

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
April 10, 2006

The City Commission met in a formal session Monday, April 10, 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
Paul K. Williamson, Director, Public Affairs
Loran Lueders, Chief of Police
Jimmy Owens, Fire Chief
Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Father David Weidner, Trinity Episcopal Church, 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 March 27, 2006 were approved with the following amendment: *page thirteen, left column, the acronym for University of Florida was changed from UNF to UF.*

3.C/ Proclamations

(None Scheduled)

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

Non Agenda Item – Public Comments Periods

Mayor Gardner noted that currently citizens were taking advantage of both comment periods. He stated that the Commission established a comment period at the beginning and at the end of meetings for additional speakers, but basically it was a single comment period with an extension at

the end but not a second public comment period.

Commissioner Burk agreed stating that the intention had never been to provide two opportunities for public comment.

Commissioner Crichlow agreed that the idea had been to have public comment for those that were unable to get to the meeting at 5:00 p.m. and provide a public comment section that was broken into two parts, but not doubled-up on.

Mayor Gardner said that the consensus was that the three minute period at the beginning of the meeting was for public comment, but if a citizen's comments would not fit into the three minute time period they should wait for the five minute comment period at the end of the meeting.

Commissioner Crichlow clarified that the decision would not affect public comment on specific agenda items.

Gina Burrell, 27 Seminole Drive, recommended that the Historic Architectural Review Board meeting be televised on the government channel, because the City was at a critical time historically, and the public needed to be informed. She said that she had spoken with Margaret Laidlaw about the matter, and the HARB meeting could not be televised live on the third Thursday of the month as there was a conflict with the County Planning and Zoning Agency meeting, but the HARB meeting could be rebroadcast at another time.

Commissioner Burk agreed that it was a good idea.

Ms. Burrell suggested that if Cathy Dupont needed help that the City could intern a Flagler College student from their communications department.

A discussion determined that the suggestion would require extra hours of work by the City, interns could not work alone, but staff would look into the matter, and changing the

meeting date to televise live would also be considered.

Jerry Butterbaugh, 21 Leonardi Street, exhibited a petition signed by the residents of Leonardi Street that had been given to the Commission during a prior meeting and once again requested that the Commission address the matter of large trucks on Leonardi Street by putting up signs denying them access to the street.

Dwight Hines, 150 Nesmith Avenue, assured the Commission that he would be delivering a civil complaint against the City regarding illegal dumping, as he had compiled enough data for a grand jury. He stated that a licensing and complaint system was absent in the City, also for the taxicab companies. He said that the grand jury would not be a witch hunt, as they would examine specific areas, some of which would include lack of records and lack of compliance of records. He recommended that the Commissioners obtain attorneys.

Ed Slavin, P.O. Box 3884, questioned why the City had allowed the Time Warner Cable franchise to expire without negotiations in 2004. He questioned what the Commissioners were doing to eliminate poverty, prejudice and oppression. He said that the City had the power to buy Florida Power and Light poles and wires and create a municipal electric system. He spoke in support of wireless internet technology in the City. He stated that the City had dumped 20,000 cubic yards of stuff illegally into the old City reservoir, he questioned how long it had been going on and whether the City's insurance contract contained exclusion and if so who would pay for the cleanup. He stated that a tree on City property housing a Bald Eagle's nest had been chopped down by a developer, and he questioned why there had not been an indictment. He recommended against cutting the public hearing time and stated that the agenda item regarding how the public would elect the mayor had not been on the website, which was a serious violation of the First Amendment.

David Thundershield Queen, P.O. Box 270, displayed a map of the proposed development at the Red House Bluff Creek site and spoke about respectful representation for American Indians buried at the site. He asked the Commission to revisit the issue, because facts had been withheld by Robert Graubard. He suggested that there were other burial mounds that had not been documented, and that there were bones that had not been examined by experts to determine whether they were human and should be respectfully dealt with. He suggested that the aforementioned area could serve for educational purposes for the students located in the school next to the property.

5. PRESENTATIONS AND STAFF REPORTS

5. A/ Presentation of the Sebastian Inland Harbor Project Entry Monuments.

Matthew Merritt, 1186 Ponte Vedra Boulevard, displayed an architectural rendering of the proposed monuments for the Sebastian Inland Harbor project and said that construction had begun on the site in early November. He said the Commission had indicated that they wanted an entry monument for the City, and he referred to the design. He said that one monument would sit on the eastside of King Street or on the Florida East Coast Railroad property and would require an easement from one or both parties. He said the height would be 18-22 feet tall, but the height could be scaled down, and he pointed out that the monuments had the City Crest on them, which would require Commission approval. He said that he would leave the renderings for the Commission and staff to review and modify.

