

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
January 9, 2006

The City Commission met in a formal session Monday, January 9, 2006, 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
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
Bob Leetch, Director of Utilities and Public Works
Dr. William Adams, Director, Heritage Tourism
James Whitehouse, Staff Attorney
Paul K. Williamson, Director, Public Affairs
Loran Lueders, Chief of Police
Jimmy Owens, Fire Chief
Karen Rogers, Recording

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Lois Turner, Pentecostal Revival Center, delivered the invocation, and Commissioner Jones led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

(None)

3.B/ Approval of Minutes

The minutes of the regular City Commission meeting of December 12, 2005 were approved as presented.

3.C/ Proclamations

2006-01 Ronnie Hughes Retirement

Mayor Gardner read the proclamation for the benefit of the public which was signed by all five Commissioners.

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

Patricia Lowe de Parets, 67 Marine Street, thanked the Commission and staff for their initiation of the pilot residential parking decal program.

The following citizens spoke regarding the sale, demolition and future development of

the Conch House property formerly owned by the Ponce family:

- Jeanette Berk, 52 St. Augustine Boulevard, encouraged public review of the new property owners development plans.
- Nancy Sikes Kline, 15 Miruela Avenue, expressed hope that the new investors and developers would work with the neighborhood through the neighborhood associations to alleviate their fears.
- Connie Cooper, 300 Arredondo Avenue, requested that the Commission ask the developers to keep the neighbors informed as their plans progressed.
- John Danahy, 101 Oglethorpe Boulevard, expressed concern for approving the proposed four demolitions without an exact commitment regarding future construction, and he requested that the Commission consider reinstating the Aggregation Task Force to avoid a potential nightmare and protect the character of the neighborhoods from developers, regardless of the controversial nature of the matter.

Mayor Gardner questioned whether the new demolition ordinance required that an applicant demonstrate their intention to HARB for replacement construction.

Mr. Knight replied that HARB had the right to request that information.

Commissioner Boles said providing that kind of information would be for approval; however, if the applicant was seeking denial they would not have to provide anything. He said they had to assume that there would be lots of applications that were seeking denial to begin the two-year waiting period.

Mr. Knight added that HARB could make an outright denial if the structure was significant.

Commissioner Burk questioned how the City could hold the property owner or subsequent property owner's feet to the fire once the building was demolished.

Mr. Knight replied that they had not run into the enforcement aspect to date, but he admitted it would be difficult once a building was demolished.

Commissioner Crichlow reiterated a story of a citizen that applied for demolition providing site plans for a new single family residential construction; however, that individual had recently gone before the PZB requesting to build three houses on the same piece of property.

Commissioner Burk questioned how they could have HARB's recommendation enforced, and whether it could be a condition of the demolition permit.

Mr. Wilson replied that he would have to examine the Code.

Commissioner Burk suggested that he do so or at least instruct the HARB that the condition must be attached to the land.

Mr. Wilson said he believed the Code was written so they could require that new building plans go to the City prior to issuing a demolition permit.

Commissioner Burk stated that some of the boards had not received the Commission's input; therefore, she suggested that Mr. Wilson relay the information to them.

- Robert Graubard, new owner of the property in question, assured the aforementioned citizens that the single family residences would be replaced with single family residences and the commercial areas they planned to demolish would become a mix of commercial with residential on top; moreover, when they had the plans prepared they would meet with the neighborhood associations, as they wanted to be good neighbors.

Commissioner Boles said that the neighborhood associations allowed for communication with large groups of citizens at one time, and he encouraged the

communication between citizens and developers.

Ed Slavin, P. O. Box 3084, spoke regarding a living wage for City employees, City contracted employees and City franchisee employees, as working people could not afford to live in St. Augustine or St. Johns County, and he strongly suggested that the Commission take action to avoid gentrification. He suggested that the Commission appoint a number of committees to speak out for the citizens, do programmatic audits, investigate waste, fraud and abuse and review applications for the moment when there was a vacancy for the job of City Manager, Public Works Director and City Attorney, and he proceeded to speak disparagingly about the people currently holding those positions.

Commissioner Burk requested any information Mr. Slavin might have on living wages in the state of Florida.

David Thundershield Queen, P. O. Box 270, spoke about the situation regarding the arts/craftsmen in the Plaza. He also spoke in support of an \$8-\$9.00 an hour living wage for the City of St. Augustine, and he suggested a progressive advalorem tax to accomplish his suggestion.

5. PRESENTATIONS AND STAFF REPORTS

5.A/ Update on the Visitor Information-Orientation Center.

