

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
April 24, 2006

The City Commission met in a formal session Monday, April 24, 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

Reverend Dan Ott, Anastasia Baptist Church, delivered the invocation, and Commissioner Jones led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

William B. Harriss, City Manager, reported that staff wanted to table Ordinance 2006-13 regarding a Comprehensive Plan change for property located at Oyster Creek until the subsequent Commission meeting. He explained that the Planning and Zoning Board had not completed their deliberations on the matter; therefore, it was not ready for consideration, and the applicant had concurred.

MOTION

Commissioner Jones MOVED to table Ordinance 2006-13 until the subsequent Commission meeting. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.

3.B/ Approval of Minutes

The minutes of the regular City Commission meeting of April 10, 2006 were approved as presented.

3.C/ Proclamations

2006-23 Sexual Assault Awareness Month

Mayor Gardner read and presented the proclamation to Beth Hughes, Executive Director, of the Betty Griffin House.

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

Dwight Hines, 150 Nesmith Avenue, acknowledged the success of the Arts and Crafts Festival.

Jerry Butterbaugh, 21 Leonardi Street, requested that the Commission address the matter of large trucks on Leonardi Street by putting up signs denying them access to the street. He said that he had been in touch with the CO of Amerigas regarding their gas trucks using Leonardi Street, and they were going to investigate the situation. He said it seemed that everyone but the City of St. Augustine understood what the residents of Leonardi Street were going through. He suggested extending the three minute time limit for public comment, because the public needed more time to implore the Commission, because they got no place with City Staff.

Commissioner Burk stated that she saw no problem with putting the proposed signs on Leonardi Street.

Sherry Badger 2772 South Collins Avenue, stated that her concern for the children and the wetlands had been dismissed. She referred to illegal dumping and accused the Commission of acting above the law. She recommended overseeing staff more closely, because the illegal dumping was wrong.

Shorty Robbins, St. Johns County Recreation and Park, represented residents of Davis Shores regarding a potential park acquisition. She demonstrated a map of two lots that were for sale next to platted land that was not developable. She said that Florida's Community Trust had an upcoming acquisition cycle, and the proposed project would score well for funding. She said a

group of residents would be willing to work with the City to acquire funding, and staff would require direction to work with them. She added that the funding would consist of a 75% reimbursement; therefore, the City would have to provide 25% funding, but that source would not have been identified until an application was awarded in the fall. She added that some of the property owners of the undevelopable platted property might be willing to donate property to the City.

Commissioner Boles clarified the location and said the proposal was for the City to take title of the two lots to pursue funding.

Mr. Harriss clarified that Ms. Robbins was not representing the county. He stated that the City had recently finished the grant process Ms. Robbins had referred to in regards to property across the street from the Alligator Farm, Mystery Hill, but the City had not been awarded funding by the state. He said that the grant had been prepared by the Florida Communities Trust, and their goal was to improve on the grant application to achieve the funding in the subsequent funding cycle. He said that it was a more valuable piece of property to the community, as it was more accessible than the property recommended by Ms. Robbins, and the location would serve a larger segment of the community. He pointed out that the two proposed lots would cost approximately \$800,000, which would require approximately \$200,000 funding from the City.

A brief discussion determined that the City would continue to weigh the philosophical situation of the two aforementioned properties.

Richard Pettingell, 203 Porpoise Point Drive, distributed a handout concerning St. Augustine Transportation Museum and read a letter asking for the Commissioners confidence to obtain a 1908 White steam car owned by the Marchants of the Maddox Foundry in Archer, Florida. ¹

¹ Attached to original minutes

David Thundershield Queen, P.O. Box 270, displayed a 1725-1765 map indicating a Spanish line from Fort Mose to Red House Bluff. He noted that the Commission had approved development by Robert Graubard in the Red House Bluff site. He said that the last thing the City needed was another strip mall. He said that he would continue to speak during meetings until he was satisfied that the integrity of the sight would be adequately protected. He requested that the Commission revisit the subject, because they had not received all the pertinent facts and information.