A discussion determined that the monuments would require ARC approval, there would be no writing on the monuments, they should be visible, work would not start on Riberia Street until truck traffic from the project was over, and the FEC was open to discussion concerning the monuments and potential parking.

Mayor Gardner questioned the timeline for the parking facility proposed for the project, and the response was that it would be one of the last constructions and the third retention area would be under the parking deck.

6. ITEMS BY CITY ATTORNEY

6.A/ Discussion regarding Charter changes relative to the election of the Mayor.

Jim Wilson, City Attorney, said that the Commission had discussed changing the way the Mayor would be elected, and it was time to adopt an ordinance regarding the subject in order for the matter to be included in the general election. He said that according to the Charter they had to pass an ordinance concerning the matter not more than 120 or less than 60 days prior to the election. He said that the ordinance would incorporate the changes, with a title of not more than 15 words and a referendum question of not more than 75 words that could be answered with a yes or no. He explained that the earliest they could pass the ordinance would be May 6th, the latest would be September 6th, the Supervisor of Elections would require the referendum question no later than September 1st, and the ordinance would have to be adopted by 2/3rds or four members of the Commission.

Mr. Wilson said that previously the Commission had determined that they wanted the two year seat, seat three, to be the Mayor's seat. He said that if it was consensus of the Commission he would proceed.

A discussion revealed that the Commissioners thought they had already passed the changes, and the City Attorney was directed to prepare the ordinance.

Mayor Gardner questioned whether the City Attorney had addressed the language for the referendum.

Mr. Wilson stated that he would bring a couple of alternatives to the Commission for consideration.

7. ITEMS BY CITY CLERK

7.A/ Notification of Proclamations

2006-15 Certificate of Recognition honoring the Women of the Civil Rights Movement.

2006-16 Proclamation for USS Farragut Day

2006-17 Proclamation for Greek Landing Days.

2006-20 Certificate of Recognition of the 75th Anniversary of Beta Sigma Phi

2006-22 Certificate of Recognition to Meinhardt Raabe.

7.B/ Retirement Notice from the City Clerk.

Ms. Porter announced her notice for retirement on June 16, 2007 as included in the agenda packet.

The Commissioners congratulated Ms. Porter, and the Mayor read a press release prepared by Paul Williamson, Director of Public Affairs. ¹

Commissioner Crichlow questioned whether they would include the appointment of a new City Clerk on the next agenda.

Mr. Harriss stated that he could do that as a specific advertised line item.

8. ITEMS BY CITY MANAGER (Includes Consent Agenda)

8.A/ Consent Agenda

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

8.A.2/ Approval of presenting the de Aviles Award to Joseph W. and Faith K. Tiberio.

¹ Press release attached to original minutes

8.A.3/ Release of Liens for Utility Connection Agreements.

8.A.4/ Determination of legal sufficiency and acceptance of an application to appeal a Planning and Zoning Board decision relative to property on Arricola Avenue.

8.A.5/ Approval of a final subdivision plat for property located on Cabeza Street.

8.A.6/ Consideration of the Northwest Force main Developers Agreement.

8.A.7/ Consideration of Tax Deed Sale relative to property located at 96 St. Benedict Street.

Mr. Harriss read the Consent Agenda items.

Mayor Gardner referred to item 8.A.7. and questioned whether the Commission would authorize staff to bid against the property.

Mr. Harriss said that the City had a \$5,000 lien on the property and staff would bid \$11,000, including the amount of the taxes, and the lien of \$5,000. He said that if the property went for more than \$16,000 the City would get their portion of the money. He said it was unlikely the property would sell for less, as it was assessed at \$149,000.

MOTION

Commissioner Jones **MOVED** to approve Items 8.A.1. and 8.A.7. on the Consent Agenda. The motion was **SECONDED** by Commissioner Burk and approved by **UNANIMOUS VOICE VOTE**.

8.B/ Discussion Items

(None Scheduled)

9. ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Crichlow – Blessing of the Fleet

Commissioner Crichlow acknowledged the success of the blessing of the fleet event on Palm Sunday.