John Regan, Chief Operations Officer, delivered a power point presentation regarding the status of the VIC, and highlights of the report were as follows: ¹

- VIC would close on the 17th, demolition would begin on the 23rd and completion would be in time for July 4, 2006; however, remodeling the VIC could unearth problems
- There was a new draft mission statement for the VIC that had to be finalized

- The VIC would be extended and renovated and the plans were a reflection of everything staff learned in the public outreach process and the historic preservation study
- Current budget for the VIC was \$1.295 million
- During construction a mini VIC would function out of the old dental building
- The red and green trains had built kiosks to function from during the interim
- Port-a-lets would be used during construction including a strong maintenance and cleaning program
- The temporary bus loading zone was established
- The public should notify the City of any problems
- The free shuttle to the VIC would not be required during the construction, but the red trains had not made the request to discontinue service as yet

Transit System Design

- On street parking should constitute a quick turnover, which drove a stronger economic engine and would increase spending downtown and bring the locals back
- Design of the transit system was important regarding the role of the shuttle system
- Transit system target groups were employees, local shopper, student and visitors
- Trams were vehicles that moved a lot of people quickly for short distances
- Transit routing consisted of the loop route (currently approved) along Avenida Menendez and Cordova Street and the Cordova Street linear route
- The loop route was easier driving, but it would require dedicated lanes
- Transit system operation could be handled by the City, Council on Aging or privately (not considered to date)
- Transit system success would be defined by local acceptance of the transportation facility and on street parking turnover statistics
- It would be good to conduct a marketing research with user groups to understand

¹ Presentation attached to original minutes

the customer base and provide the Commission with some options for design of the system

- The next action was who would use the system and whether they were going to design for that use and how that use would affect the routing and the vehicle selection

Mr. Regan described both route details along with the positive and negative points.

Mayor Gardner questioned whether staff could get a solid marketing research evaluation if the facility and total parking and transit program were not in place.

Mr. Regan replied that they planned to design a survey that worked with the Chamber of Commerce and other businesses by establishing a sampling pool of people to survey. He added that the routing and vehicle type would have different value to the different user groups.

Commissioner Boles stated that they must consider a mass transit system and not a tourism function system. He said that he was the chairman of the board for the Council on Aging, and he would find out if there was FTA money that could be used for a transit system as an extension of the Sunshine Bus Service, which would separate the system from tourist transportation. He said that once they got all the information they would need a workshop, as they were making big decisions regarding the future, and they wanted the plan to succeed.

Mayor Gardner questioned whether either of the routes would require any change in the infrastructure.

Mr. Regan replied that some redesign would be necessary to avoid infrastructure impact.

Commissioner Burk noted that they would have to select a vehicle at some point, which was something they would not be able to change easily.

Mr. Regan agreed, as it would be a capital investment on the part of the City; whereas, routes could be changed.

Commissioner Burk stated that she had mixed feelings about the vehicle, but she was leaning toward the tram, as it might be a more successful vehicle.

Commissioner Crichlow agreed suggesting that a tram could be designed to distinguish from a sightseeing tour vehicle.

A brief discussion regarding the VIC vendor setup took place, and it was determined that the interior design was still in progress.

Mayor Gardner said many of the businesses in the City feared that the City was competing with them but it was time to get over that misconception, as it was the City's job to bring visitation to the City and they had. He suggested that the businesses had to be a part of the well organized VIC to orient the visitors; therefore, he would be reintroducing his brochure idea. He said he believed that a tram would be best for the transit system.

Commissioner Crichlow noted that Savannah and Charleston had transit systems that were able to function separate from the tourism industry.

Commissioner Boles said that perhaps the COA could buy the vehicles with FTA money and the City could pay the COA to run them, and that way they could have air conditioned, ADA compliant vehicles. He questioned why they should rush to a decision to buy vehicles if they could contract the transit system out.

Commissioner Crichlow said he thought that the COA could get whatever type of vehicle the City wanted.

Commissioner Boles stated that the COA would purchase the type of vehicle the Federal Government determined was needed, and he advised against voting on a vehicle at that time.

Mr. Harriss clarified that whatever vehicle the Commission determined to use would have to be ADA compliant.

Mr. Regan stated that staff would bring more information and data to the Commission as it evolved over the next few weeks. He pointed out that a lot of time had been put into the plan, and the determination had been to use the loop route and the tram vehicle, if the goal was the total population with a focus on visitors. He reiterated that it was important to know who they were designing the system for and why.

Mayor Gardner agreed that more information was better; however, he emphasized that there would be a shuttle on July 4th weekend along with the opening of the facility; therefore, they had to consider ordering and receiving any types vehicles in a timely fashion. He stated that Mr. Regan would have to tell the Commission when a final decision had to be made.

Mr. Regan stated that staff would have to go forward with a plan for the Commission.

Commissioner Burk said a tram that people could jump on and off would be much easier than other type vehicles.

Commissioner Boles pointed out that Commissioner Burk was referring to tourists, and he questioned whether they would be designing for tourists.

Commissioner Burk replied tourist certainly, but most of the wait staff and hotel workers would not want to lineup to get on or off a bus. She continued that locals would also want to jump on and off a vehicle, because they could walk to their destination faster than taking a bus.

