

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
May 8, 2006

The City Commission met in a formal session Monday, May 8, 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
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
Kevin Stark, Assistant Chief of Police
Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Dr. David Rice, Ancient City Baptist Church, delivered the invocation, and Mayor Gardner led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

William B. Harriss, City Manager reported that they would like to move the Citizenship Awards to be heard after the proclamation presentations.

Mr. Harriss said that Item 12.B.1. was a presentation regarding a pocket park on Alerto Street, but the presenter had requested that the matter be tabled until the subsequent meeting.

3.B/ Approval of Minutes

The minutes of the regular City Commission meeting of April 24, 2006 were approved as presented.

3.C/ Proclamations

2006-13 Letter Carriers Food Drive Day
2006-18 Older Americans Month
2006-21 National Drug Court Month
2006-25 National Women's Health Week

Mayor Gardner read and presented the aforementioned proclamations to the appropriate representatives. ¹

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

¹ Commissioner Jones arrived 5:15 p.m.

Mayor Gardner noted that Richard Pettingell had requested Commission support to lease a 1908 vehicle for restoration. He suggested that the vehicle could have good display value in St. Augustine. He said that he favored the Commission giving Mr. Pettingell a letter of support, excluding any monetary obligation from the City.

Richard Pettingell, 203 Porpoise Point Drive, stated that for many years he had designed a composite collection of St. Augustine artifacts and displays concerning transportation that he would like to bring to town. He said that the proposed steam car would be appropriate in St. Augustine. He stated that he had received a donation from a non profit corporation in the amount of approximately \$25,000 for work on the proposed antique automobiles. He said he understood that the City could not provide monetary support, but he would like a letter of confirmation from the Commission.

A discussion determined that the Commission would address the matter during Item #9.

John Valdes, 1395 US 1 South, Suite 1A, referred to the tabled Item 12.A. regarding a pocket park and pointed out that the land in question was his property. He said that the person wanting to make the presentation was neighbor to his property. He said that he had been trying to get the necessary permits to build on the property for two years, but the neighborhood was no longer appealing to him, as the aforementioned neighbor had tried to block his progress in effort to preserve his view. He emphasized that he would not sell the property to the City.

Sherry Badger, 2772 South Collins Avenue, stated that her concern for the children and the wetlands had been dismissed. She stated that there had been negligent and illegal dumping at the pits. She questioned the validity of the testimony by City Archeologist regarding the property on Lewis Speedway.

Ed Slavin, P. O. Box 3084, requested that the Commission vote to put the entire agenda

packet on the City website, answer his questions about illegal dumping, show the FDEP photographs, invite investigators to examine the 3,000-4,000 year old Indian village, place the living wage ordinance on the agenda for discussion, explain why the Time Warner Cable franchise expired in 2004 and what the City planned to do to provide better service, more public access, competition and lower prices including online video access for the City meetings. He questioned why there was not more competitive bidding in City purchasing, why the City Attorney had rejected remediation of public records requests, what Commissioner Boles had meant when he said "pay the piper", why someone would call a lawsuit frivolous without reading it, and what the Commission would do to reform government and end secrecy.

5. PRESENTATIONS AND STAFF REPORTS ²

5.A. Presentation of Citizenship Awards.

The Commissioners presented the following award winning students with a plaque of recognition, City lapel pin and \$100.00 to help with the cost of their education:

- Brielle Klefeker – Allen D. Nease High School
- Parker Glassick – Bartram Trail High School
- Caitlyn McManus – Pedro Menendez High School
- Jimmy Lloyd Gardner – Florida School for the Deaf & Blind
- Margaret Strassel – St. Augustine High School
- Shane Engleman – St. Johns Technical High School
- Sara Lynn Sachs – St. Joseph Academy

Non Agenda Item

Commissioner Jones read and presented a Certificate of Recognition in honor of Robin Anne Thomas-Mattie for her heroic efforts to

² Item #5.A. was heard before Item #4.

overcome her disabilities after a serious automobile accident.

5.B/ .Presentation regarding the Orientation Center for the National Park Service.

Dr. William Adams, Director, Heritage Tourism, reported that the National Park Service had issued the draft general management plan to guide the final decision for management of the Castillo de San Marcos for the next 15-20 years. He said that the draft invited public comment; a process resulting in a final decision regarding a significant monument. He pointed out that the City had a stake in the final decision, and he introduced the superintendent.

Gordy Wilson, Superintendent, National Park Service, reported that the planning process had begun several years earlier with scoping meetings to gather concerns about the management plan, then they developed draft alternatives, after which they had finalized the alternatives in the proposed draft environmental impact statement. He said that they would be accepting public comment until August with informational meetings to disseminate the information in the near future.

Using the electronic media Mr. Wilson exhibited the four alternatives for the Commission's consideration that included variables regarding the existence and/or size of the Castillo parking lot, a visitor center with the potential locations, and the number of case mates that would be modernized in the fort. He said that alternative C connected the Castillo with the Spanish Quarter, which combined the civilian with the military experience for visitors, as well as re-contouring the land toward the way it had been in the 18th century. He said that alternative D had been the park services preferred alternative because of the lower construction and operational costs, as the parking lot would remain the same size, and there would be no new visitor center, but several of the case mates would be restored along with construction of a small office space to remove the offices currently in the

fort. He stated that alternative C with a new visitor center adjacent to the Spanish Quarter had a higher overall value, but the difference was the cost involved.

