

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
January 8, 2007

The City Commission met in a formal session Monday, January 8, 2007 at 5:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Boles, and the following were present.

Roll Call:

Joe Boles, Mayor/City Commissioner
Donald A. Crichlow, Vice Mayor/City Commissioner
Susan Burk, City Commissioner
George Gardner, City Commissioner
Errol D. Jones, City Commissioner

William B. Harriss, City Manager
Karen Rogers, City Clerk, CMC
Ron Brown, City Attorney
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, Police Chief
Jimmy Owens, Fire Chief
Susan Goins, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

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

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

Following a brief discussion regarding public comments, Mayor Boles suggested that item 11.D.3. be heard after item 4.

MOTION

Commissioner Jones MOVED to hear item 11.D.3. after item 4. The motion was SECONDED by Commissioner Crichlow and APPROVED by UNANIMOUS VOICE VOTE.

3.B/ Approval of Minutes

MOTION

Commissioner Gardner MOVED to approve the minutes of the regular meeting of December 11, 2006 and the special meeting of December 22, 2006 as presented. The motion was SECONDED by Commissioner Crichlow and APPROVED by UNANIMOUS VOICE VOTE.

3.C/ Proclamation

(None)

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

1. Gerrold Stratton, 6338 Salado Road
2. Michael Arenas, 15 Sylvan Drive
3. Michelle Bagley, 3201 Calle Cortez
4. Sara Fenwick, 6 Rio Vista Drive
5. Reubin B. Carter, 531 Ashland Avenue

The aforementioned residents spoke against prohibiting new vendor permits in the Plaza and referred to the following:

- The city should not prohibit vendors in the Plaza
- Vendor permits had been removed without prior notice
- Tourists and residents enjoyed the atmosphere and ambiance that the vendors brought to the Plaza
- The matter should have been discussed in ordinance form with public hearings
- Vendors in the Plaza discouraged vagrants and drug dealers

William B. Harriss, City Manager, stated that the city would not issue new permits for the Plaza. He added that the matter would be discussed further at the subsequent meeting.

Ed Slavin P.O. Box 3084, referred to the following:

- The city should adopt the St. Augustine National Historical Park and National Sea Shore
- The City should obey the Sunshine Laws

5. Staff Reports and Presentations

(None Scheduled)

6. ITEMS BY CITY ATTORNEY

Ron Brown, City Attorney, stated that during the December 11, 2006 meeting the Commission discussed amendments for the proposed County Charter to protect the city. He said the matter would be discussed at the county meeting of January 9, 2007. He added that a charter would include language that any amendment affecting one of the three municipalities and their Constitution or statutory authority would require a separate referendum and approval by the population.

Mr. Brown responded to public comments regarding the October 13, 2006 City Commission meeting. He stated that following an investigation by the State Attorney's office and the Attorney General, there had been no findings of Sunshine Law violations.¹

7. ITEMS BY CITY CLERK

7.A/ Notification of Proclamations

- **2007-01 – Arbor Day**

7.B/ Consideration of an appointment to the Code Enforcement, Adjustments & Appeals Board.

Karen Rogers, City Clerk, summarized that during the prior meeting there was a tie vote for the vacancy appointment to the Code Enforcement, Adjustments & Appeals Board, and the Commissioners had decided to vote at the subsequent meeting.

¹ End of tape 2

Mayor Boles stated that the applicants were as follows:

- Gary G. McMahon, 8 Vedder Street
- William Rosenthal, 37 Oak Street
- Sheldon A. Smith, 123 Martin Luther King Avenue

William Rosenthal received majority vote 4/1.

8. ITEMS BY CITY MANAGER (Includes Consent Agenda)

8.A/ Consent Agenda

8.A.1/ Preview of upcoming Commission Meetings

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

8.A.3/ Consideration of Lease of Property from the St. Johns County School Board for Fullerwood Park.

8.A.4/ Consideration of Lease Agreement with the St. Augustine Yacht Club, Inc.

8.A.5/ Consideration of an Easement relating to Underground Utility Lines and a Sewer Lift Station Easement.

8.A.6/ Consideration of Tax Deed Sale relative to property located at 314 Arricola Avenue.

8.A.7/ Request by Marine Industry Association of Northeast Florida to proceed with permitting requirements relative to the May 2007 St. Augustine Boat Show.

Mr. Harriss read the consent agenda items.

MOTION

Commissioner Burk MOVED to approve the consent agenda items. The motion was SECONDED by Commissioner Jones.

VOTE ON MOTION

AYES: Burk, Jones, Crichlow Gardner Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

8.B/ Discussion Items

(None Scheduled)

9. ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Gardner – College National Football Championship

Commissioner Gardner acknowledged the BCS National Championship Game and local residents Brandon James and Jacques Rickerson from the University of Florida team.