Discussion determined that there was not much merit in engaging the perspective users of the transit system until it was in place, but there was no problem with continuing with the matter

Commissioner Crichlow stated that he was not excited about the City getting into the transit business.

Commissioner Boles said that he would like to avoid the City buying the vehicles; moreover, if the COA bought the vehicles and the system did not work, the COA could use the vehicles in their transit system.

A brief discussion determined that they would have to see what type of vehicle the COA could procure through the Government, the City would require two or three vehicles including a foul weather model, and the Parking and Traffic Committee would try to meet a week early so that Mr. Regan could provide the Commission with another PAT report during the subsequent Commission meeting.

6. ITEMS BY CITY ATTORNEY

None Agenda Item

Mr. Wilson reported that a lawsuit between W. J. Development Corporation and St. Augustine Marine had been settled, which required the City's approval. He explained that the City would allow them a license agreement to cross the City right-of-way; therefore, he required authorization from the Commission to sign the stipulation and settle the lawsuit.

MOTION

Commissioner Burk MOVED to authorize entry into the stipulated final judgment. The motion was SECONDED by Commissioner Boles and approved by UNANIMOUS VOICE VOTE.

ITEMS BY CITY CLERK

7.A/ Notification of Proclamations.

(None Scheduled)

8. ITEMS BY CITY MANAGER (Includes Consent Agenda)

8.A/ Consent Agenda

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

8.A.2/ Release of Liens on Unit Connection Fee Mortgages.

8.A.3/ Renewal of Office Lease with the Florida Department of Corrections (FDOC).

Mr. Harriss, City Manager, read the Consent Agenda items.

MOTION

Commissioner Burk MOVED to approve Items 8.A.1. through 8.A.3. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.

8.B/ Discussion Items

8.B.1/ July 4th Fireworks.

Mr. Harriss said the City of St. Augustine Beach had requested that the City alter the 4th of July fireworks celebration from the current location on the bayfront to the St. Augustine Beach Pier area on alternating years.

A brief discussion determined that consensus of the Commission was not to approve the request. ²

ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Boles – Signage on Cordova and King Streets

Commissioner Boles requested that the sign on Cordova and King Streets indicating that vehicles could make a left turn on red be made more visible, as generally people waited for the light to turn green before making the left turn.

Mr. Harriss replied that he would talk with the DOT about the matter.

Commissioner Jones – City's Infrastructure

Commissioner Jones requested a report regarding the number of miles of roads and water/sewer lines within City limits that the City was responsible for and the amount the City spent for repair and replacement.

Bob Leetch, Director of Utilities and Public Works, reported that there was approximately 95 miles of paved road, 188 miles of water lines and 108 miles of sewer, of which 74 miles were gravity and 34 miles were force main. He stated that currently there was approximately ten miles of new water and sewer under construction. He said the amount of miles that would be repaired was set in the budget annually.

A brief discussion determined that Mr. Leetch would meet with Commissioner Jones regarding the matter.

Commissioner Jones stated that one of the City's challenges was dealing with infrastructure replacement and repair.

Commissioner Crichlow – Government Television Channel

Mr. Crichlow reported that the status of projects within the City was currently being aired on the Government Television station. He added that currently there were three projects listed, but they intended to add to the list and keep it updated for the benefit of the public.

Mr. Harriss reported that staff had tested the remote control for the weir at Lake Maria Sanchez, and currently the lake could be flushed at night to keep it in balance.

Mayor Gardner – Aggregation

Mayor Gardner stated that, in answer to Mr. Danahy's public statement, he would welcome any Commissioner bringing the

² End of audio tape one

aggregation element back to the table for reconsideration.

Old Ponce Resort

Mayor Gardner reported that the St. John River Water Management District governing board would consider a permit application for a surface water management system for the proposed 749 unit development of the former Ponce Resort, of which technical staff had recommended approval. He expressed concern with the report indicating that the loss of multi-family units and commercial development to avoid wetland impact would result in a project that was not economically feasible, which he found hard to believe considering increased land value. He questioned the City's current monitoring of the situation

Mr. Harriss replied that Mr. Stokes was in the process of finalizing the project permits, which City Staff had been directed to oversee, after which the City would be certain that the developer complied with the terms of the permits. He added that there was no way for the City to interfere with the current permitting process, as it was not the City's jurisdiction; however, the developer would have to go before the Commission for any changes to the original approval.

Mayor Gardner said it was his understanding that impact on the wetlands had increased from three acres, which had been represented to the City, to more than nine acres. He said that it sounded like they had safeguards in place, but it was too easy to get lost in the lawyering process. He stated that they had lost the battle to save the Donald Ross golf course, but he did not want to lose the environmental aspects of the site. He added that Mr. Stokes needed to be aware of the City's interest every step of the way. He said that he wanted to attend the next Water Management meeting as a reminder that the City was watching each step of the process to be certain that consideration was given to the community element.

