

## CITY OF ST. AUGUSTINE

Regular City Commission Meeting  
July 24, 2006

The City Commission met in a formal session Monday, July 24, 2006 at 5:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Mayor 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

Absent: Errol D. Jones, City Commissioner (Excused)

William B. Harriss, City Manager  
James P. Wilson, City Attorney  
Karen Rogers, City Clerk  
Timothy A. Burchfield, Chief Administrative Officer  
John Regan, Chief Operations Officer  
Mark Litzinger, City Comptroller  
Jim Piggott, General Services Director  
Mark Knight, Director, Planning and Building Department  
Bob Leetch, Director of Utilities and Public Works  
Robin Upchurch, Assistant City Attorney  
Paul K. Williamson, Director, Public Affairs  
Dr. William Adams, Director, Heritage Tourism  
Loran Lueders, Chief of Police  
Susan Goins, Recording Secretary

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

Pastor Susan Claytor, Trinity Episcopal Church, delivered the invocation, and Mayor Gardner led the Pledge of Allegiance.

### **3. ADMINISTRATIVE ITEMS**

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

Mayor Gardner stated that items 11.D.3 and 11.D.4 ordinances regarding the Mayoral election would be tabled due to the absence of Commissioner Jones.

James P. Wilson, City Attorney, indicated that a motion was needed to table the items to a specific date.

### **MOTION**

**Commissioner Boles MOVED to table items 11.D.3. and 11.D.4. until August, 14, 2006. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.**

Mayor Gardner stated that George McClure, Attorney representing Leslie Weinstein, 36 May Street (item 11.D.1) had reported that his client was not able to attend the commission meeting. He said that Mr. McClure suggested they table item 11.D.1. since they would not be able to negotiate the matter without Ms. Weinstein present.

Commissioner Burk agreed that she would not want to discuss the matter without all of the parties present.

Commissioner Boles summarized that the PUD had been appealed, the owners filed a law suit and the court ordered mediation. He said if the case was not settled by the Commission, it would go to trial so they should not negotiate without the property owners.

### **MOTION**

**Commissioner Burk MOVED to table item 11.D.until October 9, 2006. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.<sup>1</sup>**

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

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

### **3.C/ Proclamation**

**2006-37** - In honor of Martha V. (Nell) Porter's Retirement as City Clerk.

Mayor Gardner presented a proclamation to Mrs. Porter for nineteen years of service to the City of St. Augustine.

**2006-41** - Certificates of Recognition for the Student Exchange Program.

Mayor Gardner introduced Len Weeks, St. Augustine Ambassador to Aviles, Spain.

Mr. Weeks discussed the Student Exchange Program that included students from Aviles, Spain and the City of St. Augustine. He introduced the chaperones, and the chaperones presented each student with a certificate of participation. He added that the Student Exchange Program was funded and supported by the City of St. Augustine, St. Augustine Sister Cities and the community.

<sup>1</sup> Heard after item 9.

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

Derek Boyd Hankerson, 734 Medina Avenue, referred to the following:

- Thanked Mayor Gardner for preserving historical arts and culture
- The Fort Mose Historical Society planned the 26<sup>th</sup> annual Lincolnville Festival to be held on November 3-5 featuring music, culture and food
- The Fort Mose Historical Society met with crime watch and the City of St. Augustine Neighborhood associations
- The money raised by the festival would support the Fort Mose Historical Society's building fund to assist the park service and the society to raise \$500,000 for the second phase of the Fort Mose Museum

### **5. Staff Reports and Presentations**

(None scheduled for this meeting)

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

(None)

### **7. ITEMS BY CITY CLERK**

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

- 2006-38 - American Business Women's Association
- 2006-39 - National Pearl Harbor Survivors Association

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

#### **8.A/ Consent Agenda**

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

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

**8A.3/ Notification of two upcoming term expirations on the Board of Trustees, St. Augustine Police Officers Retirement System.**

**8A.4/ Approval of Grant Award from the Florida Department of Environmental Protection for Phase II of the Joseph Pomar, Jr. Recreational Facility.**

**8A.5/ Approval of Grant Award from the Florida Department of Environmental Protection for the Davis Shores Recreational Facility.**

**8A.6/ Approval of Conservation Easement Deed for the Riberia Street Mitigation Project.**

**8A.7/ Approval of Licenses for Use of City Right-of-Way.**

**8A.8/ Approval of the St. Johns River Water Management District Cost Share Agreement relative to the Water Treatment Plant.**

Mayor Gardner questioned whether the term expirations on the Board of Trustees, St. Augustine Police Officers Retirement System were eligible for re-appointment.