Mr. Wilson explained that they would be accepting public comment for several weeks, after which they would issue a record of decision. He said that they would appreciate any input they received, and he offered to answer questions.

Commissioner Crichlow pointed out that the public could input via the internet.

Mr. Wilson added that copies of the documents were also available on line, and there would be public meetings to provide a more detailed presentation of the alternatives.

Mayor Gardner suggested that public input could be collected through the City's e-mail address. He stated that a big part of the plan was restoring the fort's integrity. He said that Congressman Mica's interest in the plan and the City might bring funding to the table for alternative C.

Mr. Wilson agreed that alternative C was appealing. He said that the visitor center had been authorized and the next step was getting the money, which had not been authorized. He said the legislation that authorized the visitor center would be added to other priorities in the National Park Service line item construction program for funding. However, he explained that there were competing priorities on the federal level particularly considering the hurricane damage to the southeast during the past couple of years. He said that the park service preferred alternative was not necessarily going to be selected, as Congress could authorize and fund the visitor center and the Park Service would operate it. He emphasized that the situation was currently wide open. He added that Congress passed legislation and the National Park Service carried it out. He said that he would provide the NCO with the plans and they would be available in the National Park Service office,

the office telephone number was 829-6506 and also online at parkplanning@nps.gov .

Commissioner Boles summarized that alternative C reduced the existing parking to a minimum, and added a new visitor center across the street in combination with the entrance to the Spanish Quarter, which favored the City's interest and restored the public vista. He questioned what the parking would be used for.

Mr. Wilson replied that the spaces would be for handicap parking, trailer train drop-off, emergency vehicle access and service vehicles, which would reduce the size by 2/3-3/4.

Commissioner Boles questioned whether they needed to work-up a public campaign for alternative C.

Mayor Gardner suggested that they should.

Mr. Wilson stated that there would be a couple rounds of public comment, and he assured the Commission that no decision had been made in regards to the plan. He added that if the decision was made for alternative C they would still have to follow a process.

Commissioner Jones agreed that alternative C was the best plan to benefit the City. He suggested that St. Augustine should be on the top of any list of priorities because of the history involved.

6. ITEMS BY CITY ATTORNEY

(None Scheduled)

7. ITEMS BY CITY CLERK

7.A/ Notification of Proclamations

2006-24 Certificate of Recognition for Barbara Norris and Anthony Fast

Martha V. (Nell) Porter, City Clerk, reported that the aforementioned proclamation would be presented by the Mayor in June.

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/ Request to Remand Appeal of Planning and Zoning Board Decision.

Mr. Harriss read the Consent Agenda items. He explained that Item 8.A.3. was being remanded to the PZB for approval as the applicant had redesigned his hotel plans.

MOTION

Commissioner Crichlow MOVED to approve Items 8.A.1. and 8.A.3. 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 – Northeast Regional Planning Council

Commissioner Crichlow reported, as Commission representative on the Northeast Regional Planning Council, that there were 10 Developments of Regional Impact projects before the council. He said the projects would comprise 46,000 dwelling units, and 50 million square feet of retail, office and industrial space. He said that the projects were typical for any eight month period due to growth in the region. He said that even though the DRI's were not in the City of St. Augustine the City would be impacted by the growth.

Mayor Gardner said that he was on the Metropolitan Planning Organization that examined transportation needs. He

questioned whether the regional council had veto power over development.

Commissioner Crichlow replied that the Department of Community Affairs forwarded requests to the regional council for review and the council made recommendations to the DCA.

Mr. Harriss stated that there were two DRI's in St. Johns County, Nocatee and Silver Leaf. He said that the DCA wanted to know the regional planning councils recommendations, as some modifications were made to comp plans based on the regional planning council's advice to the DCA.

Commissioner Crichlow added that there was also a DRI scheduled for January in Elkton.

A discussion regarding development ensued, in which it was determined that much of the development was just under the size to be considered a DRI, which had led to over development.

Commissioner Crichlow said that he was not defending development but there were positive and negative aspects to big developments, as sometime they brought solutions to existing problems, and they had the money to improve the infrastructure. He explained that the Silver Leaf developer was going to put \$146 million into the SR210 transportation problems, and they would provide school, fire and police station sites.

Commissioner Burk – Lighting

Commissioner Burk said that in the past the Commission had discussed the matter of establishing guidelines or regulations for commercial lights for parking lots etc. She said that they had one example of obnoxious lighting at a hotel on San Marco Avenue, and she thought they should develop some guidelines before there was a repeat of the example.

Mr. Harriss said that he would have the director of the Planning and Building Department research the matter to bring to the Planning and Zoning Board, and see if

the board would make a recommendation to the Commission regarding the extent of City involvement.

Commissioner Burk suggested that the situation was urgent considering there were other hotels projects in progress that should be aware they would be expected to follow City guidelines for lighting.