Mr. Wilson cautioned that the Mayor could attend the meeting; however, the City had

approved the project through mediation resulting from a lawsuit; therefore, the Mayor should be careful how he represented the City's interest.

Mayor Gardner stated that the City was familiar with dealing with economic hardship regarding lots within the City; however, it was the first time they had dealt with 419 acres at one time; moreover, they must be mindful that the development would have a tremendous impact on the City.

Commissioner Crichlow questioned whether the increased impact on the wetlands would qualify as a modification to the PUD.

Mr. Wilson replied that he was not aware of the current process; therefore, he would have to talk with Mr. Knight about the situation.

Mr. Harriss stated that the developer would probably have to go before the Commission, and there were portions of the project that had not gone through site plan review, which would also go before the Commission.

Mayor Gardner explained his understanding of the recent change in the project and said the City needed to let the developer know that the City had a continuing concern.

Commissioner Jones stated that he was not comfortable with taking an official position, because they did not have enough information. He said that if the Mayor wanted to attend the meeting and express his personal concern it would be fine, but not the concern of the Commission.

Mr. Wilson stated that the City taking a position before a public hearing was inappropriate, but the Mayor could express his personal position.

Mayor Gardner agreed that he would not want to make a decision at that time.

Mr. Wilson said that any amendment would fall under the revised PUD ordinance.³

³ A brief recess from 7:13 until 7:26 p.m.

10. Appeals and Public Hearings

(None Scheduled)

RESOLUTIONS AND ORDINANCES (To include public hearing)

11.A/ Resolutions

11.A.1/ Consideration of Resolution 2006-01, Urging Members of the Florida Legislature to support the Florida League of Cities' Key Priority Issues.

MOTION

Commissioner Burk **MOVED** to approve Resolution 2006-01. The motion was **SECONDED** by Commissioner Crichlow and approved by **UNANIMOUS VOICE VOTE**.

11.B/ Ordinances - First Reading

11.B.1/ Introduction and consideration of Ordinance 2006-01 amending the Definition of Lot Area.

Mark Knight, Director, Planning and Building Department, stated that Commissioner Crichlow had helped him develop a method of preventing lot irregularities in the future. He said the ordinance ruled that calculation for lot coverage had to include reasonably compact areas; thereby, eliminating any finger or tail areas as part of the calculation.

Mayor Gardner questioned whether the modification was too subjective.

Mr. Knight agreed that it was subjective; however, he had used the language included in annexations, which had proven successful.

Commissioner Crichlow stated that he felt fairly confident that the modification would prevent the use of flag lots when calculating lot area.

MOTION

Commissioner Burk **MOVED** to place Ordinance 2006-01 on first reading, read

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

Commissioner Boles questioned whether the modification would be enforced on the staff level, and the response was affirmative. He questioned whether the variance procedure would be available.

Mr. Knight replied that if not a variance a decision would be based on the interpretation of what was reasonably compact.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2006-01

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, MODIFYING THE DEFINITION OF "LOT AREA" AS FOUND IN SECTION 28-2 OF THE CODE OF THE CITY OF ST. AUGUSTINE; 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.B.2/ Introduction and consideration of Ordinance 2006-02 amending the St. Augustine Police Officers' Retirement System.

Timothy A. Burchfield, Chief Administrative Officer, reported that ordinance 2006-02 was the result of the negotiations with the Police Department that took place in September of 2005. He said that the basic change increased the multiplier for the years of service.

MOTION

Commissioner Burk **MOVED** to place Ordinance 2006-02 on first reading, read **by title and approved. The motion was SECONDED** by Commissioner Boles and approved by **UNANIMOUS VOICE VOTE**.

Mr. Wilson read the title as follows:

ORDINANCE 2006-02

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE X OF THE CODE OF ORDINANCES OF THE CITY OF ST. AUGUSTINE, ST. AUGUSTINE POLICE OFFICERS RETIREMENT SYSTEM; AMENDING SECTION 10.02 TO PROVIDE FOR A 3% MULTIPLIER; AMENDING SECTION 10.03 TO LIMIT AD HOC COST OF LIVING ADJUSTMENT IN THE EVENT CITY CONTRIBUTIONS EXCEED FIVE PERCENT; AMENDING SECTION 10.08 TO INCREASE MEMBER CONTRIBUTIONS; AMENDING SECTION 10.08 TO PROVIDE FOR LIMITED RETROACTIVE APPLICATION OF INCREASED MULTIPLIER; AMENDING SECTION 10.13 TO PROVIDE FOR DEFERRAL OF ENTRY INTO DROP UNTIL AGE 52 WITH 25 YEARS OF SERVICE; PROVIDING FOR FUNDING OF "EXTRA BENEFITS"; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF THE CITY OF ST. AUGUSTINE; 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 2005-38 modifying the North Florida Commerce Center Planned Unit Development (PUD)

All citizens planning to speak regarding the ordinance were sworn in by the City Clerk.