Commissioner Burk – Public Comment Period

Commissioner Burk pointed out that the Commission had clarified the public comment period, and she recommended that the clarification go into effect during the subsequent meeting, and the Commissioners agreed.

Commissioner Boles – Commissioners Division of Interests

Commissioner Boles recommended that the Commission designate each Commissioner a capacity to research and report to the other Commissioners or have staff deliver the reports. He used the example of Commissioner Jones' passion regarding infrastructure, and stated that he would like to know the result of the Commissioner's research. He suggested that the idea would be more formal, but it would be more time and energy effective for the Commission and staff.

Commissioner Crichlow agreed that it was important that each Commissioner champion one particular effort and bring the information to the Commission, because it was impossible for all the Commissioners to be totally involved with everything.

Commissioner Boles stated that he wanted to avoid a duplication of effort; therefore, if they coordinated their efforts they would avoid duplication and be a more effective Commission. He suggested formalizing the idea.

Mr. Harriss pointed out that discussing individual assignments would have to be done during public meetings.

Commissioner Crichlow stated that perhaps the idea would not have to be that formal.

Mayor Gardner said that assignments seemed to be pretty well broken out currently.

Commissioner Crichlow pointed out that members of the Commission may not share the same view point regarding a matter and want to become involved from their own point of view, but if one Commissioner was assigned to the matter another Commissioner could not get involved, which was not good.

Commissioner Boles suggested that perhaps he would have his matters of interest included on the agenda for discussion, as opposed to introducing subjects during the items by Mayor and Commissioners. He said that he would want the consultant report regarding the Spanish Quarter to be discussed; therefore, he would have the matter included on an upcoming agenda.

Mayor Gardner – Announcements

Mayor Gardner delivered announcements regarding people and community events.

Red Branch Creek Site

Mayor Gardner stated that the City had a full time qualified staff archeologist, Carl Halbirt, and it was his understanding that it was not necessary to include the state archeologist in all cases unless the City's archeologist required assistance. He expressed full confidence in Mr. Halbirt.

Tremerton Street Archeology Site

Mayor Gardner said that he had been questioned by a citizen regarding a plaque to identify the Tremerton Street Archeological site; however, it was his understanding that any designation of that type was against the belief of the indigenous people.

State Owned Historic Property Funding

Mayor Gardner expressed optimism regarding the City receiving state funding for the historic properties. He stated that it was a timely process.

City Hall

Mayor Gardner said that the roof on City Hall was in ill repair and the cost for replacement would be a million dollars, but they had missed the timeline for assistance through grant funding. He said that staff had discovered major leakage in a flat roof section over the Lightner Museum and cost for that repair would be \$50,000; however, the item was not in the current budget. He said that they could wait another year or tap into the reserve fund and attempt repayment in the subsequent budget cycle. He suggested that they correct the problem as quickly as possible.

Commissioner Boles agreed that they should fix the situation to avoid additional damage. He noted that City Hall was a City owned treasure that required their attention.

Mr. Harriss agreed that they had an obligation to the structural integrity of the shell of the building, but the interior was the museum's obligation. He emphasized the need to address the problem in spite of the fact that the matter was intended to be included in the subsequent year's budget. He noted that the money could be taken out of the general fund.

MOTION

Mayor Gardner MOVED to draw \$50,000 from the reserve fund to repair the roof. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.

Commissioner Jones reminded the Commissioners that he had recommended that they budget for City Hall's roof, and he emphasized that they needed to budget for the rest of the roof repair. He pointed out that the roof at City Hall was only one of the problems for consideration when maintaining the City.

10. Appeals and Public Hearings

(None Scheduled)

11. RESOLUTIONS AND ORDINANCES (To include public hearing)

11.A/ Resolutions

11.B/ Ordinances - First Reading

11.B.1/ Introduction and consideration of Ordinance 2006-11 extending the grandfather status relative to the demolition of structures when the property is used by a public agency.

Mark Knight, Director, Planning and Building Department, explained that the proposed ordinance addressed the section of the Code allowing HARB to review demolition of structures. He said that when HARB approved demolition of a structure the applicant could demolish immediately, but the modification allowed for an extension of five years for grandfather rights for nonconformities, such as set backs, lot coverage etc., if a government agency had a lease or use of the property for the five year timeframe. He explained that currently the grandfather rights extended for twelve months to rebuild and retain a nonconformity, however, if a demolition was denied there was no right to continue a nonconformity. He continued that the modification to the ordinance was the result of the owner of the Bass Cab Company building leaving the existing building on the property as long as he could to retain the existing lot coverage, but the building was an eyesore. However, he said that should the Commission approve the ordinance the building would be removed, and the City could use the property for five years.

