

## CITY OF ST. AUGUSTINE

Regular City Commission Meeting  
June 11, 2007

The City Commission met in a formal session Monday, June 11, 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  
Ron Brown, City Attorney  
Timothy A. Burchfield, Chief Administrative Officer  
John Regan, Chief Operations Officer  
Jim Piggott, General Services Director  
Mark Litzinger, Financial Comptroller  
Mark Knight, Director, Planning and Building Department  
Sam Lansdale, Deputy Director Public Works  
Paul K. Williamson, Director, Public Affairs  
Robin Upchurch, Assistant City Attorney  
Michael Arnold, Fire Chief  
Loran Lueders, Police Department  
William Adams,  
Maria Carlin, Recording Secretary

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

Reverend Deena Galantowicz, St. Cyprian's Episcopal delivered the invocation, and Commissioner Jones led the Pledge of Allegiance.

### **3. ADMINISTRATIVE ITEMS**

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

Mayor Boles advised that in order to accommodate attendees the "Fish Island Dock Appeal", Item 10A., would be moved up on the Agenda to Item 4.A. and the public presentations would be noted as 4.B.

There was consensus of the Commission to modify the Agenda.

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

#### **MOTION**

**Commissioner Gardner MOVED to approve the minutes of the regular meeting of May 14, 2007 as presented. The motion was SECONDED by Commissioner Crichlow and APPROVED by UNANIMOUS VOICE VOTE.**

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

- **2007-24 – Dreams Come True Day**

Mayor Boles read and presented the proclamation to Lane Silverfield, Dreams Come True Organization.

### **3.C/ Recognitions**

Mayor Boles asked Suzanne Yak, a representative with the Governor's Office for the Volunteer Florida Foundation, to present the Points of Light Award. She said the award was created by the Governor's office in recognition of extraordinary service and exceptional citizenship in the community and was the highest civilian honor in the State. She reported that there was one honoree each week for the award.

Mayor Boles presented Jerry Kass with the Award and a letter from Governor Christ.

### **4.A/ Appeals and Public Hearings (NOT PERTAINING TO ORDINANCES & RESOLUTIONS**

Mr. Harriss suggested that Mark Knight, Director, Planning and Building Department, give a brief report on the Fish Island Dock.

Mr. Knight summarized that the Appeal was for a 100 boat-slip dock at Fish Island. He reported that two hearings had been held on April 9<sup>th</sup> and May 7<sup>th</sup> 2007. He said the Planning and Zoning Board denied the application, and on May 9<sup>th</sup> the developer filed an appeal. He advised that the Commission was forwarded a packet and the transcript of the entire hearing for their review.

Mayor Boles enquired whether their options were as follows:

- Affirm the PZB's decision
- Reverse the PZB's decision
- Remand the item to PZB if additional testimony was presented

Commissioner Gardner enquired whether any conditions of the application had changed since the original presentation.

Mr. Knight responded that additional testimony was provided by the applicant in response to concerns raised by the public but the basic application had not changed.

Mayor Boles requested that the City Attorney advise the Commission on the appropriate procedures.

Mr. Brown said the City Commission should review the testimony, evidence and arguments previously presented and listen to any arguments by the appellants and opposition, then render a decision as to whether the PZB made the correct decision. He said if the Commission determined that there was a need for additional evidence the case could be remanded to PZB. He advised that the Code provided for a Summary Evaluation of the case and based on a review of the findings, the Commission would determine whether the correct decision was made. He recommended that the Commission consider the following items that would be considered by the appellant court:

- Was the appellant afforded due process of law
- Did the PZB and the Commission comply with the essential requirements of law
- Whether there had been substantial and competent evidence to support the decision of the PZB

Mr. Brown recommended that the appellant be given the opportunity to argue their case to satisfy due process.

Mayor Boles enquired about the supplement the Commission received.

Mr. Brown said it was additional material that would be outlined by the appellant during the summary presentation.

Commissioner Gardner stated that he had reviewed the transcripts and deliberations of the hearings and saw no errors with the

PZB's decision. He stated that he hoped the presentation would not be lengthy.

Mr. Brown said the Commission could limit the time of the presentation. He said the Commission should allow the appellant to make their argument, and then make a determination. He said it would be the Commissioner's decision whether they wanted to do the following:

- Hear oppositional argument
- Issue a summary disposition

Commissioner Burk enquired when exparte communication should be disclosed.