5. PRESENTATIONS AND STAFF REPORTS

(None Scheduled)

6. ITEMS BY CITY ATTORNEY

Mr. Wilson reported that he would probably be called to testified in the lawsuit filed by Dwight Hines who claimed that the City had violated his right to public records; therefore, it would be best to hire outside counsel. He said that the City intended to vigorously contest the suit, and he recommended hiring Sid Ansbacher of Upchurch Bailey & Upchurch who had agreed to represent the City. He said that Mr. Ansbacher was an expert in related law, and he generally discounted his fee for the City.

Mayor Gardner questioned whether he anticipated a protracted court session.

Mr. Wilson replied that the suit was filed with the local Circuit Court, and it could possibly be prolonged.

MOTION

Commissioner Burk MOVED to seek outside counsel by starting negotiation with Sid (Ansbacher) of Upchurch, Bailey & Upchurch. Commissioner Boles SECONDED the motion.

Commissioner Boles recommended pursuing any attorney fees they could against the plaintive for frivolous lawsuits etc. He said that if they had to spend taxpayer's money he wanted to be certain not to encourage those types of lawsuits.

Commissioner Burk amended her motion accordingly

MOTION WAS APPROVED BY UNANIMOUS VOICE VOTE.

7. ITEMS BY CITY CLERK

7.A/ Notification of Proclamations

(None)

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 for Utility Connection Fee Mortgages.

8.A.3/ Approval of amendment to the City's 457 Deferred Compensation Plan.

Mr. Harriss read the Consent Agenda items.

MOTION

Commissioner Burk MOVED to approve Items 8.A.1. and 8.A.3. on the Consent Agenda. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.

8.B/ Discussion Items

(None Scheduled)

9. ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Burk – Fromajadas and Indigo

Commissioner Burk recommended the book Fromajadas and Indigo written by former Mayor, Kenneth H. Beeson Jr., which was his published thesis and a great story depicting the Minorcan's travel to New Smyrna.

Commissioner Jones – Walking Tours

Commissioner Jones questioned the progress for creating guidelines for the walking tours.

Mr. Wilson replied that he had been researching regulations of that type and Paul Williamson was surveying the tour industry about the matter of guidelines. He stated that he saw no problem with creating regulations and he was working on a draft based on Mr. Williamson's factual analysis.

Commissioner Jones replied that he would like to address the guidelines prior to the summer; therefore, he suggested that the matter be on the agenda within the next two Commissioner meetings.

Red Branch Bluff Site

Commissioner Jones requested that the City Archeologist prepare a report for the Commission regarding the site.

Mr. Harriss replied that the archeologist had already prepared a report, and he would get it to the Commissioners.

Visitors Brochure

Commissioner Jones stated that the brochure the Mayor had prepared was a good idea, and he recommended moving the project to the next level.

Mayor Gardner stated that he had gone to the TDC a couple of years earlier to obtain support for the brochure and the response had been positive; however, nothing ever came of it. He said that currently he thought perhaps the Commission could authorize

development of the plan. He said that Mr. Williamson and he would talk with Glen Hastings at the TDC one more time, because the VIC would be a regional facility. He said the county would be funding the facility with \$200,000 annually, and if the TDC or VCB could absorb the expense of the brochure it would be great, but one way or the other it was something the City needed. He concluded that he would report back to the Commission with a design and plans for publication.

Commissioner Boles suggested that the Mayor inquire about brochures developed for Ponte Vedra, the beaches, World Golf Hall of Fame etc. to remain in concert with the county.

Commissioner Boles – Spanish Quarter

Commissioner Boles requested that the consultant report regarding the Spanish Quarter be included on the agenda for the subsequent meeting. He also requested that a copy of the report be sent to the Commissioners.

Mayor Gardner – Historic Architectural Review Board

Mayor Gardner announced that Mr. Williamson had coordinated with the St. Johns County Government Television Channel to have HARB meetings televised on the fourth Thursday of the month at 7:00 p.m.

Letter of Approval

Mayor Gardner read a letter from Jack Hardman of Brunswick, Georgia regarding the efforts of Corporal Jason Ethridge of the St. Augustine Police Department to return his stolen property, and he commended his public service.