Mayor Boles – Betty Griffin Banquet

Mayor Boles stated that he would host the Betty Griffin House Banquet on January 27, 2007 at World Golf Village.

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

(None)

11. Resolutions and Ordinances (To include public hearings)

11.A. Resolutions

(None Scheduled)

11.B.1 Ordinances – First Reading - Introduction and consideration of Ordinance 2007-01 regarding Residential Density Stabilization.

Mark Knight, Director, Planning and Building Department, summarized that Ordinance 2007-01 pertained to zoning to retain the residential character of neighborhoods. He explained that in the instance of non-conforming lots in RS-1 and RS-2, if there

was a primary structure on more than one non-conforming lot and the house was torn down, the property owner could not build multiple structures. He added that the ordinance excluded accessory structures.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2007-01 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Burk.

Mayor Boles stated that he was against the ordinance; however, topics introduced by Commissioners should be approved and open for public comments.

Mr. Brown read the title as follows:

ORDINANCE NO. 2007-01

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, RELATING TO ZONING; AMENDING THE DEFINITION OF "LOT" AS CONTAINED IN SECTION 28-2 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO PROHIBIT THE DIVISION OF CONTIGUOUS LOTS OF RECORD IN SINGLE FAMILY RESIDENTIAL DISTRICTS (RS-1 AND RS-2) IMPROVED BY A STRUCTURE INTO NON-CONFORMING LOTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

VOTE ON MOTION

**AYES: Crichlow, Burk, Jones, Gardner
Boles**

NAYES: None

MOTION APPROVED UNANIMOUSLY

11.C.1/ Ordinances – First Reading – Public Hearing –

(None Scheduled)

11.D. Ordinances – Second Reading – Public Hearing Required

11.D.1/ Public Hearing - Ordinance 2006-36 concerning voluntary annexation of property located east of the Florida East Coast Railway and west of U. S. 1 north.

Mr. Knight summarized that Ordinance 2006-36 annexed property between Florida East Coast Railway and U.S.1. He presented a map of the area and explained the surrounding streets. He said the property was a Planned Unit Development and the developers had agreed to annex the property which had been part of the pre-annexation agreement.

Commissioner Burk stated that if the city annexed the area as commercial property, the owner could request the change residential property in the future.

Mr. Knight replied affirmatively. He added that residential development would be prohibited for ten years.

Commissioner Burk questioned whether the city would be obligated to approve residential zoning if requested by the future property owners.

Mr. Knight replied that the property had a county land use, and he was uncertain whether they would have rights for residential zoning under that use. He said land use would be a legislative decision; the city could decide whether they wanted residential/commercial.

Mr. Harriss pointed out that land use changes were strictly legislative and the city had no obligation to change it.

Commissioner Burk stated that she would vote against the ordinance, because she was concerned that the property would be changed to residential.

Mayor Boles asked for clarification regarding the time frame for removing the billboards from the property.

Mr. Harriss replied that they had three years to remove the billboards. He added that the mobile home sales had the same timeline.

George McClure, 81 King Street Suite A., presented and identified a map of the property area including surrounding streets. He stated that they would not seek to change the Comprehensive Plan or zoning and they were committed to not applying for residential use north of *Avenue D* for ten years. He pointed out that the property should be developed in ten years. He stated that the ten year time frame had been established because it provided an option if circumstances changed.

Mayor Boles opened the public hearing.

Ed Slavin P.O. Box 3084, referred to the following:

- The city should suspend future annexations
- The land should be designated as a city park

David Thundershield, P.O. Box 270, referred to the following:

- The city should not increase density

Mayor Boles closed the public hearing.

Commissioner Gardner questioned whether the extension on *Avenue D* would be considered a county road.

Mr. McClure replied affirmatively.

Commissioner Gardner questioned whether turn out lanes would be provided.

Mr. McClure replied that turn out lanes would be designed as connection onto U.S.1 and required a state DOT permit in addition to requirements regarding acceleration and deceleration lanes. He stated that staff encouraged annexation with a commitment to commercial property because the designation derived higher tax revenue which residential property required

a higher level of service. He pointed out that if the property was not annexed into the city it could still be developed; however, it would be considered county property.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2006- 36 on second reading, read by title only and passed. The motion was SECONDED by Commissioner Gardner.