Mr. Wilson said that there were lighting limits for commercial enterprises in the HP districts, but outside of the HP districts there were no limit; therefore, they would have to adopt some standards.

Commissioner Boles questioned whether the lighting limits in the HP district had worked.

Mr. Wilson replied that it probably had, except around ATM's where the federal standard was required.

Commissioner Crichlow noted that St. Johns County had lighting limitations attached to site plan approval.

Commissioner Jones – Staff Archeologist

Commissioner Jones stated that he had the opportunity to read the report submitted by the staff archeologist in reference to the Red House Bluff site. He said that Mr. Halbirt indicated that a thorough review of the site was not necessary; moreover, he expressed no concern in relation to the site. He said that Mr. Halbirt had been in communication with other agencies about the matter. He concluded that Mr. Halbirt's report was a public record available to any citizen that was interested.

Agenda Packet Posted on City Website

Commissioner Jones said that placing the entire agenda packet on the website was not currently cost effective, as it would require more staff and the City did not have the budget for that. He said it was a matter of what the City could do, and the City was not obligated by law to put the information on the website. He said the documents were public record, and they were available for inspection at City Hall.

Florida Power and Light

Commissioner Jones referred to the City running its own electric services and said they did not have the money FPL had to run a municipal electric service. He said they had to consider not only the cost, but the cost involved with hurricanes and other emergencies; moreover, the City would have to purchase the current electrical infrastructure to begin its own service and hire the manpower to run the service, which would cost more money.

Lawsuit

Commissioner Jones stated that in most cases the party who lost a lawsuit paid the court and attorney fees. He said that if the City was continually sued it created a burden on the taxpayers; therefore, in the instance of the City winning a lawsuit they would attempt to recover the cost of hiring an attorney.

Commissioner Jones stated that many of the questions asked (by Ed Slavin) could be answered by asking the appropriate staff member. He emphasized that nothing was being hidden, nor was there a conspiracy on the part of the Commission or City Staff. He referred to the City being accused of illegal dumping and stated that if the City made a mistake they would find a solution by working with the appropriate authorities. He added that if a mistake was made it had not been intentional and when the solution was found it would also be available to the public.

Commissioner Boles – Spanish Quarter

Commissioner Boles recommended a workshop to discuss the consultant's report regarding the Spanish Quarter. He said that listening to the National Park Service indicated that the proposed NPS visitor center would help with the success of the Spanish Quarter; however, they could not wait that long. He said that they had hired the consultant, and they needed to go over the report and decide what to adopt in order to give Dr. Adams guidance. He suggested

that if they had a clear game plan that would not rely on an outside revenue source, such as combined ticket sales with the fort and Spanish quarter, it would help in the efforts to secure state funding. He suggested that they would be demonstrating they were good stewards of the historic properties.

Mr. Harriss stated that he was working on scheduling the workshop.

Neighborhood Associations – Overlay Zoning

Commissioner Boles said he was surprised that the neighborhood associations had not embraced the idea of architectural review or overlay zoning, but after consideration he realized that it was a lot for a neighborhood association to accomplish, and it took money. He suggested allowing the neighborhood grant funds be used for that endeavor. He pointed out that the neighborhood associations were not even using all the grant money. He said that he would like to encourage neighborhoods to move in that direction, because it would be difficult to apply one particular zoning to every neighborhood.³

Development

Commissioner Boles expressed amazement that the county would be getting 46,000 homes and suggested that the City would be an isolated historic area in a sea of homes and development. He said that although the Commission could not control development they could plan for the increased traffic and visitors, and they might have to start thinking about another parking garage. He said it was a good idea to plan things 10-15 years down the road, because it took a long time to get things accomplished.

Mayor Gardner – Code Review

Mayor Gardner questioned the status of Mr. Prosser's Code review.

Mr. Harriss replied that he had met with Mr. Prosser the previous month and the meeting

³ End of audio tape one

left him confused, as planning was complicated, plus the review was in a theoretical stage. He said that he was trying to translate the planner's ideas into something that could be handed to the neighborhoods with options of control for the future of their neighborhoods.

Mayor Gardner said that a neighborhood overlay probably would not require a list of architectural specifications, as he thought that would get them in trouble, because the neighborhoods were so diverse. He said that the ideal would be for neighbors to interact with new development. He suggested replacing mountains of Code with a thin volume of graphics of what was or was not acceptable. He recommended finding a comparable City that had a revised form based zoning code to use as an example.

Mr. Knight stated that staff had found some examples; however, they were waiting for Mr. Prosser to complete his review.

Conference

Mayor Gardner reported that the Florida Trust for Historic Preservation would have its annual conference in St. Augustine the following week. He said that the NCO would have the schedule of the conference events. He said he was thrilled that the conference was being held in St. Augustine. He noted the numerous projects that were underway. He said that unfortunately he would not be in attendance for the conference, as he would be speaking to the Heritage Foundation in his home town in up state New York.

Commissioner Crichlow stated that the Florida Trust for Historic Preservation conference being held in St. Augustine was significant. He encouraged everyone to put their best foot forward.

VIC Shuttle

Mayor Gardner clarified that the Commission had voted to table the VIC shuttle matter until more information could be gathered; however, a recent newspaper article indicated that it had been tabled for one year.