Commissioner Crichlow said he discussed the case with the appellant and with citizens who expressed their opposition.

Commissioner Burk said she had received letters and e-mails from concerned citizens. She stated that she would disclose the names if requested.

Commissioner Jones said he also received numerous e-mails and visited the site a few months earlier.

Commissioner Gardner reported that he had received e-mails.

Mayor Boles said he received phone calls and emails.

A brief discussion followed regarding the length of the appellant's presentation. Commissioner Burk suggested thirty-minutes, and it was determined that the appellant would summarize the case.

Richard McGuire, 170 Malagar Street, Rogers Towers, P.A., said he represented the Fish Island Development. He explained that they were appealing two decisions made in October and May that dealt with vistas, public benefit and environment. He stated that the Developers felt they had met all of the required environmental standards. He said upon reviewing the evidence

regarding environmental issues, a majority of the comments had been speculative and some were based on potential issues. He stated that competent and substantial facts based evidence were needed to support the findings. He stated that Mr. Johnson, Mr. Nunez and Mr. Healey gave testimony, most of which had been based on supposition.

Mr. McGuire said the board had not discussed the evidence presented by the applicant nor the significance of the permits obtained from the St. John's Water Management District or the Army Corps of Engineers. He said many of the criteria in the City's Ordinances were mirrored in the SJWMD and the ACOE regulations, but they had been ignored. He said the vista and public benefit issues had no standards for determination. He reported that the applicant had provided ample public benefit evidence. He stated that the rights of potential residents of Fish Island were outweighed by the residents of St. Augustine. He said there were no standards of definition regarding the issue of vista in the Code but some concerns were as follows:

- Impact on the view for neighbors
- Vista impact from the bridge
- Citizens vista living from 2,500 to 4,000 feet away from the property

Mr. McGuire reported that the property had been rezoned in 1998 and the vista and public benefits ordinance were in existence. He said that the RGO-A zoning for the property was unique, because it limited the height of buildings to 40-feet in lieu of the original 50-foot height. He stated that the developer was entitled to reasonable notice for what was allowable on the property at time of purchase. He said that all the necessary steps were taken as follows:

- Fish Island Development met with the Planning Director
- They conducted due diligence
- Obtained permits

Mr. McGuire stated that the PZB were authorized to assist with solving problems that arose with applications, and the developers had expressed an interest in working towards a solution. He stated that their application was denied despite approval by State and Federal Agencies, the authorized rezoning of the property and due diligence shown by the developers. He said the PZB erred by not considering the vista and public benefit requirements or weighing the environmental requirements. He concluded that they were requesting the Commission reverse the PZB decision.

Commissioner Burk enquired whether the Developers had requested less than 100 slips.

Mr. McGuire responded that they had not.

Commissioner Burk asked why the applicant felt that they could not have a marina, if they never requested less than 100 slips.

Mr. McGuire said they were unsure of what to request. He stated that the proposed size of the marina was based on other marinas in the area as well as the expected use.

Commissioner Burk said it appeared that they had not explored the possibility of having other types of marinas.

Mr. McGuire replied that he was unsure.

Mayor Boles asked if the property had been approved for a marina prior to purchase and whether the approval expired or had they decided to build something else.

Mr. McGuire responded that although the property was zoned for a marina, approval was still required for the conservation overlay zone.

Commissioner Burk explained that there never was a marina on the property. She enquired whether the applicant was

appealing the May and October hearings and whether the Commission needed to make findings on both hearings.

Mr. Brown clarified that the Commission had received evidence from all the hearings, but the evidence from the second hearing would be the most beneficial. He advised that the Commission make the following findings:

- Whether there was an evaluation of the criteria for the conservation overlay zone
- Whether the evidence presented by the developers supported the PZB's decision
- If the Commission approved the PZB's decision, the applicant should have the opportunity to be heard, the requirements of the conservation overlay zone had been satisfied and there was competent and substantial evidence to support their findings
- If the Commission found there was not enough evidence to support the PZB's decision they could reverse it

Commissioner Burk inquired what the next step would be if the Commission ruled in favor of the appellant. She said that most residents disapproval of the proposed project was not a good reason to overturn or uphold a decision made by the PZB, as any decisions must be based on the record.