Mr. Knight delivered a brief history of the evolution of the PUD from the North Florida Commerce Center with 200,000 square feet of office space in 1999, in 2004 square footage for a business park was reduced to 160,000 and in November of 2005 the PUD was reviewed for mixed use with 104

residential units and 20,000 square feet of commercial. He stated that the PZB had recommended approval with the caveat that staff would review the density calculations on the project. He said that review had raised concern regarding additional density for affordable housing, as there were no provisions within the PUD for affordable housing. He stated that the developer would submit an addendum to the Commission that included a City park, and a traffic analysis of the previously proposed development as well as the currently proposed development.

George McClure, 170 Malaga Street, distributed the addendum and said that the property in question had been annexed seven years earlier and was in the Residential C classification under the County Comprehensive Plan that allowed a variety of residential and commercial uses, plus it allowed for a density incentive. He explained that the classification allowed a one-for-one credit for the provision of affordable units in the project.

Mr. McClure said that when his client, Robert Graubard, realized there would be no user for the originally proposed single large office building plan he had amended the plan into lower level buildings distributed throughout the site and focused on retail use; however, that plan was also determined to be economically unreasonable. Therefore, Mr. Graubard was currently considering a mix of retail and residential uses including 104 residential condominium units and 20,000 square feet of retail space along Lewis Speedway. He referred to the Whispering Pines affordable housing project in the same area, which had proven to be successful work force housing.

Mr. McClure said that his client's project had a smaller quantity of for-purchase affordable housing. He said that to enforce the affordability they would provide that the 13 units met the SHIP program standards by costing less than \$145,000, which represented affordable housing for such people as deputies, teachers and librarians. He added that it would be a quality housing alternative that would be dispersed throughout the project and not segregated.

He added that the market rate housing would not be substantially more expensive than the affordable housing and would be the same square footage and configuration.

Mr. McClure said the intention of the addendum was to insure that the affordable housing remained affordable by providing a restrictive covenant for the units to be sold according to the SHIP guidelines for a period of 15-years. He added that the SHIP guidelines were based on the calculation of the median wage base in the community.

Mr. McClure noted that a 3 acre area at the northern end of the site closest to Red Branch Creek had been set aside for passive recreational use as indicated in the PUD, and to insure that the area would not be developed in the future, his client proposed to dedicate the property to the City. He said that his client also proposed to improve the area closest to Lewis Speedway by including eleven parking spaces, a picnic area and restrooms for the public in general as well as the residents of the project.

Mr. McClure said the traffic study indicated that the trip generation would be less than one fifth of what it would have been under the existing proposed use, which represented a positive element for changing the project. He offered to answer questions.

A brief discussion determined that the park entrance would be completely accessible at all times.

Mayor Gardner opened the public hearing.

The following people spoke regarding the subject:

- Debra Andrews, 11 N. Roscoe Boulevard, Ponte Vedra, representative for Diane and Jerry Mills who owned property adjacent to the property in question, said that the original PUD had expired by terms of the Code, the City had no affordable housing program and the county had no jurisdiction; therefore, the City would have to institute an affordable housing program. She questioned who

would enforce the affordable housing, and said there was no concurrency review approval as related to transportation, the traffic study was insufficient, impact to tree canopy would be increased 10%, the City would take on the maintenance burden of the park, the 50-foot buffer on Lewis Speedway had been reduced, there had not been a tree survey, and there was not enough detail in the site plan.

- Janis fleet, 11557 Hidden Harbor Way, Jacksonville, also representing Mr. & Mrs. Mills, said the City had annexed the property without changing the Comprehensive Plan; therefore the property was under the County Comp Plan, City Code indicated that a PUD expired after 18 months, no concurrency certificate had been issued, and the County SHIP program had no authority within the City limits.

Commissioner Boles stated that the SHIP program was a County program and the City existed within the County; moreover, there were homes in the City that were part of the SHIP program.

Ms. Fleet stated that she was not saying the SHIP program could not be monitored by the County, but the City would need an interlocal agreement for that purpose.

Commissioner Boles clarified that currently the City had no problem with the County supervising property within the City limits without an interlocal agreement.

