

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
February 26, 2007

The City Commission met in a formal session Monday, February 26, 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

Gabbat Jerry Kass, Grace Methodist Church, delivered the invocation, and Commissioner Jones led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

Mayor Boles stated that applications regarding the national register status for neighborhoods was not on the agenda and required input from the community, which

would be scheduled when neighborhood contacts had been established.

Mayor Boles stated that the appellant in item 10.A. requested the opportunity to submit alternatives for review to the Planning and Zoning Board.

Ron Brown, City Attorney, stated that there had been additional evidence in support of the application and there was evidence to present oppositional evidence; therefore, if the parties agreed it could be remanded to PZB.

There was general consensus from the Commission to remand the item back to PZB at the applicant's request.

MOTION

Commissioner Gardner MOVED to remand item 10.A. to PZB with a requirement that the meeting would be held during the evening. The motion was SECONDED by Commissioner Burk.

Rich Maquire, Attorney, Rogers and Towers, 170 Malaga Street, agreed to remand the item to PZB if accompanied by informal mediation. He requested that the City Manager appoint staff to attend.

Following a brief discussion regarding mediation it was determined that the Commission's discussion focused on remanding the matter to PZB.

VOTE ON MOTION

AYES: Gardner, Burk, Crichlow, Jones, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

Mayor Boles announced that the item would be remanded to the PZB to allow for community input.

3.B/ Approval of Minutes

MOTION

Commissioner Gardner MOVED to approve the minutes of the regular meeting of February 12, 2007 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)

Leslie Garcia, 406 Arricola Avenue, referred to the following:

- Requested a refund of fees for his vendor's license

Mayor Boles requested that Loran Lueders, Police Chief, escort Mr. Garcia from the meeting due to Mr. Garcia's demeanor.

Sherry Badger, 2772 South Collins Avenue, referred to the following:

- Opening the Bridge of Lions for large boats caused traffic congestion
- The shorelines protect the land from storms

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

- Seniors age sixty five and older must contact the property appraiser by March 1, 2007 to be eligible for the increased homestead exemption
- Spoke against Ordinance 2007-01 regarding residential density

Phil McDaniel, 51 Water Street, referred to the following:

- Dedication of the new fountain at the Visitor's Information was a success
- Thanked Mayor Boles for speaking about the importance of public art

Gregory Travis, 3 Oak Tree Place, referred to the following:

- Suggested an ordinance regarding the interpretation of art work sold in the Plaza

Rebecca Stringer, 225 West King Street,
referred to the following:

- Suggested advised the city not to ban trucks from driving on Leonardi Street

Doneen Strong, 18 S. Leonardi Street,
referred the following:

- Requested street signs to prevent tanker trucks driving on Leonardi Street

5. Staff Reports and Presentations

John Regan, Chief Operations Officer, displayed a diagram of the intersection of Leonardi Street and West King Street. He stated that city staff performed several studies and referred to the following:¹

- Amerigas trucks drove on Leonardi Street approximately twice per week in the winter and twice per month in the summer
- 85% of the traffic was below 29 mph
- Intermediate size trucks such as food service industry trucks and small tractor trailers had a 45 degree turning radius
- Larger gas trucks had a 60 foot turning radius; therefore, a truck had to use two lanes to make a turn
- If the city banned trucks on the street that would force wide turns incurring a degree of liability
- If trucks were prohibited, eastbound trucks turning north would have to swing wide eliminating a portion of parking on North Leonardi Street
- Local businesses such as Screen Arts, Ammar's Beauty Supply, Amerigas and Catholic Charities were opposed to the change

Mr. Regan stated that the Police Department, Engineering and the City

¹ Attached to original minutes

Attorney's office recommended against "No Trucks" signs. He added that opening Holmes Boulevard and the traffic calming device would decrease the traffic by 20%.

6. ITEMS BY CITY ATTORNEY

Ron Brown, City Attorney, stated that they met with the owner of the old Bass Cab Company on Granada Street and formalized the demolition and use of the area for city parking. He said the project would be finalized February 28, 2007.

Commissioner Crichlow recommended recycling the coquina block from the property to anyone that was interested.

Following a discussion regarding the condition blocks it was determined that the city would determine whether the blocks were salvageable after the building was demolished.

Commissioner Jones pointed out that the city could be liable if workers removing the blocks were injured. He added that if there was a time delay in removing the blocks the city should cease involvement.

William B. Harriss, City Manager, stated that he contacted contractors and informed them that the coquina blocks would be available.

7. ITEMS BY CITY CLERK

7.A/ Notification of Proclamations

- **2007-05 – Ben Adams Retirement**

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 Unit Connection Fee Mortgages.