Mr. Harris replied affirmatively.

Mayor Gardner commented that their terms expired in September and applications would be accepted for the next month in the City Clerk's office.

Mayor Gardner stated that there was an \$112,500 grant for the Joseph Pomar, Jr. Recreational Facility.

Mr. Harriss stated that the grant was for a kayak launching facility and a pier at the north end of the park, sidewalks and restroom facilities.

Mayor Gardner stated that there was a \$200,000 grant for the Davis Shores Recreational Facility.

Mr. Harriss explained that it was a basic park including a skate area, fitness trail, kid's park and parking.

Mayor Gardner expressed that he wanted to thank city staff for pursuing the water management cost share agreement.

Mr. Harriss responded that Bob Leetch, Director of Utilities and Public Works was primarily responsible for acquiring the grant.

Commissioner Boles asked for clarification as to how the money for the Davis Shores Recreational Facility would be acquired.

Mr. Harriss replied through support of a local citizens group that funded a large amount of money, and the city dedicated \$30,000 from the budget the previous year that was still available. He added that the city had to wait until the grant came from the state, because they could not spend any money on the grant because it would not be counted as their cost share. He concluded that the bulk of the matching money would come from the public.

Commissioner Boles questioned whether the grantee got their money.

Mr. Harriss stated that they had money pledged prior to applying for the grant.

## **MOTION**

**Commissioner Burk MOVED to accept the consent agenda as presented. 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 Crichlow – Shuttle Schedule**

Commission Crichlow stated that he attended the concert in the park Thursday night, and he noticed that the shuttle service stopped

running at 7pm. He suggested that the shuttle service should be extended throughout the end of each concert.

Mr. Harriss responded that the suggestion was made to run the shuttle with extended hours for special events, and they were deliberating the times and events.

Commissioner Crichlow added that he would not be available to attend the City Commission Meeting on August 28, 2006.

#### Commissioner Burk – Concerts in the Park

Commissioner Burk suggested that the city extend the Thursday night concert series, because they were popular. She added that there would probably be greater attendance in cooler months.

Mr. Harriss agreed that the concerts were a great success and since the city funded them and hired the bands he would speak to the organizer Paul K. Williamson, Director, Public Affairs about the matter. He pointed out that the TDC had decreased funding to the city; therefore, the city had to invest more money in the concerts.

Commissioner Burk suggested that they could discuss it during the budget hearings.

#### Commissioner Boles – San Marco Avenue Business District

Commissioner Boles stated that he had attended the San Marco Business group meeting at the old jail, and they had voiced concerns about their interaction with the city. He reported that there was an issue pertaining to Christmas decorations that they had paid for; however, the decorations could not be placed in the San Marco Business area. He stated that the San Marco Business owners perceived that Florida Power and Light's lack of cooperation had not allowed the city to set up Christmas decorations on their telephone poles.

Mr. Harriss replied that Florida Power and Light had not allowed the city to setup the decorations on power poles; however, street

light poles were acceptable. He added that they could not put them on power poles because workers would not be able to climb past the decorations. He stated that they had originally planned to use the poles as a convenient place to put the decorations; however, that had not worked out so they had to look for other public property.

Mr. Williamson stated that they had worked closely with Florida Power and Light to determine where they could put the decorations considering specifications as to the distance from power lines. He reiterated that decorations could only be placed on poles without transmission lines; however, all of the poles in that area were transmission lines. He added that they could possibly put up banners; however, lighted Christmas lights or wreaths were not acceptable.

Commissioner Boles questioned whether each power pole had a certain easement area around them that would not be impacted.

Mr. Williamson replied that he was not certain.

Commissioner Boles said if the city decided to install poles to setup decorations on either side of transmission poles and left room for workers to crawl up the pole, would they need to be installed a certain distance from the power pole.

Mr. Harriss stated that the city could install poles wherever they wanted; however, if they installed a pole without electricity they would have to hang a separate meter on each pole for lights. He stated that when they installed street lights that belonged to the city, they laid conduit and ran electric lines then installed a meter. He explained that the problem with lighting Christmas lights in the right-of-way was that they needed a source of electricity and if the lights were setup on a pole with just a street light, they could calculate the amount of electricity.