- Diane Mills, 3455 Lewis Speedway, distributed a map to help the Commissioners understand where her property was in relationship to the proposed project, and she said there was inadequate ingress and egress to the project and displayed photographs to support her complaint about flooding as a result of development, the trees were being damaged by the flooding, the PUD was outdated, the buffer had been decreased, the historical archeological sites were in jeopardy, and she

expressed concern regarding the schools, children and traffic.⁴

- Sherry Badger, 2772 South Collins Avenue, expressed concerned about the proposed strip mall and the elements a strip mall attracted when considering the three schools in the area and traffic on Lewis Speedway,
- Kathy Heller, 4075 Quail Drive, expressed concern about flooding, schools, children, strip malls and the amount of traffic on Lewis Speedway.
- David Thundershield Queen, P. O. Box 270, stated that if the proposal was to be considered affordable housing then he would have to recommend a living wage for St. Augustine at \$25-\$30 per hour, the County needed more development and strip malls like a hole in the head, there should be a moratorium on development declared, as according to the Chamber of Commerce it cost \$1.51 for infrastructure and service costs for every \$1 that was collected in taxes, and he expressed concern for the archeological sites, the habitat for animals and potential impact on an ancient American Indian village site. He urged them to deny the project.
- Ed Slavin, P. O. Box 3084, suggested that developers and property owners were guaranteed a seat at the table and had the ear of the planning department. He suggested that the applicant was wasting the Commissioner's time with an expired PUD. He accused the City Manager and Attorney of working for the developers and of unfair representation for homeowners, residents, renters and workers on City boards and Commissions. He recommended a moratorium on development and suggested that the Commissioners look at the application form for board members as business or property ownership was not required to participate in civic government according to the law. He accused Mr. McClure of inappropriately looking at the speaker cards, although they were public record.

Mayor Gardner closed the public hearing.

⁴ End of audio tape two

Mr. McClure stated that according to Ordinance 2004-02 development of the first phase of the project was to commence within 3-years of approval of the PUD or 2007; therefore, the developer had no obligation to commence construction until the subsequent year.

Mayor Gardner questioned when the PUD was originally presented.

Mr. McClure replied that the ordinance had been revised in 2004 completely restating the PUD and according to the ordinance the first phase of construction would commence in 3-years.

Mayor Gardner questioned the 1999 approval.

Mr. McClure explained that the 2004 ordinance supplanted the 1999-2000 ordinance.

Commissioner Boles clarified that there had originally been a PUD in 1999, he questioned whether it had expired and been renewed, and if the 1999 PUD expired would the 2004 constitute a new PUD.

Mr. Knight stated that when the property was annexed it had been approved as a PUD and the original PUD had expired, at which time a new PUD had been established 2004.

Commissioner Boles questioned whether the applicant had applied for a new PUD in 2004, and whether it had been approved with the same formalities as the 1999 PUD.

Mr. Knight replied that the same process of review was followed whether there was a major amendment or a new PUD.

Mayor Gardner questioned why they were still referring to the North Florida Commerce Center PUD if it had expired and a new application had been reviewed and approved.

Mr. Knight replied that the 1999 PUD had expired, and the 2004 PUD was originally known as the North Florida Commerce

Center with 40,000 square feet less commercial footage.

Commissioner Boles noted that the name change had occurred in 2005, and he suggested that staff had to walk the Commission through the process, as it was hard to tell the players without a program.

Mayor Gardner stated that he experienced the same sentiment quite a bit.

Mr. McClure added that Ms. Andrew referred to a 50-foot natural buffer adjacent to Lewis Speedway; however, according to the text of the PUD it was a 15-foot natural buffer to Lewis Speedway and the High School property, which was the same condition in both PUD's. He continued that Ms. Andrews's referral to the preservation of 60% of the tree canopy was correct and according to the current PUD the canopy preservation would be 50%, and he added that according to the current site plan there was in excess of 73,000 square feet of pond. He said that due to Mrs. Mills concern for Red House Branch Creek they were assuring that water treatment would be high; thereby, reducing the tree canopy. He said that according to the existing PUD they could have 35% of the site for building coverage and up to 50% for impervious surface, and the current site plan provided for 13.8% building coverage, more than 57% of the site was open space and 32.4% was impervious surface, all of which was significantly less than the existing PUD. Mr. McClure said that Ms. Fleet was asking the Commission not to review the text of the County Code or the interpretation of the City Planner, but to rely on hearsay. He stated that according to the standards of the City Comprehensive Plan the lowest residential density was eight units per acre that included the density incentive, which was at or above the residential classification of the County; therefore, amending to the City Comprehensive Land Use category would not achieve a reduction in the number of units permitted on the site.

Mr. McClure pointed out that Ms. Badger lived on South Collins Avenue which was hardly adjacent to the property in question;

however, when considering that her complaint had to do with commercial development, he pointed out that the current proposal reduced commercial and retail development by 87.5%.

Mr. McClure concluded that in the event that concurrency was inadequate his client would not be able to acquire a building permit.

Mayor Gardner questioned the jurisdiction on the affordable housing.

Mr. McClure replied that the County administered affordable housing within the City, but in the event that the Housing Authority was unwilling to participate in the proposed program then his client would have 13-units that he could not sell until they went before the Commission seeking someone else to handle the affordable housing review.

Mayor Gardner noted that there was no provision within the proposal that the affordable housing was for the work force or that any applicant for the affordable housing would be qualified by the SHIP program. He said that the housing could end up a second home for a millionaire from Ponte Vedra. He questioned the maintenance of the public park.