Mr. Brown replied that if the Commission found an error was made by the PZB, they could approve the dock. He affirmed that an opinion or disapproval of a proposal did not constitute substantial and competent evidence.

Mayor Boles pointed out that the community standards for scenic vista would differ for St. Augustine. He said the record on appeal provided a wealth of testimony regarding scenic vista and could provide direction for a definition.

Mr. Brown said the evidence presented dealt with residents indicating that their

views from St. Augustine South and the 312 Bridge would be affected. He said the applicant argued that the Code did not provide criteria for the vista and how the vista should be protected. He said the Commission could determine that the vista requirement was broad and protection of the vista would benefit the public.

Mayor Boles pointed out that most scenic vista controversies regarding dock installations involved adjacent landowners, which had in fact impacted structures on docks such as boathouses and the number of allowable boat slips. But, he said that nothing prohibited an applicant from building docks on waterfront lots.

Mr. Brown replied that there was criteria in the Conservation Overlay Zone Ordinance protecting vistas. He said if the Commission, based on evidence presented, found that there was a threat to an existing vista, they could vote against it. He concluded that the dramatic shape and size of the current proposal was unprecedented.

Commissioner Burk referred to the Hospital Creek vista case when the Commission had given greater consideration of the vista from the roadway, and she pointed out that the Commission had also considered the vista for applications with height restrictions.

Commissioner Crichlow said he was intrigued by the City's proprietary rights to the submerged lands and use of the land for the benefit of the public. He said it was a critical aspect and would set a precedent for decades to come. He stated that after reviewing the case study he felt confident in the City's position regarding proprietary rights of the property which was the main issue of the argument.

Commissioner Burk inquired whether the Commission could use expert testimony for the appellant to make a decision, and the response was affirmative.

She said that since there had been no opposition at the October 3<sup>rd</sup>, 2006 PZB hearing they could use the applicant's presentation and expert testimony to satisfy the elements needed for ruling.

Mr. Brown said that if the evidence presented by the applicant was not substantial and competent, PZB could rule along those lines.

Commissioner Jones said the applicant discussed land use and the fact that the Code allowed for a marina. He inquired whether the Code indicated size of a marina.

Mr. Brown said the applicant was referring to the decision by the Commission to approve a RGO-A zoning for the project. He said the term marina within the application did not meet the definition of the Code, which included fuel supply and sewage pump out. He said the Commission needed to make an interpretation of the Code and determine whether the application satisfied the interpretation.

Commissioner Jones said that size was an issue, and he inquired whether it was the responsibility of the applicant or the PZB to suggest changes to the application.

Mr. Brown said the applicant could have presented changes at the Planning and Zoning level. He said they did not currently have that option, and the applicant's presentation proposed 100-slips for consideration.

Commissioner Jones said he was concerned about the mediation issue brought up by the Fish Island Development and whether it would be appropriate.

Mr. Brown stated that the applicant wanted a decision from the Commission. He said Florida Statutes allowed for a Mediation Special Magistrate procedure as a prelude to potential litigation. He said that regardless of the Commission's vote, the

applicant or persons affected had the right to appeal or it could go straight to Court and a Judge could order mediation.

Commissioner Jones clarified that the mediation process would follow the Commission's decision and would not be addressed before.

Commissioner Burk inquired whether competent and substantial evidence could be gathered from lay-persons and the effect it would have on them.

Mr. Brown replied affirmatively and stated that lay-persons were qualified and could testify under oath factually of what they observed and had personal knowledge of. He said that the Commission could determine that there was evidence to support or overturn the PZB decision. He said the Commission could rely on the factual testimony.

Commissioner Gardner said he was impressed with how the PZB handled the hearings. He stated that there was persuasive testimony regarding the environment and safety issues. He expressed concern about the testimony of lay-persons, and stated that he was not aware that the Courts would not heed the advice of appointed officials and only considered testimony. He stated that vista was a subjective point, but he was sure all the elements of concern had been addressed. He suggested that the Commission move in favor of the PZB's decision.