#### Trash Cans – San Marco Avenue

Commissioner Boles questioned whether the city supplied trash cans outside of the downtown area and whether the San Marco Avenue area would be entitled to them.

Mr. Harriss responded that trash cans were cheap and if the San Marco Business owners wanted to empty the trash cans, he would supply them. He pointed out that the problem was ensuring that they were emptied and maintained. He added that if the Commission wanted to change the level of service, they would have to determine the level, come up with a price and discuss it at a budget hearing.

#### Trees

Commissioner Boles questioned whether trees in the area would need a water source.

Mr. Harriss responded that trees needed water until they were established and an Arborist would advise that the amount of unpaved area was important to a trees ability to live.

#### Free Shuttle Service

Commissioner Boles pointed out that he saw the shuttle pass several times and it was empty. He questioned whether staff counted the number of people using the service and whether he had observed a slow period.

Mr. Harriss responded that they were keeping reports on the numbers and sometimes it was slow and other times there were 8-12 people on each run.

#### Mayor Gardner - Florida East Coast Railroad

Mayor Gardner stated that Florida East Coast Railroad was selling their landmark buildings and they had entered into an agreement with Flagler College to purchase the property. He pointed out that FEC was under age old railroad provisions in the tax code and they were not paying regular property tax; therefore, Flagler purchasing the property would have little impact on the city.

Commission Crichlow stated that the proposal was positive, and he understood that they were considering dorms at that location. He pointed out that it would negate the need for more dormitories downtown; therefore, no other structures would have to be demolished in order to build dormitories. He added that there were positive effects regarding dorm location because if they were built downtown, there would be more parking issues.

Mayor Gardner said that President Abare informed him that they contemplated dormitories or moving one of the school's departments to the location. He said President Abare had assured him that the proposal would not increase the student body.

### **10. Appeals and Public Hearings (NOT PERTAINING TO ORDINANCES & RESOLUTIONS)**

#### **10.A/ Public hearing and appeal of a Historic Architectural Review Board decision relative to 25 Avista Circle.**

Mark Knight, Director, Planning and Building Department summarized that the appeal was based on the HARB denial for demolition at 25 Avista Circle; property owned by Adam and Karla Klayman. He explained that the decision, by HARB was to delay demolition for a period of one year; however, the property owners appealed the HARB decision and the Planning and Building Department found sufficient evidence for a public hearing by the Commission. He stated that Frank Upchurch, Attorney for the applicants, would discuss the matter.

Mr. Upchurch explained that the applicants were not pleased with the 1950's contemporary architecture; therefore, they wanted to demolish the house. He stated that they wanted to build a new home to suit their tastes. He explained that the footprint was the same, there would be a second floor added and the style would be Mediterranean. He stated that his client's appeal was based on the following:

- HARB board review and approval of the demolition was not required for the structure
- That permits must be submitted for structures that were on the Florida Master Site File or had been designated as a historic landmark and must be fifty years old
- Although the home was more than fifty years old, it was not on the Florida Master Site File, nor was it a historical landmark
- HARB board members substituted their subjective opinions and tastes for the Code criteria and denied the demolition
- HARB used Code criteria which had not applied to the neighborhood to postpone the demolition citing “destruction of the fabric of the neighborhood and city”
- Section 28-89(2)(d) of the Code, stated that the Board may approve demolition of a structure if it was not detrimental to the historic or architectural character of the City, however that only applied to structures located in the historic districts
- The structure was not historically or architecturally significant

Mr. Upchurch stated that none of the neighbors had opposed the demolition and some of the neighbors were present to speak in favor of the application. He explained that Peter Rumpel, HARB board member, had denied the application and the decision went against staff recommendations. He cited staff, such as Tom Scofield, that was trained in historic preservation, and how they had recommended granting the application on the condition that a Master Site File report was completed. He added that there had been no opposition to the hearing, nobody spoke against the demolition and no evidence was presented; however, HARB denied the demolition. He said that HARB members that were opposed to the demolition recommended renovating the building into a contemporary structure rather than replacing it with the home the applicants wanted to

build. He summarized these points in support of the appeal:

- HARB denied the application based upon preserving contemporary architecture; however, HARB was responsible for preserving historic architecture
- The HARB board had changed their view of what was historically significant
- The Commission had not adopted a city policy for preservation of contemporary architecture on Avista Circle
- HARB directly informed the applicants that they had to renovate the structure in a particular style
- Mr. Knight stated that HARB had no jurisdiction over renovations outside of the historic preservation district
- There were no guidelines pertaining to what could or could not be done while renovating buildings on Davis Shores, as long as the structure met the requirements of the Zoning Code
- HARB assumed authority over a building outside of the HP district

He requested that the Commission overturn the decision because there was no evidence in the codes to constitute denial of the application.

