follows: *An ordinance approving a PUD shall become invalid upon change of ownership* or if development actions required by the ordinance creating a PUD were not taken within 18-months from the date of approval by the City Commission.

Mrs. Burrell stated that the reason for her proposal was to eliminate land speculators.

- Page nine *A PUD shall consist of at least five acres*

Ms. Burrell stated that a PUD was a zoning change, because it wiped out existing zoning and replaced it with a non-specified area. She said that the City would not consider a zoning change smaller than for a one block area. She stated that the creation of smaller areas would inevitably lead to enclaves of one zone within another. She said that if the City would not consider an area for a zoning change why would they consider it for a PUD; therefore, a PUD should have a minimum size specification. She asked the Commission to consider her recommendations.

Mayor Gardner closed the public hearing.

Commissioner Crichlow questioned the recommendation regarding change of ownership.

Mr. Knight replied that typically larger PUD's had build-out timeframes that had to be met. He said that the whole purpose of a PUD was to allow a group to unite and build a project in phases. He said that ownership change would require corporate change to prevent the clause from taking effect.

Commissioner Boles stated that he understood what Mrs. Burrell was getting at, but it would be difficult to enforce, as a corporation that had a PUD but wanted to sell to a different entity could sell the corporation as a whole.

Mr. Wilson stated that they were discussing a part of the ordinance that had not been advertised for amending; therefore, they could not address the matter at that time. He said that if they wanted to address the matter they would have to introduce another ordinance and advertise for that purpose.

Mr. Knight pointed out that the PUD in the last agenda item had a commercial portion and a residential portion and almost all PUD's in the phasing schedule would sell, but if the normal procedure was terminated the PUD process would not work at all.

Mr. Wilson stated that the way Mrs. Burrell had written the amendment it would not work anyway because all the property was built to be sold, for instance selling the individual residential units could make the PUD invalid. He added that the proposed amendment would not work the way it had been written. He stated that the second amendment could be addressed, as they had already advertised and amended that part.

Mr. Harriss said it was not true that the City rezoned by blocks, and in many cases the City had rezoned individual lots as long as they would not create an enclave.

Mr. Wilson pointed out that the Commission had the power to make those decisions on an individual basis.

Mayor Gardner stated that they were focusing on the PUD as a zoning tool for the City, and if the Commission knew how to use the tool there would be no abuse regardless of the size of an area. He commented that currently speculation was a sad part of life. He concluded that the Commission and boards had learned to use the PUD as the strictest zoning tool a government could have.

### **MOTION**

**Commissioner Boles MOVED to place Ordinance 2005-37 on second reading, read by title only and approved. Commissioner Crichlow SECONDED the motion.**

Mr. Wilson read the title as follows:

### **ORDINANCE NO. 2005-37**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTIONS 28-286 THROUGH 28-291 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO PROVIDE FOR MODIFICATIONS TO THE PROCESS OF ESTABLISHING AND AMENDING A PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR CLARIFICATION OF INTENT; PROVIDING FOR A REQUIREMENT TO HAVE A FINAL DEVELOPMENT PLAN ATTACHED AS PART OF THE ENABLING PUD ORDINANCE; PROVIDING FOR A REQUIREMENT THAT ALL AMENDMENTS TO A PUD BE APPROVED BY THE CITY COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

### **VOTE ON MOTION**

**AYES: Boles, Crichlow, Jones, Gardner**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

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

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

Les Garcia 406 Arricola Avenue, spoke regarding the situation for arts and crafts people in the Plaza and the ordinance regarding artists/entertainers on St. George Street.

**Adjournment**

There being no further business, the meeting was adjourned 9:07 p.m. <sup>6</sup>

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MAYOR

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CITY CLERK

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<sup>6</sup>Transcribed by Karen Rogers, Recording Secretary