Mayor Boles agreed and said that everyone's view of scenic vista differed. He expressed hope that the Circuit Court would take into consideration the public and the City's view on scenic vista and public benefit. He concluded that the applicant had options available, but he felt that requesting 100-slip docks was asking for too much and the matter would go before the Circuit Court. He said it would be up to a Judge to make a determination.

Commissioner Burk said there had been some discussion by the PZB regarding options other than the 100-boat slips.

## MOTION

**Commissioner Burk MOVED to uphold the PZB's decision for both the October 3<sup>rd</sup> and May 7<sup>th</sup> hearings. She said both decisions were made with competent and substantial evidence and the appellant was afforded due process, the PZB applied applicable law and reviewed the criteria. The motion was SECONDED by Commissioner Gardner.**

## VOTE ON MOTION

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

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

Mayor Boles stated that the appellant had the right to appeal the decision to the St. Johns County Circuit Court. <sup>1</sup>

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

Jackie Harris-Rude, Victorian House Bed and Breakfast, 11 Cadiz Street said she was the owner of the Bed and Breakfast and a member of the St. Augustine Historical Inn's. She expressed concern with the vagrancy problem and the impact on businesses in town. She planned to attend the County's meeting to voice her concerns. She stated that they were suggesting the formation of a Community Committee to brainstorm and determine ways to address the issue. She said they wanted to invite the County Commissioners, the Police Department, and members of the business community to discuss the issue further to curtail current encounters. She said that although there were boundaries established vagrants were moving to the

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<sup>1</sup> Break 6:20 p.m. to 6:26 p.m.

edge of the boundaries and it was often the first sight that many visitors saw. She concluded that there were sixteen members of the SAHI Organization present to support the issue, and she advised that Cindy Staveley a representative of Old Town Trolley, notified the attractions regarding the proposed initiative. She said they were asking the Commission for consideration for a solution.

Commissioner Crichlow enquired whether most of the representatives in attendance owned businesses outside of the no-panhandling zone and whether they had observed both panhandling and vagrancy.

Ms. Harris-Rude said they had observed both, but the situation was not being addressed by Law Enforcement. She said she had been advised that the local police department had no training for the problem. She stated that they received daily feedback from the guests regarding the problem.

Commissioner Jones suggested that they set up a meeting with the City Attorney to discuss the events to date and the City's limitations. He said the Attorney may inform the Police Chief and offer other suggestions. He suggested that the City Attorney return to the Commission with suggestions.

Robin Nadeau, 26 Magnolia Boulevard, said she wanted to address National Park status for St. Augustine and the surrounding area. She said that tourism was very important to the City and protecting it under National Park status would be beneficial, plus the historical qualities would be better protected.

Commissioner Jones inquired whether she knew of any other City similar in size that held National Park status.

Ms. Nadeau replied that Williamsburg held the status.

Mayor Boles stated that the City of Williamsburg was in control of the streets in the Historic District of Williamsburg. He said the restored property in Williamsburg belonged to a private foundation and the National Park Service had no control over the City. He stated that he would like to see the City of St. Augustine move towards the Williamsburg model.

Commissioner Jones said he did not believe that the Government was presently designating any new National Park locations.

Ed Slavin, PO Box 3084, addressed the following concerns:

- Expressed appreciation to the Commission for ruling against the Fish Island Development
- The PZB had done an excellent job handling the hearings.<sup>2</sup>
- St. Augustine could obtain National Park designation as Florida had a primary on January 29, 2008
- Requested the removal of Item 11.A.1. as he did not have time to prepare a speech

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

Mark Knight, Director, Planning and Building Department, reported that the National Register District Nominations had originally been addressed in a Budget Meeting and money was allocated to conduct a Master Site File update. He said that a Grant Request was sent to the State of Florida for a Master Site File Update and review of the National Register District Nominations. He stated that when the proposal was returned from the State, a Consultant was hired to update the status of structures in the north part of the City. He reported that there was not enough funds to include the entire City; therefore, they concentrated on the North section. He said the result was as follows:

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<sup>2</sup> End of Tape 1

➤ North City Historic District

Old Mission Avenue on the North to  
Castillo Drive on the South  
San Marco Avenue on the East and  
US 1 on the West

➤ Nelmar Terrace Historic District

Bounded on the North by Alfred and  
Milton Streets,  
On the South by San Carlos Street,  
On the East by the marsh  
On the West by San Marco Avenue  
and commercial lots along San  
Marco Avenue