Commissioner Boles stated that the Commission passed an ordinance that made anything over fifty years old subject to review by HARB. He stated that staff had addressed a dozen criteria in their process to determine that the structure could be torn down. He questioned whether HARB had answered the same criteria when making their determination.

Mr. Upchurch replied that he believed that HARB had been side tracked and lost site of the merits of the application. He pointed out that the structure had no particular historic value nor was the neighborhood architecturally or historically significant.

Mayor Gardner questioned whether the applicant had checked with the Planning and Building Department before buying the structure considering they purchased the property with the intention of demolition.

Mr. Upchurch responded that the applicant knew that there was a process for demolition; however, he emphasized that HARB made an erroneous decision.

Mr. Upchurch said that Dana Ste Claire, Chairman, HARB, attended the meeting and he was present to discuss the matter.

Mr. Ste Claire stated that HARB's decision was not unanimous, as he had been in favor of the demolition. He added that there was debate over the intent of the ordinance; however, it was not reflected in the minutes. He explained that the case had been reviewed by HARB several times and there had been several discussions about the matter. He explained some of the problems HARB faced in regards to the demolition ordinance as follows:

- any structure in the city limits fifty years old were reviewed as part of the City Code
- Ten years ago that was not a problem because review fell within the 1940's era and there were examples of architecture that was pertinent to that period
- Currently they crossed a threshold to review post WWII structures
- There was no widely accepted body of work that defined post WWII structures or 20<sup>th</sup> century architectural styles that comprised a significant architectural merit
- The discussion had been based on whether the building possessed significant architectural and historic merit
- HARB needed criteria to back up different positions on different cases

Commissioner Crichlow said that the appeal stated the following HARB criteria for demolition review:

- Structures that were fifty years old or older
- Structures that were fifty years old or older which were listed on the Florida Master Site File maintained by the Florida Division of Historic Resources (DHR)
- Structures that had been designated as historical landmarks

Commissioner Crichlow said the appeal indicated that although the home was more than fifty years old, it was not on the Florida Master Site File, nor was it a historical landmark. He questioned whether an applicant must meet two or more of the criteria for denial of demolition or whether one criterion was significant for denial.

Mr. Ste. Claire agreed that one of the aforementioned criteria triggered the review:

Commissioner Boles asked for clarification as to what criteria HARB used to postpone the demolition.

Mr. Ste. Claire responded that the demolition ordinance provided review criteria; however, there was room for subjectivity. He explained that HARB typically looked for recognizable architectural style in evaluating architectural and historic merit. He added that historic merit could also refer to the fact that someone well known lived in the house. He added that there was an argument that the type of architecture defined the historic character of the neighborhood; however, some believed that it was a non-descript style. He referred to the following discussion of the HARB meeting:

- HARB recognized that certain conditions should be satisfied to warrant granting a certificate of demolition
- The applicant's architect had passed away which caused a break in the review
- The board had tabled the application because they were asking for specific information

- Some of the criteria was that the structure be recorded to the Master Site File and provide the board with elevation drawings and photograph the existing structure

Mr. Ste Claire pointed out that if a structure was compromised structurally, HARB wanted the structure documented on the Florida Master Site File, local site files, photographically documented and elevation drawings must be provided. He stated that the board requested that information and Nancy Sikes Klein, Chief Advocate of Davis Shores Preservation, had volunteered to document the building by filling out a Master Site File form. He pointed out that during the last HARB meeting the board determined that the building had enough structural integrity and character remaining to warrant renovations as a historic structure.

Commissioner Boles said that his position was to understand whether HARB applied or misapplied the ordinance. He added that he had not found a checklist or evidence that helped HARB determine whether the structure should or should not have been demolished.

Mr. Ste Claire replied that since they did not have criteria, there was a high level of subjectivity. He stated that if it was the general consensus of the City Commission and the community that Davis Shores was deemed architecturally significant, they needed to look at the defining characteristics. He added that there were many examples of demolition requests that clearly met the criteria; however, areas such as Davis Shores created a problem for evaluating architectural merit.