8.A.3/ Approval of legal representation before the Florida Department of Business and Professional Regulation.

MOTION

Commissioner Jones MOVED to approve the consent agenda. The motion was SECONDED by Commissioner Burk and APPROVED by UNANIMOUS VOICE VOTE.

8.B/ Discussion Items

(None)

9. ITEMS BY THE MAYOR AND COMMISSIONERS

9.A./ Discussion regarding the Organizational Process for the 450th Anniversary Celebration of the City's Founding – Mayor Boles.

Mayor Boles provided a copy of the Jamestown 2007 Steering Committee report.² He stressed that planning the 450th anniversary celebration would be a large task because it also signified the inauguration of the Hispanic culture in North America. He suggested involving the legislature and speaker Marco Rubio in the event. He added that the city could have a two year celebration including the 500th Ponce DeLeon celebration.

9.B./ Consideration of Lobbyist Contract.

Commissioner Crichlow suggested that a Lobbyist could facilitate funding for the 450th anniversary celebration and the Historic Properties.

Marty Fiorentino, Fiorentino & Hewett, stated that the company could work with the Commission to build a program. He stated that they had experience with government relations and they were familiar with the process for potential funding. He added

² Report attached to original minutes

that they had the ability to build a platform for the Commission and the community and they would look at state funding strategically to build upon yearly and create the backbone of a program to benefit the community.

Following a brief discussion regarding the process Mayor Boles suggested that the firm provide a proposal to the city.

Commissioner Gardner – Homestead Exemption

Commissioner Gardner questioned whether the legislature had acted on the amendment for the increased homestead exemption.

Mr. Harriss replied that the decision would be made after the session.

450th Anniversary Celebration

Commissioner Gardner suggested that the Historic Preservation Advisory Committee assist with preliminary planning of the celebration.

Commissioner Jones - Sightseeing Guides

Commissioner Jones referred to the test for sightseeing guides relating to black history and the impact of African Americans on the development of the city. He added that he would contact various historical society groups discuss the matter.

Commissioner Crichlow – Bridge Construction

Commissioner Crichlow stated that he received complaints from residents on Davis Shores regarding the noise from the construction of the bridge. He stated that there had been an agreement during construction of the temporary bridge and there would be no power driving after a certain hour to keep noise levels down. He said the power driving phase was over; however, noise was still an issue. He questioned whether the city could discuss

the issue with the Department of Transportation.

Mr. Harriss stated that regarding construction on the bridge, the DOT was required to comply with the city's noise ordinance. He said that because of bridge closures certain activities had to be performed at night.

Following a brief discussion, Mr. Harriss stated that the city could remind the DOT about noise levels and hours of operations.

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

Tabled – Public hearing and appeal of a Planning and Zoning Board decision relative to property located on Plantation Island Drive.³

11. Resolutions and Ordinances (To include public hearings)

11.A. Resolutions

11.A.1/ Consideration of Resolution 2007-05, Supporting Motion Picture, Television and Digital Media Production Incentives.

Chris McComb, 403 Shamrock Road, stated that he discussed returning film and television production to Florida with Commissioner Gardner. He said the legislation was being completed, and they hoped to have the bill completed by February 27, 2007. He added that the legislation received broad support from the Governor and the Lieutenant Governor.

Commissioner Gardner questioned whether the tax credit would be on the corporate tax side of the industry.

³ Remanded to Planning and Zoning Board

Mr. McComb replied affirmatively. He added that St. Augustine was a unique place and the film industry could find things in the city that they would not find elsewhere.

MOTION

Commissioner Crichlow MOVED to pass Resolution 2007-05. The motion was SECONDED by Commissioner Gardner and APPROVED by UNANIMOUS VOICE VOTE.

11.A.2/ Consideration of Resolution 2007-06 recognizing the St. Augustine Residents Contribution to the 1964 Civil Rights Act.

Commissioner Jones read the Resolution.⁴

MOTION

Commissioner Jones MOVED to pass Resolution 2007-06. The motion FAILED for lack of a second.

Mayor Boles questioned whether the city could be liable if the resolution stated an apology.

Mr. Brown replied that apologies from cities were not always followed by claims against the city. He pointed out that the word *apology* was not included in the resolution.

Mayor Boles suggested removing the word *its* from the second page first paragraph to protect the city from liability.

Commissioner Jones replied that he would not support changes to the resolution.

Commissioner Crichlow expressed concern regarding the wording due to possible liability. He said the instances had occurred 43 years ago and there had been healing since then. He stated that he would not want to open wounds unnecessarily and

⁴ Attached to original minutes

read an amendment to the resolution.⁵ He stated that the wording was more positive.