➤ Fullerwood Park Historic District

Homes along East Park Avenue to  
Macaris Street North to Hildreth  
Drive, including the Fullerwood  
School

Mr. Knight said that the proposed districts would be included with the existing National Register Districts; The Abbott Tract, Model Land Tract, Lincolnville and Colonial Downtown. He said the PZB realized that they needed input from residents and held a special meeting and subsequently sent the matter for review before HARB. He stated that HARB added some residential sites in the Fullerwood area and suggested removal of a structure in the Nelmar Terrace application. He concluded that the revised application was before the Commission to forward to the State of Florida for consideration as a National Register District.

Commissioner Gardner asked what was required of the Commission.

Mr. William Harriss, City Manager, said the Commission was expected to vote on the nomination or as a whole and based on public input and HARB's recommendations, and if approved forward the matter to the State.

Commissioner Gardner asked what occurred after the matter was forwarded to the State.

Mr. Harriss replied that the State would forward the nominations on to the Federal Government, and after a few months the City would be notified if the nominations were approved. He concluded that the City had to meet the established criteria set forth by the Division of Historic Resources.

**MOTION**

**Commissioner Gardner MOVED that the three National Register District Nominations presented be approved for submission to the State Department of Historic Resources. The motion was SECONDED by Commissioner Crichlow.**

Mayor Boles inquired how many residents had attended the meeting.

Mr. Knight replied that approximately 100 residents attended the meeting in the Alcazar Room and approximately 70 residents attended the Fullerwood Neighborhood meeting.

Mayor Boles inquired how many residents had attended the meeting regarding the National Register Districts.

Commissioner Gardner said approximately 40-50 residents attended, and there did not appear to be any opposition. He said there had been concern that certain regulations would be imposed.

Commissioner Jones questioned whether there were Minutes for those meetings.

Mr. Knight said there were Minutes for the April 19<sup>th</sup> meeting but no minutes for the neighborhood meetings.

Commissioner Jones asked how it related to the overlay.

Mr. Knight said it was addressed as two separate issues.

Mayor Boles questioned whether there would be a chance for other neighborhoods to be added at a later date.

Mr. Knight responded that he did not anticipate there would be another opportunity.

**VOTE ON MOTION**

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

**NAYES:** None

**MOTION CARRIED UNANIMOUSLY**

**6. ITEMS BY CITY ATTORNEY**

Mr. Ron Brown, City Attorney, said he attended a deposition the previous week regarding the mediation issue with Mr. Blaser. He said it concerned a claim in Federal Court concerning an accident at the marina that entailed a damaged boat. He stated that he would keep the Commission informed of the progress. He added that they were nearing resolution of the Lawsuit involving the American Disabilities Act.

**7. ITEMS BY CITY CLERK**

**7.A/ Notification of Proclamations**

- **2007-23 – Tiny Ree Heggs**

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

**8.A/ Consent Agenda**

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

**8.A.2/ Approval of presenting the Order of La Florida Award to Dr. Michael Gannon.**

**8.A.3/ Approval of presenting the Order of La Florida Award to Dr. Kathleen Deagan.**

**8.A.4/ Release of Liens for Unit Connection Fee Mortgages.**

**8.A.5/ Authorization of Contract Negotiations for Qualified Plan Review Services.**

**8.A.6/ Consideration of Transfer of Surplus Assets to the St. Johns River Community College.**

**8.A.7/ Consideration of Interlocal Agreement with St. Johns County regarding Emergency 9-1-1 Dispatch Calls.**

**8.A.8/ Stipulated Final Judgment regarding St. Augustine Marine v. Xynides Boat Yard, Inc.; Apple Jack, Inc.; and City of St. Augustine.**

William B. Harriss, City Manager, read the consent agenda.

Mayor Boles asked what had occurred with the lawsuit.

Mr. Harriss replied that the City was included by the Judge in the Lawsuit as an interested party. He said that staff reviewed the settlement between the parties and determined that there would be no expense to the City.

Commissioner Gardner asked for more information on Item 8.A.6.

Mr. Harriss replied that it dealt with disposal of old police cars that were not usable for the Department but could be used on the driving range.