Commissioner Burk stated that there had been an order based on the ordinance because it stated that the board specifically determined the demolition would contribute to the destruction of the historic fabric of the neighborhood and city. She added that it was one of the criteria available for denying a demolition.

Mr. Ste Claire replied that one could make that motion and use that criterion but whether

the demolition of the structure affected the historic character of the neighborhood was another matter.

Mayor Gardner opened the public hearing.

Roy Barnes Jr. - 1539 San Rafael Way, stated that he had been a member of HARB until recently and he was a real estate broker. He explained that while he served on the board HARB had a policy that homeowners could be denied demolition, but after six months the applicant received the permit. He said that when they extended the timeframe to one year, he believed it was a way to apply a hassle factor to the rights of property owners. He said that HARB came up with a select property list with supposedly the most significant the properties. He added that HARB was charged to protect the properties in the HP districts; however, the current situation was out of context.

Chris Way, 29 Avista Circle, commented that he use to live at 25 Avista Circle and there was nothing historic about the structure. He explained that the house had been knocked down and remodeled a couple of times and more than one third of the house had been renovated and added onto in the last twenty years. He added that none of the homes looked the same on Avista Circle.

Mr. Upchurch referred to Commissioner Burk's statement and agreed that demolition of a structure that would contribute to destroying the fabric of a neighborhood was a criterion for denial; however, there were only two districts mentioned in the ordinance that specifically referred to aforementioned criteria; the historic and national register districts. He added that there was no criterion for demolition of fifty year old homes outside those districts and the minutes indicated that no evidence was given at the hearing. He stated that the only legal evidence was a staff report that stated contrary to the board's decision. He commented that the only evidence was Chris Way stating the structure was not historic.

Mayor Gardner closed the public hearing.

Mayor Gardner said that he was surprised that the city or the appellant had not provided a complete transcript of the HARB board action<sup>2</sup> because a 3/1 vote was fairly persuasive. He added that the job of citizens' board was to apply the codes and make subjective opinions in regards to those rules.

Commissioner Crichlow stated that there was a statement made that HARB should not have authority to say what an owner could do; however, that was the responsibility of HARB and PZB. He said that there were times when HARB needed to have certain controls over the community; however, there were times when it was questioned whether that authority went too far. He added that HARB had been given authority to make judgments outside of the historic district, although, they may not have had enough guidance from the Commission. He referred to a similar situation in which the city upheld an appeal and lost in court because no evidence had been presented. He said the house did not carry the historical significance that would warrant a denial for demolition. He said that although HARB's recommendation to renovate the home to a contemporary structure would also change the style of the structure and affect the character of the neighborhood. He stated that he could not see how HARB could make their decision that the structure had historical significant in the neighborhood. He stated that it had been a subjective decision, because there was no historical character to pin it down to; therefore, he was going to have to choose to grant the permit to demolish the structure.

Commissioner Boles stated that HARB had discussed subjective criteria, style and character beyond what was expected of them. He said that he was going to vote to overturn HARB's decision and added that personal preference was beyond applying an ordinance.

Commissioner Burk expressed that Davis Shores had a specific style, and the Commission discounted the fact that the board found the demolition would contribute

to the destruction to the historic fabric of the neighborhood. She added that they were not referring to the structure but the effect that it had on the historic style of the neighborhood.

Mayor Gardner questioned whether the structure being entered into the Master Site File would be considered submission of evidence.

Mr. Wilson stated that the Master Site File was prepared because the code required that structures must be documented during demolition. He pointed out that the court needed substantial evidence to support the decision, and they would look at testimony to support the order in which the board found that the demolition contributed to the destruction of the historic fabric of the neighborhood.

Commissioner Burk questioned whether there had been testimony during the meetings regarding the demolition permit.

Mr. Wilson replied that there had been testimony in support of the demolition but no testimony against it.

After a brief discussion it was determined that that the testimony had to support a board's decision; therefore, the board needed testimony in the record to support their decision.

Commissioner Boles pointed out that there were other cases in which neighbors that were opposed had not attended meetings to give testimony. He added that it was the responsibility of the Commission to determine whether HARB applied the law.