Mr. Brown read the title as follows:

ORDINANCE NO. 2006-36

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ANNEXING APPROXIMATELY 31.35 ACRES OF PROPERTY IN ST. JOHNS COUNTY, FLORIDA, LYING WEST OF U.S. 1 AND EAST OF THE FLORIDA EAST COAST RAILWAY, NORTH OF AND CONTIGUOUS TO THE EXISTING CITY LIMITS, AS DESCRIBED HEREIN; REDEFINING THE BOUNDARY LINES OF THE CITY OF ST. AUGUSTINE TO INCLUDE SAID PROPERTY; AMENDING SECTION 1.08 OF THE CHARTER LAWS OF THE CITY OF ST. AUGUSTINE, FLORIDA; PROVIDING FOR FILING OF A COPY HEREOF WITH THE CLERK OF THE CIRCUIT COURT OF ST. JOHNS COUNTY, FLORIDA, WITH THE CHIEF ADMINISTRATIVE OFFICER OF ST. JOHNS COUNTY, FLORIDA, AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Crichlow Gardner, Jones, Boles

NAYES: Burk

MOTION CARRIED 4/1

11.D.2/ Public Hearing - Ordinance 2006-38 amending the Planned Unit Development (PUD) relative to property located at 3 Radio Road.²

² Commissioner Crichlow departed at 7:40 p.m.

Mr. Knight summarized that Ordinance 2006-38 amended a Planned Unit Development on 3 Radio Road. He stated that the owners of the property requested to build a garage and enclose their existing garage. He pointed out that in order to renovate the property, they needed to modify the PUD.

Mayor Boles opened the public hearing.

Ed Slavin P.O. Box 3084, referred to an unrelated issue.

Joe Petrone, 3 Radio Road, referred to the following:

- The property did not have a garage
- The existing garage had been enclosed before he bought the house

Mayor Boles closed the public hearing.

MOTION

Commissioner Gardner MOVED to place Ordinance 2006-38 on second reading, read by title only and approved. The motion was SECONDED by Commissioner Jones.

Mr. Brown read the title as follows:

ORDINANCE NO. 2006-38

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE PLANNED UNIT DEVELOPMENT ESTABLISHED PURSUANT TO ORDINANCE NO. 88-31 TO PROVIDE FOR CONSTRUCTION OF A PROPOSED GARAGE AT 3 RADIO ROAD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

VOTE ON MOTION

AYES: Gardner, Jones, Burk, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

11.D.3/ Public Hearing - Ordinance 2006-40 relating to Panhandling and Solicitation.³

Mayor Boles clarified the following points regarding Ordinance 2006-40:

- The ordinance would not prohibit a person from sitting on a park bench, grass, sidewalk or any public property
- The ordinance was not a limitation on the homeless
- The ordinance specified certain activities in designated areas

Ron Brown, City Attorney, summarized that the ordinance defined panhandling as *to beg or ask or solicit money or goods for charity or personal gain, whether by word, bodily gestures, signs or other means*. He pointed out that the ordinance was in addition to the aggressive panhandling ordinance. He said any panhandling within the defined area would be banned with passage of the ordinance. He stated that the ordinance defined solicit as *to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value*. He specified that the defined areas included portions of HP-2 and HP-3⁴.

Commissioner Crichlow referred to page seven, item 3.d. of the ordinance and stated that *the northernmost sidewalk adjacent to Cordova Street* should read *the northernmost sidewalk adjacent to Treasury Street*. The correction was acknowledged.

Mayor Boles opened the public hearing.

1. William Rosenthal, 37 Oak Street
2. Carrie Johnson, 100 Lincoln Street
3. Kathy Davis, 42 Cincinnati Avenue
4. Robert Hall, 42 Spanish Street
5. Kristy Weeks, 38 Magnolia Dunes Circle
6. Richard Pinto, St. George Street
7. Len Weeks, 38 Magnolia Dunes Circle

³ Heard after item 4

⁴ Map attached to original minutes

8. Christine Cousart, 108 Spanish Oaks Lane
9. Ed Slavin, P.O. Box 3084
10. Dana Ste. Claire, 820 Turtle Lake Ct.
11. Pete Eldridge, 59 Hypolita Street
12. Fred Halback, 287 St. George Street
13. Jennifer Robertson, 855 W. American Eagle Drive
14. Ronald Pierle, 106 St. George Street
15. Michael Pounds, 21 Orange Street
16. Michael Smithson, 811 Kalli Creek Lane
17. James Colvert, 64 B. Hypolita Street
18. John Arbizzani, 43 Cordova Street
19. Mackray Allen, 39 Fullerwood Drive
20. Kevin Cousart, 108 Spanish Oaks Lane
21. Regina Joseph, 162 St. George Street
22. Kenneth Russom, 4002 Moultrie Foreside Blvd.
23. Vanessa Noel, 1005 Bella Vista Blvd.