Commissioner Gardner said he had received some telephone calls regarding the Interlocal Agreement for 911 calls. He said that 911 would expedite service instead of disrupting it.

Mr. Harriss said that under the present service the Fire Department responded to calls near the City, but the new agreement would allow one communication response

avoiding several steps. He explained that it would give the City one communication link and the first responders would be on one frequency.

Commissioner Gardner enquired whether it would impact personnel.

Mr. Harriss replied that there would be no impact as fire calls were minor compared to the police calls.

## MOTION

**Commissioner Gardner MOVED to approve the consent agenda. The motion was SECONED by Commissioner Burk and APPROVED by UNANIMOUS VOICE VOTE.**

## Non-Agenda Item

Commissioner Crichlow asked about the planned review.

Mr. Knight responded that the City had not previously carried out a contractual planned review but it would be beneficial if there was someone under contract to assist with larger projects.

Commissioner Crichlow enquired whether the contacted company could provide a summary report for completed projects.

Mr. Knight stated that the contract had not been negotiated, but the City would request that they identify the problems and reference the Code. He said that they were obligated to respond to the questions.

Commissioner Crichlow said the contractors would need to be familiar with City zoning and he asked if they would be handling historical renovations.

Mr. Knight said that the contractors would be handling construction plan review. He said they would need to be familiar with the Florida Building Code. He stated that presently they handled plan reviews for

Lady Lake, Hanes City, Altimonte Springs and Okoee.

Mr. Knight said the contractors could address historical renovations, as that fell under the Florida Building Code, but it would depend on the quantity of plan review projects. He said the City still intended to handle the remodeling and additions, but it would be more time efficient for an outside contractor to review larger plans submitted to the City.

Commissioner Crichlow said he would rather see the City handle the more unique projects and have the larger ones outsourced.

Mr. Harriss agreed it would provide the City more versatility, as there were periods of peaks and wanes. He said the final decision for outsourced projects would be PZB's decision.

Commissioner Jones questioned whether the proposal would save the City time and money and the determining factor for outsourcing a project.

Mr. Knight said it depended on the department's workload.

Mayor Boles enquired whether the County utilized the service.

Mr. Knight replied negatively. He said they had internal plan reviewers.

Mayor Boles questioned whether the service would be reviewed to determine the cost effectiveness.

Mr. Knight replied that they were unsure how regularly the City would use the service but funds had already been allocated in next year's budget.

Commissioner Gardner said it would be less expensive than hiring full-time staff.

Mr. Harriss replied affirmatively and said the City was not obligated to use the service. He clarified that it would be used in busy periods.

**VOTE ON MOTION**

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

**NAYES:** None

**MOTION CARRIED UNANIMOUSLY**

**LA FLORIDA AWARDS**

Commissioner Gardner reported that he and Commissioner Jones were co-sponsoring nominations for Dr. Michael Gannon and Dr. Kathleen Deagan. He said traditionally a reception was held and sponsored by the Organization. He suggested that the City sponsor the planned reception for the presentations. He asked if the Commission should extend an invitation to the University of Florida.

Commissioner Jones suggested that it would not be a problem for University to assist with sponsorship.

Commissioner Burk suggested co-sponsorship.

There was general consensus to co-sponsor the proposed reception.

**8.B/ Discussion Items - Discussion regarding the Surplus Property – 1977 Fire Truck**

Mr. Harriss reported that the aforementioned 1977 Fire Truck was unusable, plus parts were difficult to obtain. He said the truck had been replaced by a new one and the City had received a request from Camuy, a small town in Puerto Rico for donation of the truck. He stated that they offered to pay for the freight if the truck was donated. He said he felt that the donation of the truck would be of greater benefit than selling the truck. He asked the Commission to determine if the City should request payment or have Camuy pay for the

freight. He added that the City should not incur any expenses.

Mayor Boles inquired what the City would make from the sale of the truck.

Mr. Harriss responded that the truck should sell for approximately \$2,500 and the shipping costs would be approximately the same.

Commissioner Jones said he supported the donation of the truck. He inquired why the City was unable to obtain the parts but Camuy would be able to.

Mr. Harriss said the City had to make the parts for the truck and the town of Camuy would have to do the same.