Mr. Harriss said the Commission had not given a specific timeframe. He said that staff would begin collecting data from day one but it could take some time to go through a cycle of visitors to find out where they wanted to go and whether they needed to be shuttled.

Commissioner Jones referred to Mr. Pettingell's request for support from the Commission to buy a steam car.

A discussion ensued regarding the language that could be used to protect the City but it was determined that the Commission would not write a letter of support for Mr. Pettingell to avoid setting such a precedent.⁴

9.A/ Consideration of Award of Neighborhood Grants.

Mayor Gardner recommended developing a standard marker program for historic properties etc. and selling them to the public to finance the cost of the program.

Mayor Gardner referred to the newest edition of the *Insight* that would be included with the May utility bills, and he said that, to help inform the public, the *Insight* included a summary of the management plan for the Castillo.

Mr. Williamson reported that it was the second year that the City had awarded neighborhood grants. He said that a grants review panel had been formed to make recommendations to the Commission, and the panel had done a good job with participation and the process had worked. He said there had been four applications, the panel had recommended three and one had not been approved. He concluded that the grants panel also recommended changing some of the eligibility requirements.

Mr. Williamson stated that the panel had liked one of the applications; however, the application had not fit the eligibility requirements. Therefore, he said the panel had approved the applications, but requested that the Commission change the

⁴ A brief recess from 7:01 until 7:24 p.m.

requirements to include the project. He said that eligibility required that a project be of bricks and mortar or physical tangible assets that would represent a physical improvement to a public space, but plans, design, studies or developmental cost were not eligible for grant funds.

Mayor Gardner pointed out that he had been opposed to the eligibility requirements, because the neighborhood associations knew what would benefit their neighborhood best. He concluded that the eligibility requirements were too rigid.

Commissioner Burk said the Commission had determined that the grants would be awarded for something tangible that would be seen and appreciated by the neighborhood and public at large.

Commissioner Boles stated that they had an ordinance and a grants panel to review the applications and if the grants panel approved an application the Commission should support their decision.

Commissioner Burk pointed out that one neighborhood had chosen not to remain within the requirements, but the other neighborhoods were not given the opportunity to go outside the requirements; therefore, she could only agree to amend the requirements for the subsequent grant cycle. She said that amending the requirements retroactive would not be fair.

Commissioner Jones agreed that they could not change the rules after the fact, but if they decided to change the guidelines they should open the grants process to the neighborhoods again.

Commissioner Boles said he liked the idea of changing the rules and opening the process to the neighborhoods again.

Commissioner Burk suggested that if they amended the eligibility requirements they extend the application period for another 30-days.

Mr. Wilson stated that he did not believe the Commission had approved an ordinance;

therefore, the Commission could change the criteria anyway they wanted; however, he cautioned that the grants had to be awarded for a public purpose.

Commissioner Crichlow suggested that they had to have some framework for the process.

Mr. Harriss pointed out that throwing a block party would not serve a public purpose.

Commissioner Boles suggested that the grants panel would not approve a block party.

Commissioner Jones said one requirement had been that they could not use the grant funding for conferences, but conferences could be beneficial to a community group. He agreed that they needed parameters.

Commissioner Boles suggested that as the process evolved they would probably amend the criterion again.

Commissioner Jones referred to the application from the St. Augustine North Davis Shores Neighborhood Association requesting to make a DVD of their neighborhood and clarified that if the Commission approved the application the DVD would be property of the City.

Commissioner Crichlow stated that they would probably have to develop a format for that type of application.

A discussion determined that the Commission would amend the policy to add projects of historical significance and extend the application period and Mr. Williamson would rework the policy, also including language that the grant funding had to be used within the fiscal year, and he would bring it to the Commission for approval.

Mr. Harriss recommended, from a legal and auditor point of view, not using the word intangible. He suggested that the Commission try not to put it all into one program, but consider different programs for videos etc., because it would become cumbersome.

Commissioner Burk pointed out that the panel's job had been easy because the criterion was well defined. She suggested that using the language historically significant could be stretched a long way and make it difficult for the grants panel. She said that she was not in favor of changing the application requirements, because it could be abused for political purposes by powerful people.

Mayor Gardner said that Mr. Williamson would reword the requirements for the next meeting, which would provide the neighborhood associations and residents the opportunity to give the Commission feedback, and extend the application process.

Commissioner Jones clarified that they were putting a hold on the process until the subsequent meeting when they would determine whether to change the requirements; where upon, they would either extend the application time or not.

Commissioner Boles clarified that they were not potentially reopening the matter because of one grant application. He said that they would reopen because they had only received four applications, and the neighborhoods required encouragement.

Mr. Williamson pointed out that the grants panel had an easier time because they did not have 10 applications requesting \$2,500; therefore, they did not have to decide the level of funding to award each application. He said that if they reopened the process the grants panel might have to adjust the current suggested level of funding.

Mayor Gardner clarified that they were not taking any action on the grants at that time.