Mr. McClure said that the terms of the SHIP program would be inherent in the application, which was an independent ascertainable standard for review of any affordable housing applications. He said that if the City did not accept dedication of the park it would remain property of the homeowner's association. He said when they referred to the project being a gated community they were referring to a secured community.

Mayor Gardner questioned whether the commercial space would have access from within the development, and the response was affirmative, and he questioned the eight units per acre in relation to wetlands.

Mr. McClure said there were other classifications, but he did not believe that the City would want to classify the site open land. He said that under the County Comp Plan

wetlands were not included in the calculations, but the county gave credit for the open space.

Commissioner Burk questioned the archeological review and the tree survey.

Mr. McClure said that there was an archeological site adjacent to the creek that was undisturbed. He added that the tree survey would be included with the final development plan.

A brief discussion regarding the existing sidewalks ensued, and it was determined that Lewis Speedway was a county road and the applicant would have to apply for access from the county, but the City could tell the developer not to put curbs across the sidewalks.

Mr. McClure agreed that there was a drainage problem in the area, but the project would retain its water on site; moreover, for concurrency they would have to prove proper drainage.

Commissioner Burk stated that in the event the county did not want to handle the administration of the affordable housing she would not want the City to get involved with the process.

Commissioner Boles questioned how the matter of affordable housing had become a part of the PUD.

Mr. McClure said that in order for his client to get the density he wanted he had to include an affordable housing component.

Mr. Harriss said he felt that there had to be administration of the affordable housing including a timeframe to keep the spirit of the intention.

Commissioner Burk said that if the County would not accept administration for the affordable housing they would want the developer to pay for and handle the matter.

Commissioner Jones stated that part of the SHIP program was for an applicant to apply

to determine whether they qualified for money toward the down payment for property regardless of where the property was located. He said that if an applicant qualified the SHIP program found a lender. He suggested that the county talk with them about the matter.

Commissioner Burk questioned whether the City would have to maintain the proposed park and the suggested bathrooms.

Mr. Harriss stated that if the City took the park the county would not maintain it, as it would qualify as a passive park within City limits.

Mr. McClure stated that if the City decided not to accept the park the property could be subject to a permanent conservation easement to prevent development.

A discussion determined that the City could accept the park without restrooms and with conditions of agreement between both parties regarding future development of a park.

Mr. Boles said that they were addressing a PUD allowing the project, and they were dealing with the addendum that allowed affordable housing.

Mr. Knight stated that in order to go forward they would have to motion to accept the addendum as part of the PUD and then adopt the PUD.

MOTION

Commissioner Burk MOVED to amend the PUD with the aforementioned conditions including clarification that the City bore no responsibility for administering the affordable housing program, the developer would commit the park area to the City and the expense of developing the park area, for which the City would determine how to develop the park in the future and add the addendum regarding affordable housing to the PUD application and some representation by the developer that no archeological site would be disturbed.

Mr. Graubard stated that he had no problem with Commissioner Burk's conditions, but there should be a three year time period regarding developing the park.

Commissioner Burk questioned the flexibility of moving the buildings around the site, which she wanted for the sole purpose of preserving trees.

Commissioner Crichlow stated that according to the new amendment to the PUD ordinance any modification to the final site plan would go before the Commission.

Commissioner Burk stated that the flexibility of moving buildings would have to go through the procedure of amending the plan based on those movements.

Commissioner Burk MOVED to amend the proposed PUD as just recited. The motion was SECONDED by Commissioner Crichlow.

Mr. Harriss stated that the motion pertained to the addendum and the amendments to the addendum and other ancillary provisions as directed by Commissioner Burk.

Mayor Gardner expressed disappointment about another gated human warehouse, relying on other jurisdictions and agencies regarding retention, drainage and concurrency and the number of increased vehicles as a result of the development. He said the increased number of vehicles along with Chester Stoke's development of 749 units and 1,500 vehicles would be dumped onto Route 1.

Commissioner Burk added to the MOTION that the strip mall would maintain the vertical and horizontal diversity currently included in the drawing for the site plan, so that it would not look like a strip mall.

Commissioner Jones added and including the clock tower that was in the architectural rendering of the site plan.

Commissioner Crichlow SECONDED the addition to the motion.

Commissioner Jones questioned whether the City had water and sewer in the area in question and the response was that in terms of storm water it was a dual jurisdiction.⁵

A brief discussion acknowledged that the flooding problem in the area was under county jurisdiction, but the site in question would be at a higher elevation, there would be retention on the site and the tree canopy would be toward the edge of the property.