Mayor Gardner said that one option for the property was additional parking.

A brief discussion determined that the City, in the proposed situation, could take control of the property for five years, after which the property owner would have one year to build in the original footprint.

Mr. Harriss pointed out that the ordinance would apply to all situations and not just Bass Cab. He added that they still had to enter

into an agreement with the owner of Bass Cab, but they could not do so until there was an ordinance in place allowing the action.

Commissioner Boles said that after a citizen was granted a demolition by HARB they would have to go before the Commission to determine whether the City had a governmental use for the property. He questioned whether the City would be the only governmental agency.

Commissioner Burk pointed out that the City Commission would have the final approval even if it was another governmental agency.

A brief discussion clarified that eventually the City hoped to eliminate nonconformities, but allow them under certain conditions.

Commissioner Boles pointed out that they lived in a City literally defined by nonconformities, and he sincerely hoped that when they went through the planning and zoning review process that the philosophy could be addressed, because he felt the current philosophy of adhering to an overall overlay of lot coverage, size and height etc. had hurt the City.

MOTION

Commissioner Burk MOVED to place Ordinance 2006-11 on first reading, read by title only and approved. Commissioner Jones SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2006-11

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 28-118 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO DESTRUCTION OF A NONCONFORMING USE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

MOTION WAS APPROVED BY UNANIMOUS VOICE VOTE.

11.B.2/ Introduction and consideration of Ordinance 2006-12 exempting properties outside the historic districts from the Nights of Lights schedule.

Mr. Wilson said that the ordinance was requested by the Commission because a lot of the property owners located in the entry corridors, but not in the historic districts, used white lights (to outline their buildings) long before they had been included in the entry corridor guidelines ordinance that made them subject to the turn-off date associated with white outline building lights. He added that there had also been discussion about allowing the white lights in courtyards and areas that were not on the outside of the structure; however, he had been instructed not to add that to the ordinance.

Commissioner Burk said she thought that the modification would prohibit lining the outside of the buildings, which was consistent with the Nights of Lights, but allow trees and courtyards to be lit with white lights.

Commissioner Boles stated that the businesses he was referring to used the white lights to outline their business structures. He said that after their previous discussion it had been determined that the historic districts would not be affected by his recommended modification. He said that they might also want to address the historic district situation as Commissioner Burk suggested.

Mayor Gardner pointed out that entry corridors had been included with the historic district, because the entry corridor guidelines had been created for control and regulation by the City. He said the hope was that the extremes of the entry corridors would replicate historic buildings to enhance the sense of arrival to the downtown. He said that outlined buildings in the entry corridors would be distinctively a part of the Night of Lights; therefore, being lit all year long would not be right. He added that lights in windows and courtyards would not be a conflict.

Mr. Wilson explained that the matter had come to the forefront, because many of the businesses in the entry corridors had outline lights on the buildings prior to the entry corridor guidelines enactment, and currently the City was telling them to turn them off after the Nights of Lights event.

Commissioner Burk agreed that building outline lights should be turned off, and she recommended changing the ordinance to allow businesses to leave the white lights up in the trees and patios.

Mr. Wilson said that the entry corridor guidelines did not address lights outlining buildings, and many of the lights used for the Nights of Lights were in trees and bushes etc.

Commissioner Burk stated that her intent for the ordinance was to allow restaurants in the entry corridors and historic districts to have ambience lighting in their courtyards. She pointed out that such lighting had nothing to do with holiday lighting.

Commissioner Boles pointed out that the goal of the Nights of Lights was to bring visitors to the downtown area during the holiday season. He suggested that his recommendation would not detract from the success of the Nights of Lights, because the focus of that event was the downtown area. He stated that including the entry corridor guidelines after the ordinance was put in place and without discussing the matter with the public created a burden for the impacted businesses. He reiterated that he preferred to eliminate the entry corridors from the Nights of Lights Ordinance entirely. He recommended that the ordinance be reviewed again.

Commissioner Burk and Mayor Gardner disagreed with Commissioner Boles.