Jim Hawley, 21 Myrtle Avenue, pointed out that the Magnolia Neighborhood Association would not have to appeal the grants panel decision at that time. He said that their whole application had been based on markers providing a brief history of the oak trees on Magnolia Avenue. He questioned whether the association should proceed considering that the Mayor recommended standardization for

markers. He said that their proposed markers were going to be made of aluminum alloy that would last 30-years.

Mayor Gardner stated that the Commission would have to decide as other associations were interested in markers for their neighborhood, and they would have to decide whether they wanted to standardize historic markers.

Commissioner Crichlow referred to the existing markers that had graphics and were interpretive in nature; whereas, Mr. Hawley was referring to a marker. He suggested that perhaps they needed two types of signage.

Mayor Gardner said that his suggestion had strictly been for a marker program patterned after the state markers.

Mr. Hawley stated that Magnolia Avenue attracted so many visitors, and the plaques the association proposed were meant to be interpretive and maybe include a photograph.

Commissioner Jones suggested that they could have both types with the marker the Mayor had suggested. He said that the City stamp could be put on the marker that Mr. Hawley suggested to indicate the City's approval.

Mr. Crichlow said that they could have an official marker as well as an official interpretive sign.

Commissioner Boles suggested that Mr. Hawley wait until the Commission addressed the matter.

Commissioner Crichlow said they could approve the project but not what the signs would be like.

Jeannette Berk, 52 N. St. Augustine Boulevard, spoke on behalf of the St. Augustine North Davis Shores Neighborhood Association about the proposed grant for a DVD. She said that it was her understanding that the grant program was intended to foster civic pride, and she described the activities accomplished by the association. She said

that David Nolan had suggested making the DVD based on the history of the neighborhood and residents. She said the proposed documentary would be about the history of Davis Shores and the lives of the residents, the architecture and the current state of affairs. She said the benefit of the documentary would be educational and could generate interest in a more detailed historical documentary. She stated that it would promote a sense of place, history and foster civic pride. She said the neighborhood association considered the DVD to be a tangible project that would last longer than bricks and mortar. She explained that the documentary would be made by Kevin O'Brien, Emmy Award winner, at a cut rate. She stated that the DVD was a fantastic investment for the entire community.

Mayor Gardner said that strictly interpreted the proposed project was not tangible and potentially it could become a political statement and not an objective account. He stated that Mr. Williamson had his work cut out for him.

Elizabeth Holiday, 11 Aviles Street, spoke on behalf of the Old Town Neighborhood Association about their proposed project. She said that the neighborhood had created a pocket park and their application was to build an arbor and provide some shade at the park. She said that they would like some matching funds and sweat equity. She stated that a general contractor and his crew had volunteered to build the arbor for free and dress in period costume for the construction. She said they also received a good discount for the lumber and they planned to make the construction an event. She added that the residents of the neighborhood intended to be responsible for the maintenance. She said that it was May and getting warm and they would like to start the project as soon as possible.

Commissioner Burk stated that they should approve the project as well as the Nelmar project and open the grant process for the remaining funds.

MOTION

Commissioner Burk MOVED to approve the Nelmar and Old Town Association's projects. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE

10. Appeals and Public Hearings

10.A/ Public Hearing and Appeal of a Planning and Zoning Board Decision Relative to Property located on Arricola Avenue.

Mr. Knight was sworn and explained that the application to PZB had been for a variance to reduce the side yard setback from 10-feet to 3-feet. He said the lot was approximately 25-feet wide and over 100-feet deep. He said the lot was zoned CL-1 and required a 10-foot side yard setback. He said the PZB had denied the application without prejudice and currently the matter was before the Commission on appeal. He said that Commission must determine if the PZB had erred and affirm, reverse or modify the appealed action. He said that if the applicant presented modifications the Commission could remand the application to the PZB for reconsideration.

There was no ex parte communication.

Doug Burnett, 170 Malaga Street, was sworn and stated that his client had not been able to attend the meeting as he was volunteering in Cambodia. He detailed his history of living in the City. He said that his client had recently purchased the property in question but with 10-foot side yard setbacks any structure could only be five feet wide, which was not practical, and without the variance there was no reasonable use for the property from a residential standpoint. He stated that the hardship had not been created by his client and the request was not contrary to the public.

Mayor Gardner stated that one comment sheet had been returned in opposition to the proposal.

Commissioner Burk stated that 10 comment sheets had been sent to the immediate neighbors for the PZB hearing and seven were returned in opposition and none were returned in favor.

Ms. Porter pointed out that she had sent comment sheets to the ten neighbors within 150-feet and she had only received the one response in opposition.

Commissioner Crichlow noted that the applicant had closed on the property well aware that he might not get the variance. He said that he could not support the appeal, as it would set a bad precedent. He concluded that PZB had not erred; therefore, he had to uphold their decision.

Commissioner Burk added that there were no houses on Davis Shore built on 25-foot lots.

Commissioner Boles stated that he did not share the alarm that people would tear down their houses and build four 25-foot houses. He said he did not see the market heading in that direction at all. He said he had no problem with getting rid of a commercial use in the neighborhood, and they were being asked to entertain a setback for residential use. He said he could not imagine that situation coming up that often, and he liked to encourage the commercial lot changing to residential use.