Mayor Gardner reported that Jeanne Marsh Dougherty, 21 Avista Circle, said she was concerned that the plans for expansion might affect the view of the city from her home.

## **MOTION**

**Commissioner Crichlow MOVED to grant the appeal of HARB relative to 25 Avista Circle based on the decision that HARB exceeded its sphere of influence and**

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<sup>2</sup> End of tape 2

authority in making the determination whether the structure was historical. The motion was **SECONDED** by Commissioner Boles.

**VOTE ON MOTION**

**AYES: Crichlow, Boles, Gardner**

**NAYES: Burk**

**MOTION CARRIED: 3/1**

Commissioner Burk suggested that the City Attorney take an active role with the boards to ensure that they had the criteria necessary to make a decision and vote.

Commissioner Crichlow suggested that varied opinions were given because if the matter went to litigation it would get thrown out due to lack of evidence. He added that staff could make statements in favor of the matter.

Mr. Wilson replied that if staff had clear criteria to deny demolition permits, they could point it out to the board in the summary.

Commissioner Burk suggested that staff give an unbiased report and present both sides.

Mr. Harriss pointed out that staff did not state positions on issues; they only inform the board whether criteria had been met. He added that staff stopped making recommendations approximately four to five years ago.<sup>3</sup>

**11. RESOLUTIONS AND ORDINANCES (To include public hearing)**

**11.A/ Resolutions**

**11.A.1/ Consideration of Resolution 2006-14, concerning the proposed tentative millage rate for Fiscal Year 2006-07.**

Mark Litzinger, City Comptroller summarized that resolution 2006-14 established the proposed millage rate for Fiscal Year 2006-07 budget. He stated that the budget committee requested \$6.6 mills to maintain the current level of service and accomplish

<sup>3</sup> Recess 7:45 p. m. to 8:15 p.m.

certain capital requirements for the next fiscal year. He pointed out that it was easier to lower the millage rate after the proposal had been submitted to the county than it was to raise the millage rate.

Mayor Gardner noted the \$1.7 million and \$2.2 million dollars for identified needs.

Mr. Litzinger stated that the city would receive close to \$2 million in additional ad valorem tax, which included new construction as well as the increased values and expenses. He stated that they identified some of the major expenses including; cost of living expenses, insurance and liabilities which totaled approximately \$2.2 million dollars. He added that for the city to continue with the same level of service and to meet certain capital outlay requirements, staff requested a minimum of \$6.6 mills.

Commissioner Crichlow questioned whether the millage could be lowered if they deemed it appropriate in the budget.

Mr. Litzinger replied that they were in the preliminary stages of the numbers and after the budget workshop they would have an exact idea of where they needed to be and relay the information to the Commission.

**MOTION**

**Commissioner Burk MOVED to approve the proposed millage rate for fiscal year 2006/2007 at \$6.6 mills. The motion was SECONDED by Commissioner Crichlow. <sup>4</sup>**

**MOTION APPROVED BY UNANIMOUS VOICE VOTE.**

**11.B. Ordinances – First Reading**

(None scheduled for this meeting)

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

<sup>4</sup> Mr. Wilson read the resolution in its entirety – copy attached to minutes

**11.C.1/ Public Hearing – Ordinance 2006-22, concerning a petition to vacate a portion of West Avenue and Lewis Boulevard.**

Mr. Knight summarized that the ordinance vacated a portion of West Avenue and Lewis Boulevard in conjunction with the adoption of the Planned Unit Development for River's Edge. He pointed out that the road vacation was on first reading and the Department of Community Affairs had voiced no objection to the Comprehensive Plan Amendment.

Commissioner Boles asked for clarification as to why the reading for the road vacation was separate from the reading for the PUD.

Mr. Knight replied that they were initiated at different steps and the second reading would include the Comprehensive Plan Amendment, the PUD and the final road vacation ordinance. He pointed out that the road vacation ordinance included a clause that when it became effective, the applicant had to have permitted and bonded all of the public infrastructure improvement, the utilities and the sign relocation by the effective date of the ordinance.

Commissioner Crichlow expressed concern if the deal fell through.

Mr. Knight replied that the city would be able to relocate all of the utilities, the entrance signage and have the public improvements built for the completion of the project regardless whether the developer walked away.

Commissioner Crichlow asked about the PUD.

Mr. Knight stated that the PUD would take effect after the Comprehensive Plan Amendment.

Mayor Gardner opened the Public Hearing; however, there was no response.