Mr. Wilson pointed out that they could remove the ordinance for further discussion and review.

Commissioner Burk recommended providing relief to the restaurants in the historic districts that wanted to light their trees and patios.

Mr. Harriss pointed out the inconsistency amongst the Commissioners.

MOTION

Commissioner Boles MOVED to place Ordinance 2006-12 on first reading, read by title only and approved where they would be unplugging the entry corridors from the Nights of Lights Ordinance. Commissioner Crichlow SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2006-12

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 3-23 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO EXEMPT THE ENTRY CORRIDORS FROM MANDATORY REMOVAL OF LIGHTS AT THE TERMINATION OF NIGHTS OF LIGHTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

Mayor Gardner questioned the rules for ambience lighting outside restaurants.

Mr. Wilson explained that any white string lights below ten feet had to be removed at the end of the Nights of Lights event, but flood lights were not included. He said that the Nights of Lights event was an effort to impact the streetscape for the holiday. He said that finding a happy medium for ambience lighting would take some technical expertise to avoid affecting the streetscape.

Commissioner Boles pointed out that they currently had an enforcement issue, and he questioned the number of violations staff was enforcing compared to past years.

Mr. Knight replied that every year 30-40 citizens were ticketed for not turning off their lights; currently one was in protest and the others had simply overlooked the regulation.

He said that 60%-70% of the violations existed on the entry corridors.

VOTE ON MOTION

AYES: Boles

NAYES: Crichlow, Burk, Jones, Gardner

MOTION FAILED 4/1

Commissioner Burk recommended that the ordinance be worked on and brought before the Commission for further discussion.

Commissioner Boles stated that San Marco Avenue lit up at night could not be a bad thing; moreover, he did not believe that it would impact the Nights of Lights event.

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

(None Scheduled)

11.D/ Ordinances - Second Reading Public Hearing

11.D.1/ Public Hearing - Ordinance 2006-10, relating to service charges and meter test fees for all customers inside and outside the City limits.

Mr. Litzinger explained that the proposed ordinance was intended to correct a scrivener's error. He said that it corrected the water turn on fees from \$15 to \$20 and the hydrant fees from \$25 to \$30.

Mayor Gardner opened the public hearing.

Ed Slavin, P.O. Box 3084, spoke negatively regarding the City's utilities stating that the people outside of City limits paid 25% more for their water and sewer. He recommended lifeline utility rates for seniors and people with disabilities. He strayed to the topic of Florida Power and Light and the City paying them money for taxes that FPL did not pay, and he recommended a City municipal electric utility system.

Commissioner Burk recommended that Mr. Slavin remain on topic.

Mayor Gardner closed the public hearing.

MOTION

Commissioner Boles MOVED to place Ordinance 2006-10 on second reading, read by title only and approved. Commissioner Crichlow SECONDED the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2006-10

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 26-57 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO SET SERVICE CHARGES AND METER TESTS FOR ALL CUSTOMERS INSIDE AND OUTSIDE THE CITY LIMITS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE.

MOTION WAS APPROVED BY UNANIMOUS VOICE VOTE.

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

Ed Slavin, P. O. Box 3084, recommended a dialogue and suggested that the Commission start listening and stop supporting developers. He said that the Commission needed to stop the illegal dumping and start protecting trees and quiet use of the streets and waterways, as well the historic environmental heritage. He recommended increasing recycling, energy conservation, alternative fuels for City vehicles, walkability, bicycling, disabled access and sports venues. He suggested that the Commission had to do something about the wasteful spending in City government, and he recommended that the City consider the best they could rather than the least they could do. He spoke regarding a living wage to demonstrate that the City cared about the people. He suggested replacing FPL, solving the health care crisis, helping the 980 homeless in St.

Johns County, and he questioned why Robert Graubard was allowed to wipe out 10,000 years of history.

David Thundershield Queen, P.O. Box 270, read from *Sacred Earth* a book regarding the spiritual landscape of Native Americans. He spoke about the proposed development at the Red House Bluff Creek site, the property owner Robert Graubard, and he asked the City to preserve its history.

Jerry Butterbaugh, 21 Leonardi Street, spoke regarding the trucks on Leonardi Street.

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

(None Scheduled)

Adjournment

There being no further business, the meeting was adjourned at 7:08 p.m. ²

MAYOR

CITY CLERK

²Transcribed by Karen Rogers, Recording Secretary