Commissioner Burk said that 70% of the neighboring comments were against the application.

Mayor Gardner said the condition was pre-existing and one could say the buyer created the hardship by buying the property. He said that wherever he had seen narrow houses there were other houses crowded around them and they did not stand out. He referred to the map of the neighborhood and pointed out that there were no other houses similar in the neighborhood; therefore, the design was inappropriate

Commissioner Boles agreed that the house design would not blend with the neighborhood; however, a house had not

been demolished and the lot had not been subdivided. He said the lot had a single owner for a long time that had not built on the property for whatever reason, but the City had received taxes. He said that a platted lot had always been buildable in St. Augustine, as long as the property owner complied with the setbacks. He suggested that allowing a residence to be constructed would avoid a taking by the City, but he would have felt better if the applicant had used the standard setbacks.

Commissioner Burk said in that case the zoning would have had to be changed.

Commissioner Boles agreed that the matter really amounted to a zoning change.

Commissioner Burk pointed out that the Commission had no obligation to change any zoning.

Commissioner Boles stated that he would have no problem changing the zoning to residential, because most everything else in the location was residential.

Mr. Knight said that there was a parking lot to the west and everything to the east was residential.

Commissioner Burk questioned whether there was residential immediately adjacent.

Mr. Knight replied that there was a house to the immediate east, and those homeowners were opposed to the matter because of the close proximity to their home.

Commissioner Burk said that allowing the setbacks to be expanded would be infringing on the rights of the immediate neighbor.

Commissioner Boles stated that if the setback was five feet there was not much that could be done.

Commissioner Burk stated that currently the setbacks were not five feet and when the immediate neighbor bought their house it was not five feet, it had been ten feet.

Commissioner Boles suggested that the adjacent property owner probably was not aware that the lot next to them was commercial with 10-foot setbacks when he/she purchased the home.

Commissioner Burk disagreed, as she would have been concerned about an adjacent 25-foot lot.

Commissioner Boles stated that he approved of encouraging residential.

Commissioner Crichlow said that if they rezoned the property to residential they would be in violation for creating a nonconforming residential lot.

Mr. Knight stated that if the Commission rezoned the property to RS-2 there would be four foot side yard setbacks and the applicant could build the same house without an eave. He said that the PZB had suggested rezoning to RS-2, but a clear direction had not been given, and the board had denied without prejudice indicating that they would be willing to consider another option.

A discussion determined that if the property was rezoned a two story home could be built with a 5/12 pitch roof without eaves with a seven foot elevation and 2-3-foot stem walls.

Commissioner Burk objected that all the neighbors were opposed to the proposal.

Mayor Gardner objected that he could not see the house plans anywhere outside of a railroad yard. He agreed that the neighbors had spoken, and they were the ones that had to live with the proposal.

MOTION

Commissioner Burk MOVED to deny the appeal as the Planning and Zoning Board had not erred in their decision. Commissioner Crichlow SECONDED the motion.

Commissioner Boles suggested denying without prejudice and remanding the matter to the PZB.

Commissioner Crichlow pointed out that the applicant could go back to the PZB without the Commission remanding.

Mr. Wilson said that if they denied without prejudice the applicant could go back to the PZB without the normal one year delay for denial and submit a new plan.

Mayor Gardner suggested that the Commission would not have to put the language in their motion.

Commissioner Boles clarified that the Commission's denial would not start the one year waiting period.

Mr. Burnett questioned whether they could adjust the setback to one side to put more space between the proposed construction and the adjacent house. He explained that they could situate the house six-feet to the slab on one side and two-feet to the slab on the other, shifting the structure toward the parking lot.

Commissioner Burk suggested that Mr. Burnett address the matter to the PZB, and see whether the neighbors were amenable.

Mayor Gardner agreed that was a decision for the PZB.

Commissioner Burk expressed concern about building homes on 25-foot lots on Davis Shores.

Mr. Burnett pointed out that the lot had not been built on and the situation was not the result of demolishing a structure to subdivide; moreover, if someone purchased a lot it should be buildable.

Mayor Gardner added that the applicant purchased the lot knowing that there could be problems. He said that the applicant wanted to build a 2,500 square foot home on the lot. He stated that he did not believe the applicant planned to live in the house; he believed it would be a spec house. He said that the spec builders built to the max to insure a return. He questioned why the

applicant wanted to build a 2,500 square foot home on a postage stamp.

Commissioner Boles agreed, but he said the proposal would be a good barrier between the parking lot and residential. He said that they should take advantage of turning a CL-1 zoning into residential.

Commissioner Burk stated that the neighbors had not wanted it, and why should the Commission tell them what they wanted.

Commissioner Boles suggested that the neighbors were responding to change, but he submitted that the neighbors would not want a commercial structure built there either. He stated that they had a duty to protect the neighborhoods in spite of whether the neighbors understood the future direction.

Commissioner Crichlow suggested that the neighborhood had enough common sense to figure the situation out by themselves. He said he believed that the neighbors knew exactly what was going on.

VOTE ON MOTION

AYES: Burk, Crichlow, Jones, Gardner

NAYES: Boles

MOTION CARRIED 4/1

11. RESOLUTIONS AND ORDINANCES (To include public hearing)

11.A/ Resolutions

(None Scheduled)

11.B/ Ordinances - First Reading

(None Scheduled)

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.