VOTE ON MOTION

AYES: Burk, Crichlow, Boles, Jones

NAYES: Gardner

MOTION CARRIED 4/1

MOTION

Commissioner Crichlow MOVED to place Ordinance 2005-38 on second reading, read by title only and approved with the aforementioned amendments. Commissioner Burk 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

VOTE ON MOTION

AYES: Crichlow, Burk, Jones, Boles,

NAYES: Gardner

MOTION CARRIED 4/1

⁵ End of audio tape three

Commissioner Burk stated that she wanted to change the City ordinance to require concurrency at the time of a zoning request.

Mr. Knight stated that there was an evaluation for concurrency for every aspect of the development review process. He said that rezoning included traffic, stormwater, water/sewer and parks, and he presented details of the process indicating that as the process unfolded it became more refined.

Commissioner Boles suggested that Mr. Knight thought the current process was adequate.

Mr. McClure offered that the county required at least a third of the required capacity as a condition of zoning approval for a PUD. He said that the county also reserved concurrency for a period of time.

Commissioner Burk suggested that she would have to research the matter further.

11.D.2/ Public Hearing - Ordinance 2005-39, Annexing Property located on the West Side of South Whitney Street, South of Madeore Street

Mr. Knight provided a brief history of the ordinance indicating that the current situation increased the size of the lots.

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

Commissioner Burk questioned whether they could put a condition on the annexation that the applicant could not replat.

Mr. Wilson said that they had already approved the agreement and petition on first reading.

Mr. Knight stated that although the applicant was not present he did not believe there would be objection.

Commissioner Burk questioned whether they could restrict the applicant from changing the plan.

Mr. Wilson suggested that it would not be necessary, as the applicant had already determined that it was not worth developing the back parcel of the property.

Commissioner Burk said that the property could be sold to someone else, and they could change their mind and bring the matter back to the City.

Mayor Gardner pointed out that the property had not been platted; therefore, the applicant would have to go through the normal procedures.

Mr. Knight pointed out that the applicant would go before the Commission with the final plat, and they could put a deed restriction on the final plat.

Commissioner Burk suggested that it would be too late once they had annexed the property.

Commissioner Boles pointed out that the property had not yet been subdivided.

Commissioner Jones said that as long as the applicant met the minimum conforming lot size why should they be concerned.

Commissioner Boles said that they were willing to annex in three lots, but if there were six lots they might not be willing to annex the property.

A discussion determined that the property could probably be subdivided into four lots if the applicant put in a road.

Commissioner Burk reiterated the questioned whether they could annex the property contingent upon a plat no greater than three buildable lots.

Mr. Wilson replied that they could do so and if the applicant was not in agreement the matter would go back to the Commission.

MOTION

Commissioner Burk MOVED to amend the ordinance that it be contingent upon a plat

being presented that showed no more than three lots.

Commissioner Boles stated that the PZB had approved a preliminary plat for a three lot subdivision.

Mr. Wilson said that from his experience on the case he did not believe the applicant would object to the amendment.

Commissioner Burk said that she wanted the contingency stated in the ordinance.

Commissioner Jones SECONDED the motion.

Commissioner Crichlow recused himself as he had a working relationship with the applicant on another project.

VOTE ON MOTION

AYES: Burk, Jones, Boles, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

MOTION

Commissioner Burk MOVED to place Ordinance 2005-39, as amended, on second reading, read by title only and approved. Commissioner Jones 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.

VOTE ON MOTION

AYES: Burk, Jones, Boles, 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)

Kathy Heller, 4075 Quail Drive, spoke regarding the detriments of strip malls in relation to the one proposed on Lewis Speedway.

Mayor Gardner stated that if the location of a new strip mall prevented even one vehicle trip on the major highways he would support it.

Sherry Badger, 2772 Collins Avenue, spoke regarding the detriments of strip malls and the one proposed on Lewis Speedway when considering the amount and speed of the traffic in the area.

Commissioner Jones noted that strip malls such as the one proposed would allow citizens in the area to walk to the store rather than getting in their automobile to get a loaf of bread.

Non Agenda Item

Commissioner Crichlow referred to the number of letters of support for state funding for the historic preservation properties and questioned where the big hitters were. He pointed out that he made a point of writing letters of support for Flagler College and the National Guard etc., and he expected the same support from them if he was going to continue being supportive.

Mr. Harriss pointed out that the letters were trickling in.

Ed Slavin, P. O. Box 3084, spoke encouraging the City Commission to declare a moratorium on development. He complained that staff was too noisy during the meeting and that citizens should be allowed to talk more often and longer. He recommended that the City Manager and City Attorney be more visible to the TV audience. He further complained that the City should be responsible for public utilities on the City 10-foot right-of-way.

Commissioner Burk stated that if declaring a moratorium on development was legally feasible she would support it.

David Thundershield Queen, P. O. Box 270, spoke against development and strip malls and in support of a moratorium on development and a living wage for the citizens of the St. Augustine.

Adjournment

There being no further business, the meeting was adjourned 9:50 p.m. ⁶

MAYOR

CITY CLERK

⁶Transcribed by Karen Rogers, Recording Secretary