Commissioner Jones replied that the wounds were still open, and he was not in favor of the suggested amendments.

Commissioner Burk stated that there had been healing since 1964; moreover, suggesting that nothing had been done was wrong. She stated that she supported the proposed amendments by Commissioner Crichlow because they indicated working together.

Commissioner Jones replied that the people that were wounded wanted the wording he presented. He stated that after discussing the issue with people, the wounds were still open. He added that an apology was needed without softening the wording. He concluded that he was not prepared to accept an amendment that glossed over the seriousness of the resolution.

Commissioner Gardner stated that he agreed with Commissioner Burk and Mayor Boles because the resolution dismissed efforts that had been ongoing; however, he agreed they still had a long way to go. He added that Commissioner Crichlow's proposed amendments were not dismissive of the situation.

Mayor Boles stated that he thought the resolution was drafted well; however, he wanted to remove the word *its*. He added that he would like to add *Let the healing continue*; however, he would support *Let the healing begin*. He added that the change protected the city against liability.

MOTION

Mayor Boles MOVED to pass Resolution 2007-06 with the removal of the word *its*. The motion FAILED for lack of a second.

⁵ Attached to original minutes

MOTION

Commissioner Jones MOVED to pass Resolution 2007-06 in its entirety. The motion FAILED for lack of a second.

Commissioner Crichlow stated that he thought the resolution was meaningful; however, it should be amended to protect the city from liability.

MOTION

Mayor Boles MOVED to pass Resolution 2007-06 with the removal of the word *its*.

Commissioner Burk stated that she would second the motion if the wording *Let the healing begin* was changed to *Let the healing continue*.

MOTION

Mayor Boles MOVED to pass Resolution 2007-06 with the removal of the word *its* and change the wording *Let the healing begin* to *Let the healing continue*. The motion was **SECONDED by Commissioner Burk.**

Commissioner Jones stated that the word *its* signified that the injustice happened in St. Augustine and not another city. He said it was the beginning of publicly acknowledging the matter because the city had not apologized before. He requested withdrawing the resolution because he was the author had not wanted it amended.

Mr. Brown pointed out that the Commission had the right to amend the resolution.

Commissioner Jones expressed displeasure about the amendments.

VOTE ON MOTION

**AYES: Boles, Burk Gardner
NAYES: Jones, Crichlow
MOTION CARRIED 3/2⁶**

⁶ Brief recess 7:00 p.m. to 7:22 p.m.

11.B.1/ Ordinances – First Reading - Introduction and consideration of Ordinance 2007-03, Prohibiting Certain Outdoor Activities in Public Places.

Mr. Brown summarized that the ordinance prohibited the use of public places for certain activities such as habitation, sleeping and the placement or deposit of human excrement on streets, alleyways or parkways. He stated that the ordinance allowed enforcement when there were facilities available for those activities.

Commissioner Gardner questioned whether the marina restrooms would be available.

Mr. Harriss replied that the marina restrooms would be open after the ordinance was passed.

MOTION

Commissioner Burk MOVED to place Ordinance 2007-03 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Gardner.

Mr. Brown read the title as follows:

ORDINANCE NO. 2007-03

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, CREATING SECTION 22-12 OF THE CODE OF THE CITY OF ST. AUGUSTINE RELATING TO PUBLIC HEALTH AND SAFETY; MAKING FINDINGS; PROVIDING A DEFINITION; PROHIBITING SLEEPING, CAMPING OR HABITATION AND THE PLACEMENT OF ANY HUMAN EXCREMENT, INCLUDING URINE AND FECES, ON THE PUBLIC STREETS, SIDEWALKS, ALLEYWAYS, PARKS, PLAZAS OR ANY OTHER PUBLIC PLACES; DESIGNATING COMMENCEMENT OF ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES;

PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Burk, Gardner, Crichlow, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY⁷

11.B.2/ Introduction and consideration of Ordinance 2007-04, Vacating, Discontinuing and Abandoning a Utility Easement on a Portion of Genovar Street located West of U. S. 1.

Mr. Harriss stated that the ordinance vacated an easement and the street had already been vacated. He said the property owner requested that the city vacate it and he would receive utility services at the edge of the property.

MOTION

Commissioner Burk MOVED to place Ordinance 2007-04 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Crichlow.

Mr. Brown read the title as follows:

ORDINANCE NO. 2007-03

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, VACATING, DISCONTINUING AND ABANDONING AN EASEMENT IN FAVOR OF THE CITY AND LOCATED OVER AND ACROSS PORTIONS OF GENOVAR STREET AS DESCRIBED IN ORDINANCE 90-06; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE.