Mr. Knight said the item was a Comp Plan amendment amending the future land use element from commercial medium intensity to residential medium density mixed use for the area north of Oyster Creek and east of US1, and he briefly described the area and the future plans for the property. He explained that the property also had an application for a Planned Unit Development, which the PZB had reviewed and unanimously approved. He said the PUD was not currently before the Commission, as the Comp Plan amendment had to go to Tallahassee for review, but the matter would be presented to the Commission within the next couple of meetings. He added that the Comp Plan amendment was primarily for height, which had been recommended by the PZB.

John Bailey, Upchurch Bailey & Upchurch, representative for the applicant, said that Mr. Knight had provided a good overview. He said the existing zoning allowed all the uses the project required. He said that they had started out with 112-114 condo units, but currently the plan called for 98 units. He said that after five meetings with the PZB the board had unanimously recommended to adopt the Comp Plan amendment and allow the proposed structures to go higher than 35-feet. He said that the top of the roof line was 48-feet, but not all the building would be that tall. He said that they would go before the Commission for the PUD and again for second reading of the ordinance after state review, but approving first reading meant they could continue based on the current form, and they would be setting the stage for final approval around August.

Commissioner Burk questioned why the PZB had recommended a height above 35-feet.

Mr. Bailey replied that it allowed for additional open space and less lot coverage to maintain the vista, plus it provided for more architectural variety on the buildings.

Howard Davis, Architect, was sworn and distributed architectural renderings for Rivers Edge. He said that they began the project with condos and commercial, then they developed commercial that was part of the

condo buildings, and then they separated it into a town center with shops, restaurant and services for the facility. He said the site contained 7.6 upland acres, with five buildings that covered 60,000 square feet of the site, which amounted to approximately 19% lot coverage and included approximately 10,000 square feet of commercial space. He said that there was 40% open area, 4% ponds, 10% sidewalks, and the pavement area was 27%. He explained that there would be four condominium buildings, one restaurant, and a dock master's building, and he provided some details on each building.

Mr. Davis stated that the project exceeded the parking requirements by 7 parking spaces, and they had met existing concurrency with the original plan that called for 114 units. He said the project had 70 permitted boat slips, but they were expanding to 150 boat slips, of which 70 would be kept available to the public and 20 of those would be transient and 50 would be non-transient, and the remaining 80 boat slips would be designated for the condo units. He explained the public access for the project along with the river walk. He said that the architecture had a Mediterranean feel to it, and he exhibited the elevations.

Commissioner Burk questioned the length of a particular building, and she was informed it was 217 feet and that it would be seen from US1.

Mr. Davis said that although they were going up to 50-feet height they were only doing three floors, as they had 10-foot floor to ceiling heights in all the units. He continued to point out details in the elevations noting that all the building were different. He said the materials would be plaster with red tile roofs and a lot of sand stone, plus they had a handsome budget.

Mr. Davis said it was their intention that the river walk from the north would tie into the projects river walk.

Commissioner Jones questioned the trees and landscaping for the project.

Mr. Davis referred to the site plan and pointed out that they were not taking out any of the major Oak or Cedar Trees.

Mayor Gardner questioned the average height of the trees.

Mr. Davis replied that the height ranged from 40-60-feet and some were taller.

Commissioner Jones questioned whether they would work with the DOT for a traffic light at the entry to the project.

Mr. Davis replied that they would maintain the entrance as it currently existed, which was a DOT entrance with a curb cut.

William Chivala, 1126 Shipwatch Drive, Jacksonville, invited the Commissioner to visit his website to see his other projects. He emphasized that the PZB had recommended going to 50-feet to shrink the footprint of the buildings and open the vistas. He added that the tree canopy would be higher than the buildings.

Commissioner Jones questioned whether there was parking under one of the buildings.

Mr. Chivala replied that was true, and he added that they had more parking spaces than required. He noted that the marina currently had 70 boat slips, and they had agreed to keep those slips open to the public. He added that he believed they actually tied up more than 70 boats in the existing 70 slips. He said that their intention was to have a total number of slips up to 150; however, they would have to go through permit processes first.

Commissioner Boles clarified that technically it would not be a marina, it was boat slippage.

Mr. Chivala agreed clarifying that they would not have gas or bottom painting and there would not be dry storage, but they intended to have plenty of transient slips for boaters that wanted to take advantage of the restaurant.

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

Commissioner Boles stated that the location was appropriate for going higher than 35-feet. He said that passing on first reading would not lock them into a decision, as they could still change their mind.

Mayor Gardner stated that they were addressing a Comprehensive Plan amendment, but the entire presentation focused on the PUD.

Mr. Knight stated that the Comp Plan amendment would re-designate the property from commercial medium intensity that was equal to a CM-2 zoning district to residential medium density mixed use that was equal to RGO zoning district, and they both were allowed 16 units per acre, a marina, and retail. He said that the CM-2 designation had a 35-foot height limit with 70%-80% lot coverage and more intense commercial uses and RGO had 50-foot height limit with 50%-60% lot coverage. He said that the PUD would go before the Commission during one of the next two meetings.