9.A/ Discussion regarding replacement of the City Clerk.

Mayor Gardner acknowledged the retirement of Nell Porter City Clerk and opened the topic of her replacement for discussion.

Commissioner Burk questioned the rules and requirements involved in hiring a replacement. She questioned whether they were required to go outside the City or to advertise.

Mr. Wilson replied that there was no real requirement to advertise, although he thought it was the policy for other positions to do so.

Commissioner Burk questioned whether there was a standard for positions appointed by the Commission.

Mr. Wilson replied that he did not believe there was any rule in the charter or any related ordinances, but it had always been policy for lesser positions; however, not the charter positions. He said that it was an open book for the Commission to determine, as it was basically up to the Commission how they wanted to hire and what qualifications they wanted to look for.

Commissioner Boles stated that the City Attorney, Clerk and Manager were appointed at the will of the Commission, and they were not bound to search or interview etc. He said the Commission was bound to vote to hire or vote to fire, and they were not required to provide reasons why. He questioned whether his statement was correct.

Mr. Wilson said essentially that was correct.

Commissioner Boles referred to Karen Rogers, Recording Secretary, and said that Ms. Rogers had worked with Nell Porter for quite awhile, and he moved to hire her, and said if she did not work out she would get fired.

MOTION

Commissioner Boles MOVED to appoint Karen Rogers as City Clerk.

Commissioner Burk SECONDED the motion.

Commissioner Burk stated that she encouraged promotion from within, although that was not exactly the current situation. She said the Commissioners knew Karen, as she had worked with them for quite some time; therefore, she was the natural person to move into the position.

Commissioner Crichlow stated that he had reviewed the information that the Commissioners had been provided regarding Karen. He said that he was most impressed with Karen's concerted efforts to obtain the certification to become a Certified Municipal Clerk. He said he believed that she had completed most of the education requirements for certification. He added that the City of St. Augustine had never had a certified City Clerk. He said that Karen had only to serve as a Clerk to achieve the next step in certification, and in his estimation that was a high recommendation.

Commissioner Burk questioned whether Karen intended to complete that certification.

Ms. Rogers replied absolutely and explained that there was one more week of training with the International Institute of Municipal Clerks that would take place in October, after which she would submit all the necessary paperwork and having met the requirements she would be certified.

Commissioner Crichlow questioned whether she would have to serve as Clerk for an interim time before achieving certification.

Ms. Rogers replied that one of the requirements for certification had been to fulfill certain duties of the City Clerk during the three years training and Nell Porter had made certain that she performed those duties.

Commissioner Jones stated that experience was the best teacher. He said that he had examined Ms. Rogers' records prepared by

staff, and he was impressed with what he read. He said that he had worked with her for four years, plus he had taken the time to talk with her and the current City Clerk. He said that after review he supported Ms. Rogers being appointed the next City Clerk. He recommended that Ms. Porter call the roll.

VOTE ON MOTION

AYES: Burk, Boles, Crichlow, Jones, Gardner

NAYES: None

MOTION CARRIED UNANIMOUSLY

Mayor Gardner congratulated Ms. Rogers.

Ms. Rogers thanked the Commission and stated that she would do her best to serve the Commission and the City of St. Augustine.

10. Appeals and Public Hearings

(None Scheduled)

11. RESOLUTIONS AND ORDINANCES (To include public hearing)

11.A/ Resolutions

11.A.1/ Consideration of Resolution 2006-07 setting the rates for franchised sightseeing motor vehicular tours operated by St. Augustine Sightseeing Trains.

Mr. Harriss stated that the resolution would set the rates for St. Augustine Sightseeing Trains to be the same amount as the Old Town Trolleys.

Mayor Gardner said that the St. Augustine Sightseeing Trains would have the ability to raise rates up to \$21 for adults and \$8 for children. He said that the Commission had discussed attaching a preservation fee to the trolley fare with the representative of the green trolleys; however, there was no representative from the red trains present to discuss the matter.