**MOTION**

**Commissioner Burk MOVED to place Ordinance 2006-22 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Boles.**

Mr. Wilson read the title as follows

**ORDINANCE NO. 2006-22**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, VACATING, DISCONTINUING AND ABANDONING THAT CERTAIN PORTION OF WEST AVENUE AND LEWIS BOULEVARD LYING EAST OF U.S. HIGHWAY 1, WITHIN THE CITY LIMITS OF ST. AUGUSTINE AND MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR RESOLUTION OF CONFLICT WITH OTHER ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mayor Gardner stated that he was going to continue to oppose the project and referred to the following:

- The design looked like a wall of condominiums
- The boardwalk would be worthless if it was behind a wall of condominiums
- He wanted to know the elevations so he could understand what could be seen from the highway
- Questioned whether commercial was needed to make the project viable, because that was not a requirement of the PUD

**VOTE ON MOTION**

**AYES: Burk, Boles, Crichlow**

**NAYES: Gardner**

**MOTION CARRIED 3/1**

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

**11.D.1/ Public Hearing – Ordinance 2005-07, as amended, establishing the Coquina Shores Planned Unit Development (PUD)**

**zoning designation relative to property located at 36 May Street.**

(Tabled)

**11.D.2/ Public Hearing – Ordinance 2006-16, establishing the San Marco Hotel Planned Unit Development (PUD).**

Fred Halback, Halback Design Group, Inc. presented the PUD for the San Marco Hotel. He introduced Kanti Patel, the developer and Jerry Dixon, project architect. He stated that he would give the same presentation that he presented to the HARB and the PZB. He stated that initially it was a single building that was similar to the original San Marco Hotel; however, HARB, PZB and the community were not satisfied with the proposal. He said that they looked at the property and began to recognize that they could create a series of buildings similar to the Hilton on the bayfront.<sup>5</sup> He referred to the following:

- The hotel would be 35 ft. high except for three uninhabited towers
- There would be one vehicle entrance to the hotel from Castillo Drive
- The trash and dumpster would be located on Castillo Drive
- The pool would be internal to the development
- The 3,500 square foot meeting space would be located on the corner of San Marco Avenue
- 4,500 square foot restaurant and bar space located on the intersection of San Marco Avenue and Castillo Drive
- The hotel would appear as a series of small buildings and along Grove Avenue every building would have a different fence, railing, wall detail and landscape to look more residential in character
- There would be three towers (53, 43 and 42 feet high)
- No entry way onto Grove Avenue
- The lighting would be the same as residential lighting on Grove Avenue

Mr. Halback delivered a 3D presentation of the hotel in relation to the streets and the community.

Mayor Gardner opened the public hearing.

Yvonne Puckett, 30 Grove Avenue, – referred to the following:

- Liked the revised design of the hotel
- Wanted assurance that provisions of the PUD would be adhered to and monitored by city departments, officials and HARB
- Expressed concern about lighting for the PUD
- Wanted retail verbiage added to the PUD agreement
- Thanked Kanti Patel, Fred Halbeck and Jerry Dixon for working with residents

Andy Schirmacher, 27 Locust Street, referred to the following:

- Disputed the height of the hotel
- Hotel would not conform with the neighborhood
- Expressed concern about water and sewage
- Questioned the amount of power consumed by the building
- Expressed concern about parking
- Stated that the homes on Grove Street would be effected negatively, as they would be in the shadow of the proposed structures

Barbara Eishem, 136 San Marco Avenue, referred to the following:

- Stated that the design looked nice
- Questioned whether the towers would be habitable
- Expressed concern that hotel guests could look out of the windows and into homes on Grove Street
- Security in the area could be effected by hotel guests

Mayor Gardner closed the public hearing.

<sup>5</sup> End of tape 3

Mayor Gardner asked for clarification as to the elevations of the hotel.

Mr. Halback replied that the elevations would not take the building over 35 feet and each roof level would be less than 35 feet.

Mayor Gardner questioned whether the elevator system would be hydraulic or cable driven.

Mr. Halback replied that the elevators would probably be hydraulic since there would only be three floors. He mentioned that signage would point people in the direction of the hotel. He indicated that Castillo Drive and San Marco Avenue would use appropriate street lighting, but the lighting on Grove Street would consist of residential porch lighting. He added that there would be no retail in the hotel and there would be 84 units and 88-90 valet parking spaces underneath the building.