Commissioner Burk clarified that if the project was approved by the DCA the applicant would ask for a PUD that would not exceed 20% lot coverage.

Mr. Knight clarified that between then and the time the ordinance returned from the Department of Community Affairs they would have first reading on the PUD and be presented with the full development plan narrative. He said that the current presentation was intended to provide the Commission with an idea of what the project was and why the applicant was asking for a Comp Plan amendment.

Commissioner Burk suggested moving the matter along, as reducing the lot coverage to 20% by going up higher was a benefit for everyone, especially considering that the height would not impact the area. She expressed concern about a 217-foot long building, but she would address the matter when the PUD was introduced.

Commissioner Crichlow said that approving the Comprehensive Plan amendment guaranteed the 50-foot height, but he wondered whether they were throwing away the negotiating ability within the PUD by approving the height.

Commissioner Burk pointed out that the project would still require a zoning change.

A discussion ensued, and it was determined that they would still had to have a second reading for the Comp Plan amendment, but if they did not approve the Comp Plan amendment the density could be greater under the current zoning, and they could potentially lose the water views.

Commissioner Crichlow recommended that they get a guarantee regarding the vista etc., because the current developer might not build the project as the property was for sale. He suggested getting everything clarified within the PUD to be certain they had control over the project. He expressed concern for the number of trips to and from the location.

Mr. Knight said that the analysis of existing uses was based on the national average for determination. He assured the Commission that transmitting the Comp Plan amendment to the DCA indicated the intent to adopt; however, the Commission would not be locked into the decision.

MOTION

Commissioner Boles MOVED to place Ordinance 2006-13, on first reading, read by title only and approved. Commissioner Jones SECONDED the motion.

Commissioner Burk clarified to the developer that the Commission could determine in either direction when the Ordinance went before them again.

Mr. Wilson read the title as follows:

ORDINANCE NO. 2006-13

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CITY OF ST. AUGUSTINE COMPREHENSIVE PLAN, FUTURE LAND USE MAP, TO REDESIGNATE APPROXIMATELY 7.16 ACRES LOCATED ON THE EAST SIDE OF U.S. 1, NORTH OF OYSTER CREEK, FROM COMMERCIAL MEDIUM INTENSITY TO RESIDENTIAL MEDIUM DENSITY/MIXED USE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Gardner stated that he had recommended moving the public space to the center of the project and the commercial to the side areas of the public space to create a town center and vista to the river, at which time he said that he would consider the 50-foot height. However, upon reviewing the plans he could not see any waterfront other than fleetingly. He said that the only compatibility with the San Sebastian project was that the applicant was seeking the same zoning, but he had not observed the same cooperative effort.

VOTE ON MOTION

AYES: Boles, Jones, Crichlow, Burk

NAYES: Gardner

MOTION CARRIED 4/1

11.D/ Ordinances - Second Reading Public Hearing

(None Scheduled)

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

Jay Bliss, 12 Oglethorpe Boulevard, referred to the harbor management plan for an engineering study in the amount of \$88,000 for engineering that took 4-6 weeks. He objected to engineering studies that encompassed anchorage uses north of the Bridge of Lions, as it was a waste of tax payer money if the area was not going to be allocated for controlled mooring fields. He stated that the location had historically provided free anchorage to a considerable tourist boating population, and he believed it should remain so. He continued to speak in support of the federal rights of boater's

waterway rights, property owner rights and environmental protection. He emphasized that the federal rights of boaters would not require City protection. He suggested that the perceived rights of property owners might be the single driving force behind the harbor management plan. He questioned what rights the property owners had in the matter of harbor management. He requested a public discussion concerning the goals of the harbor management plan.

Commissioner Crichlow noted that the City had provided approval for the Port and Waterway Authority to move forward with a harbor management plan, so they would allocate the funds for the engineering process and the City would jump in later to carry the plan through. He said that he recently heard that the Port Authority might not be willing to pay the \$88,000 for the engineering study.

Mr. Regan explained that during the last Port Authority meeting they had postponed the discussion regarding the study until Gerry Dixon was in attendance. He said that, following the public outreach meeting held a number of months earlier, the Port Authority wanted to discuss whether to move forward with the \$88,000 study or conduct a secondary planning process in the amount of \$125,000. He explained that the engineering effort was to gather baseline information regarding the metric surveys, engage the necessary agencies about mooring density, which was preliminary work for any direction they chose. He said that policy discussions would continue in August or September. He said that once the Port Authority was collecting data by boat in the harbor they would simply collect from the north side of the Bridge of Lions to tie in their survey work, which would have little impact on the cost. He said that general public discussion emphasized using the area north of the bridge for a transient anchorage system; however, there was a long way to go with public discussion regarding the matter. He concluded that the Port Authority had not indicated a lack of willingness to fund the plan; they simply wanted the entire board in attendance for discussion.

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

(None Scheduled)

Adjournment

There being no further business, the meeting
was adjourned at 9:28 p.m. ⁵

MAYOR

CITY CLERK

⁵Transcribed by Karen Rogers, Recording
Secretary