MOTION

Commissioner Boles MOVED to approve Resolution 2006-07. The motion was SECONDED be Commissioner Jones and approved by UNANIMOUS VOICE VOTE.

11.B/ Ordinances - First Reading

(None)

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

11.C.1/ Public Hearing – Ordinance 2006-13 amending the Comprehensive Plan Future Land Use Map from Commercial Medium Intensity to Residential Medium Density/Mixed Use relative to property located on the east side of U.S.1 and north of Oyster Creek.

(Tabled to May 8, 2006)

11.D/ Ordinances - Second Reading Public Hearing

11.D.1/ Public Hearing - Ordinance 2006-11 extending the grandfather status relative to the demolition of structures when the property is used by a public agency.

Mr. Wilson explained that the Ordinance provided for up to five years extension on the grandfather status if a building was demolished pursuant to approval of the Historic Architectural Review Board and the property was leased or used by a governmental agency for a public purpose and with approval of the City Commission. He said that ordinance had been developed in regards to a property that had received a demolition permit, but the ordinance would have other applications.

Mayor Gardner opened the public hearing.

Ed Slavin, P.O. Box 3084, inquired why a governmental agency should be subjected to a lesser regulation than anyone else.

Commissioner Jones said that he did not understand the question.

Mr. Slavin said the ordinance would subject a governmental agency to a lesser standard than any person or entity who wanted to destroy a building.

Commissioner Crichlow said the property would be used by a government agency during the interim.

Commissioner Burk added that it would be used for a public purpose.

Mr. Slavin said that the Commission had only one building in mind.

Commissioner Crichlow said that currently there was the one building, but there could be other structures where the ordinance would apply.

Commissioner Jones stated that it applied to any and all structures, because they could not make an ordinance limited to one situation.

Mr. Slavin questioned whether it applied only to the City or any governmental agency.

Commissioner Crichlow replied any government agency with the City Commission's approval.

Mr. Slavin suggested that the ordinance was loosely worded and should be tabled. He said that if the ordinance was made for one piece of property then they had to question whether it was for need or greed.

Commissioner Jones pointed out that the building already had approval for demolition.

Mayor Gardner closed the public hearing.

Commissioner Burk stated that the ordinance was good and provided the City the opportunity to benefit the people of the City through use of property for a period of time, while benefiting the property owner. She recommended that they change the language from *governmental agency* to the *City of St. Augustine*. She said that they could address the matter of another government agency as matters arose.

Mayor Gardner said that the Commission had the authority of approval; therefore, they would be covered.

Commissioner Burk agreed; however, she preferred that anyone intending to use the ordinance would go to the City first.

Commissioner Jones said that he would agree with Commissioner Burk if they could amend the ordinance legally.

Mr. Wilson stated that there would be no problem with the proposed amendment.

Commissioner Burk said that it would encourage property owners to make a deal with the City rather than going to some other governmental agency.

Commissioner Jones said that the ordinance would provide some much needed parking in that part of the City. He said that citizens did not understand that many of the surface parking lots were not on City owned property; therefore, parking could be eliminated at any time. He said that the City lost use of one parking lot on DeSoto Street, and they would be losing another surface parking lot in 90-days. He concluded that the use of the property in question would definitely benefit the City.

Mayor Gardner said he believed that HARB had approved the demolition four years earlier for public safety.

Commissioner Crichlow said that he would like to see the old block salvaged and recycled.

MOTION

Commissioner Burk MOVED to amend Ordinance 2006-11 to change the language *governmental agency* to read *City of St. Augustine*. Commissioner Jones SECONDED the motion.

Commissioner Boles stated that most of the Commission discussion had been centered on the building across the street, but they were considering an ordinance and not the building across the street. He said that it bothered him to tailor an ordinance for a particular goal. He expressed concern for the future in regard to the ordinance, and he recommended tightening the language, as public purpose was a broad description. He said that he wanted to be certain that there was no other way of dealing with the situation. He stated that there was no doubt there was a shortage of parking spaces, but he did not like tearing down a historic structure for surface parking. He said that in the long term they needed a parking structure south of the Plaza.