The aforementioned residents spoke in favor of Ordinance 2006-40 and referred to the following:

- Tourists had been intimidated by panhandlers and beggars
- The prohibited area should be expanded to include Cordova Street to Avenida Menendez to protect all downtown businesses
- Expand area to include the Visitors Information Center to protect tourists from harassment
- Many panhandlers were not homeless and were capable of working

1. Scott Anson, 11 Maderia Drive
2. Aubrey Skillman, 58 M.L. King Avenue
3. Sumner Gray, 51 Orange Street
4. David Thundershield, P.O. Box 270
5. B.J. Kalaidi, 8 Newcomb Street

The aforementioned residents spoke against Ordinance 2006-40 and referred to the following:

- Banning panhandling and would not stop the problem
- The city should form a committee to investigate the matter

- The city should address the issue in a humane manner

Mayor Boles closed the public hearing.⁵

MOTION

Commissioner Burk MOVED to amend the area to include Cordova Street including the west sidewalk to the east sidewalk of Avenida Menendez; and Orange Street to King Street.

Following a brief discussion to clarify the designated area, Commissioner Burk withdrew her motion.

MOTION

Commissioner Crichlow MOVED to amend the designated area to include all of HP-2 and HP-3 including the sidewalk on the southern boundary of King Street north. The motion was SECONDED by Commissioner Burk.

VOTE ON MOTION

AYES: Crichlow, Burk, Gardner, Jones Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

MOTION

Commissioner Burk MOVED to place Ordinance 2006-40 on second reading, read by title only and passed as amended. The motion was SECONDED by Commissioner Jones.

Mr. Brown read the title as follows:

ORDINANCE NO. 2006-40

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 18, SECTION 18-8, OF THE CODE OF THE CITY OF ST. AUGUSTINE ENTITLED "BEGGING AND SOLICITATION"; TO ADD TO DEFINITIONS; TO ESTABLISH NO PANHANDLING AND SO-

⁵ Brief recess 6:50 p.m. to 6:55 p.m.

LICITATION AREAS WITHIN THE CITY OF ST. AUGUSTINE; PROVIDING FOR PENALTY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Burk, Jones, Gardner, Crichlow
Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

Mayor Boles stated that the ordinance would be effective in ten days and the response would include education, warning and then a citation.

Following a brief discussion it was determined that the offense would be a non-criminal infraction, punishable by \$500 and up to sixty days in the County Jail.

Commissioner Crichlow requested that the Commission direct the City Manager to provide funds for a full-time police presence in the Plaza, St. George Street and throughout the designated area identified in the ordinance. He added that increased police presence would enforce the panhandling ordinance, skate boarding, and bike riding in the designation area.

Mr. Harriss replied that they could have a certain level of police presence in the Plaza. He said that if the city had full-time police presence it would require overtime.

Commissioner Burk suggested that the city temporarily assign a police officer to the designated areas.

Following a brief discussion Mr. Harriss stated that temporary overtime would be acceptable, and he would advise the Commission if overtime charges were mounting to the detriment of the city.

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

B.J. Kalaidi, 8 Newcomb Street, referred to the following:

- Police should enforce illegal RV camping on Sydney Street
- Ordinance 2007-01 was a misuse of the straw ballot

1. David Thundershield, P.O. Box 270
2. Lee Daniel Sigman, Hernando, Fl.
3. Scott Anson, 11 Maderia Drive
4. David Scandaliato, 6th Street
5. Barbara Frantz, 2844 Cherole Circle
6. Robin Wertz, 3100 Victoria Drive
7. Michelle Bagley, 3201 Calle Cortez

The aforementioned residents spoke against prohibiting new vendor permits in the Plaza and referred to the following:

- The city should limit the number of vendor permits as opposed to banning vendors from the Plaza
- Vendor rules should be established and enforced in the Plaza
- Vendor permits should be reinstated until a decision was made regarding the matter
- The Commission should define activities protected under the First Amendment
- Tourists said one reason for coming to St. Augustine was the market place in the Plaza
- Requested a timeframe regarding when the vendors could sell merchandise in the Plaza

Sumner Gray, 51 Orange Street, referred to the following:

- Requested a meeting with the Commissioners to discuss the homeless issue
- Uncertain whether the Key West model would help the situation

Mr. Brown pointed out that vendors were allowed to sell merchandise at the Activities Field. He added that regarding presumed expressive content, they had met with Loran Lueders, Police Chief and Sergeant Barry

Fox to assist police with identifying enforcement of vendors in the Plaza.

Commissioner Jones stated that he visited Key West to examine the effectiveness of the model and had discussed the issue with city officials. He stated that Key West had done many things to assist the homeless population, and it would be unfair to reject the model without looking into it.

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

(None Scheduled)

13. Adjournment

There being no further business, the meeting was adjourned at 8:15 p.m.⁶

MAYOR

CITY CLERK

⁶ Transcribed by Susan Goins