Commissioner Burk questioned the citizen's concern about the homes on Grove Street being in shadows.

Mr. Halback assured the Commissioner that the homes on Grove Street would not be negatively impacted by the shadow from the hotel. He pointed out that, regarding water and sewage concerns, the PUD was a new project and had to meet the St. John's River Water Management requirements. He added that storm water would be handled on site as required by law and under the governance of the Water Management District permit. He indicated that there would be underground storage and in terms of extra people, density would be greater; however, it would not triple the demand.

Commissioner Boles questioned how many meetings they had with the neighborhood.

Mr. Halback replied that they held seven public meetings.

#### **MOTION**

**Commissioner Burk MOVED that ordinance 2006-16 be read by title only**

**placed on second reading and passed. Commissioner Boles SECONDED the motion.**

Mr. Wilson read the title as follows:

#### **ORDINANCE NO. 2006-16**

**AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ESTABLISHING THE SAN MARCO HOTEL PLANNED UNIT DEVELOPMENT (PUD) PURSUANT TO SECTION 28-289 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR TERMS AND CONDITIONS OF THE PUD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

Mayor Gardner asked for clarification on the next steps for the PUD.

Commissioner Crichlow responded that after PUD approval, they would go back to HARB for a certificate of appropriateness. He asked for clarification as to how much of the PUD would be changed.

Mr. Halbeck replied that it would look the same as presented; however, they would work with HARB to adjust details.

Mr. Harriss pointed out that if the developer backed out of the deal, the next person would have to build the exact same thing. He added that doorknobs, colors and light fixtures would be HARB decisions.

Commissioner Crichlow indicated that citizens had voiced concern about the precedent set by the PUD and the potential for another hotel breaching the neighborhood. He pointed out that a PUD was judged on its own merit, and if someone proposed a similar project next door, it would be judged the same way. He added that the PUD would not set a precedent for the future. He voiced concern about the towers because they resembled habitable space. He said that he never came across the situation before, and he questioned whether it would set a precedent.

Commissioner Boles responded that each PUD was judged individually.

Mr. Halback responded that Flagler Auditorium and the college library had towers that were not habitable. He added that the towers were appropriate for the buildings.

Mr. Dixon responded that according to code developers could go up to fifty five feet with an architectural feature, and he pointed out that the architectural features on the Sebastian Inland Harbor project would be higher. He added that the city was full of towers and the feature had been added because it matched the historic structures of the neighborhood. He pointed out that the parking garage had five towers.

Commissioner Boles questioned whether visitors would be able to access the hotel from San Marco Avenue.

Mr. Halbeck replied affirmatively.

Commissioner Boles asked for clarification as to the entrance and exit from the hotel. Mr. Halbeck clarified that there would be no pedestrian exits on Grove Avenue.

**MOTION APPROVED BY UNANIMOUS VOICE VOTE**

**11.D.3/ Public Hearing – Ordinance 2006-17, amending the Charter to designate a Commission Seat as the Mayor’s Seat.**

(Tabled)

**11.D.4/ Public Hearing – Ordinance 2006-21, amending the Charter to provide that the Mayor be the Commissioner selected by majority vote.**

(Tabled)

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

Harvey Wolf, Co-owner of Wolf Head Books, 67 San Marco Avenue, commented that the developers had taken photographs of the shadows of the project at 3:00 p.m. when

there would not be shadows on Grove Avenue, because the sun was in the west and shadows would be cast on San Marco Avenue. He voiced further concerns and suggested that the city look more carefully at the PUD.

Andy Schirmacher, 27 Locust Street, expressed concern about the following:

- The height, depth and shadows of from the proposed buildings<sup>6</sup>
- PUD approval might lead to more hotels
- Extra cost for tax payers
- The city was being destroyed

Barbara Eishem, 136 San Marco Avenue, questioned whether guests would be able to access the towers.

Mayor Gardner replied that there would be no access.

She asked for clarification about the number of rooms.

Commissioner Crichlow replied that there would be 84 rooms.

**12.B/ Presentations (15 minutes per presentation).**

(None scheduled for this meeting)

**13. Adjournment**

There being no further business, the meeting was adjourned at 9:40p.m.<sup>7</sup>

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MAYOR

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<sup>6</sup> end of tape 4

<sup>7</sup> Recorded by Susan Goins

CITY CLERK