Commissioner Boles stated that the 1991 study identified four parking garages the community would need. He said that they had not gotten the first garage near the historic district or the second one behind the Lightner Museum. He said they had gotten the third and largest garage, but it would not change the need for parking in that section of town. He said that there would be new tenants in City Hall, a growing staff, increased attendance for the attractions in the area, and they needed parking. He suggested dealing with the matter at hand without an ordinance.

Commissioner Burk stated that she agreed with Commissioner Boles about the ordinance.

Mr. Wilson pointed out that there was no variance procedure for the situation. He said that within the current structure of the Code he saw no other way to handle the matter.

He concluded that he would rather tighten the variance procedure than loosen it.

Commissioner Boles pointed out that the ordinance was a huge variance in itself.

Commissioner Burk recommended a one year extension with incremental extensions.

Mr. Wilson stated that they could do that within the proposed ordinance. He said that if the ordinance was not working they could repeal it.

Commissioner Jones said that any given Commission could make or change the rules; therefore, they could not legislate based on what a future Commission might do. He said he could not approve of making a rule that locked a future Commission, because the rules of the day might not be acceptable in the future. He emphasized that nothing the current Commission did was permanent; therefore, they could only move for the current situation.

Mr. Wilson added that the current Commission could not tie the hands of a future Commission.

Commissioner Boles said that he was not concerned about tying the hands of future Commissions; he was concerned that the ordinance could be misused by future Commissions, because they created the law for a specific purpose, which made him uncomfortable. He said that he did not have the same feeling as the City Attorney regarding variances. He suggested that they could use a variance for setbacks and avoid the ordinance route, but they could still give the property owner his footprint back when he applied for a building permit.

Mr. Wilson explained that there were specific conditions involved with granting variances and relaxing those conditions could be subject to dispute. He pointed out that another Commission might not be willing to oblige the property owner in the future.

Commissioner Burk said the property owner would exchange the benefit to the City, and then he might not get his benefit back.

Commissioner Boles recommended voting to give the property owner the variance at that time.

Commissioner Jones said if they did that for one property owner other property owners might request the same treatment.

Commissioner Crichlow expressed concern for setting precedence.

Commissioner Boles said that he would not vote for the ordinance, but he would avoid saying "I told you so" in the event that there were repercussions.

Commissioner Crichlow stated for the record that he did not share Commissioner Bole's belief that another parking garage was necessary on that side of town. He pointed out that the City had acquired a surface parking lot with 48 parking spaces and made it available for lease to local businesses; however, only one parking space had been leased. He said that proved to him the need for parking for businesses was non-existent. He recognized the need for parking for employees working at City Hall. He added that directing more traffic to King Street to get to a parking garage in that area of town made no sense to him.

Mayor Gardner suggested remaining on topic. He said that personally he did not favor the amendment to the ordinance, but they needed to move on.

VOTE ON MOTION
AYES: Burk, Jones, Crichlow
NAYES: Boles, Gardner
MOTION CARRIED 3/2

MOTION

Commissioner Burk MOVED to place Ordinance 2006-11, as amended, on second reading, read by title only and

approved. Commissioner Crichlow 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

VOTE ON MOTION
AYES: Burk, Crichlow, Jones, Gardner
NAYES: Boles
MOTION CARRIED 4/1

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

Ed Slavin, P. O. Box 3084, referred to the illegal dumping in the old city reservoir and noted the lack of training for City employees that handled hazardous waste. He questioned whether the employees had received the necessary training. He complained that no one was answering his questions regarding the illegal dumping. He suggested that the Commissioners, as reformers, keep their campaign promises. He referred to the unresolved issues surrounding the Red House Bluff area, and he recommended asking the University of Florida to examine the site. He proceeded to repeat the questions he had asked the Commission during the preceding meetings. He concluded by asking when the Commission was going to answer his questions.

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

(None Scheduled)

Adjournment

There being no further business, the meeting
was adjourned at 6:44 p.m.²

MAYOR

CITY CLERK

²Transcribed by Karen Rogers, Recording
Secretary