⁷ Commissioner Jones was not present during the item

VOTE ON MOTION

AYES: Burk, Crichlow, Gardner, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY⁸

11.B.3/ Introduction and consideration of Ordinance 2007-05, requiring the Sanitary Disposal of Dog Feces.

Commissioner Jones stated that a resident, complained about people not cleaning up after their dogs on private property.

Commissioner Crichlow questioned whether the ordinance allowed a citizen to go onto private property to clean up after their dog.

Mr. Brown replied that if a dog was on someone's property it was technically trespassing and the owner removing the feces without permission would also be considered trespassing. He said he would not recommend that the ordinance allow a citizen to go on a citizen's property to remove the feces.

Commissioner Burk replied that the ordinance allowed the owner to go on the property because if they would not remove the feces, they were subject to violation of the ordinance. She pointed out that they could fall and injure themselves on the property.

Commissioner Jones pointed out that a citizen complaining about another citizen on their property would likely also complain if a dog owner did not remove their dogs' feces.

Mr. Harriss stated that if someone removed dog feces on property and hurt themselves, the property owner could be liable because the ordinance required the owner to remove the feces. He said allowing the dog on private property was an act of trespassing and the dog owner could be cited under that law.

⁸ Commissioner Jones was not present during the item

Ms. Upchurch said the intent of the ordinance was focused on a dog that was being handled. She stated that if someone was walking and handling their dog, they would be obliged to clean up after the dog.

Following a brief discussion regarding liability, Mr. Brown stated that there were certain circumstances that a property owner could be liable to a trespasser. He said the violation only occurred when handling a dog; it would not pertain to a dog running freely.

Ms. Upchurch said she had modeled the ordinance after an ordinance in Austin, Texas and Boston.

Following a brief discussion it was determined that the City Attorney's office would research ordinances for cities closer to St. Augustine and provide more information during second reading.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2007-05 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Jones.

Mr. Brown read the title as follows:

ORDINANCE NO. 2007-05

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, CREATING SECTION 5-50 OF THE CODE OF THE CITY OF ST. AUGUSTINE; REQUIRING THE SANITARY DISPOSAL OF DOG FECES; PROVIDING FOR A PENALTY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

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

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

(None)

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

11.D.1/ Public Hearing – Ordinance 2007-02, vacating a portion of Red Cox Road (formerly known as Old Beach Road).

Mr. Harriss stated that the street was in the portion of Red Cox Road located within the Davis Shores neighborhood park.

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

MOTION

Commissioner Jones MOVED to place Ordinance 2007-02 on second reading, read by title only and passed. The motion was SECONDED by Commissioner Crichlow.

Mr. Brown read the title as follows:

ORDINANCE NO. 2007-05

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, VACATING, DISCONTINUING AND ABANDONING THAT CERTAIN PORTION OF RED COX ROAD (FORMERLY KNOWN AS OLD BEACH ROAD), 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.

VOTE ON MOTION

AYES: Jones, Crichlow, Gardner, Burk, Boles
NAYES: None
MOTION APPROVED UNANIMOUSLY

Non-Agenda Item – Menendez Birthday Gala

Dr. Adams stated that the Menendez Gala that was initiated in 1998. He stated that the Gala was designed to help support the state properties. He pointed out that the event had not generated large sums of cash; however, it was designed to socialize with the visitors from Aviles, Spain. He acknowledged the Lighter Museum, city staff and volunteers for their assistance.

Non-Agenda Item – Ordinance 2007-01

Commissioner Jones stated that he wanted to reconsider ordinance 2007-01 relating to residential density stabilization. He said the issue was discussed and passed at the prior meeting without public input.

MOTION

Commissioner Jones MOVED to reconsider Ordinance 2007-01. The motion was SECONDED by Commissioner Boles.

Commissioner Crichlow stated that the issue had been discussed for three years by the public and another public comment period would not be helpful.

Commissioner Jones stated that reconsidering an item without allowing public comments was unfair.

VOTE ON MOTION

AYES: Jones, Boles
NAYES: Crichlow, Gardner, Burk
MOTION FAILED 2/3

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

Antoinette Wallace, 104 Lincoln Street,
referred to the following:

- Suggested exhibits for the 450th anniversary celebration

Jerry Butterbaugh, 21 Leonardi Street,
referred to the following:

- Large trucks were not safe on residential streets

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

- Thanked the Commission for the Civil Rights Resolution
- The Plaza was lifeless without the vendor marketplace

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

- Suggested that the city acquire an inspector general and an ombudsman
- Budget hearings should be televised

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.⁹

MAYOR

CITY CLERK

⁹ Transcribed by Susan Goins