**MOTION**

**Commissioner Jones MOVED to approve the donation of the 1977 Fire Truck to the City of Camuy, Puerto Rico, to be shipped at their expense. The motion was SECONDED by Commissioner Crichlow and APPROVED by UNANIMOUS VOICE VOTE.<sup>3</sup>**

**9. ITEMS BY THE MAYOR AND COMMISSIONERS**

**9.A/ Update regarding the St. Augustine 450<sup>th</sup> Anniversary**

Commissioner Gardner reported that he asked an exploratory panel to develop a framework for the City's 450<sup>th</sup> Anniversary celebration in 2015. He said the panel was comprised of:

- Greg Baker  
Former Mayor
- Ronnie Hughes  
Former Record Publisher
- Doug Wiles  
Former State Representative

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<sup>3</sup> Break from 7:10 p.m. to 7:35 p.m.

- Glen Hastings  
Executive Director of the TDC
- Dr. William Adams  
Heritage Department
- Paul Williamson  
Director, Public Affairs

Commissioner Gardner said they had several meetings to determine the format and as a result, the committee decided on a four-point outline including:

- Multi-year activities leading up the Anniversary including the Ponce de Leon Quincentennial in 2013
- Federal and State participation to gain global recognition
- An appropriate, distinctive name, a definitive mission and a goal for a lasting legacy beyond the Anniversary
- The creation of a private-sector community commission recognized by joint resolution in the county and the three municipalities within the county.
- This commission would serve as the program's official sanctioning body

Commissioner Gardner stated that recognition and support of the Committee's efforts was important for the creation of State and Federal commissions. He said the real work would fall on the community, and he suggested that the next step be formation of a local commission. He requested input from the Commission on the proposed outline and further actions.

Mayor Boles said that Jamestown's efforts should be emulated as they had been successful. He said that Congressman Mica had officially requested the establishment of a commission, but made it apparent that names for the event should be determined at the federal level. He said Senator Martinez would be pivotal in the planning of the event, and he suggested extending an invitation to visit St. Augustine to Senator Martinez and his wife Kitty.

Commissioner Gardner said Senator Martinez was scheduled to be in St. Augustine on July 9<sup>th</sup> for a breakfast meeting.

Mayor Boles added that he had received input from Senator Bob Graham regarding the proposed celebration.

Commissioner Gardner added that conflicting schedules had prevented him from meeting with Senator Graham.

Mayor Boles said he had documentation at his office from Jeanne Zeidler, Mayor of Williamsburg regarding setting up a 5013C for foundation support. He said an official letter should be sent to the delegation requesting that they take the appropriate steps for the formation of a federal commission. He said Jamestown was advertised as the longest continuous English settlement, but St. Augustine was the Hispanic founding of the New World.

Commissioner Gardner suggested that Senator Graham might appreciate advice for a letter to the federal delegation. He pointed out that support on state and federal levels could open doors.

Mayor Boles said he would contact Jeanne Ziedler and get feedback regarding their recent Celebrations to avoid some pitfalls.

Commissioner Gardner said the Governor had signed the legislation transferring the properties to the University of Florida, and it would be in effect July 1, 2008. He said the National Park Service Regional Director would be executing long range plans to include the center. He stated the City owned the Mary Peck property and the State owned the surrounding land. He reported that the plan was to have both governmental bodies contribute land to the National Park Service. He enquired whether the City should develop a resolution committing the Mary Peck property to the endeavor.

Mr. Harriss said the City had already made a commitment, but the State had not. He said the center was now in the designated location, but it was not funded. He concluded that a commitment was needed from the State.

Mayor Boles inquired whether there was a date arranged for the meeting between Mr. Harris, President Machen, Mr. Proctor and himself.

Mr. Harriss replied that one had not been scheduled.

Commissioner Gardner reports:

Commissioner Gardner referred to a letter in the Sunday Record listing numerous problems in Lincolnton and stating that the City ignored the problems. He said the newspaper carried an article on "Character Builders" a citizen developed program for teenage boys and referenced the regular meeting of Lincolnton's Crime Watch, which focused on trouble spots in the community. He pointed out that the writer had not attended the meetings and he added that every community had problems. He suggested that the writer focus on the positives and try to find solutions for the problems.

Conservation Overlay Zoning:

Commissioner Gardner said the Fullerwood neighborhood had at least three meetings concerning overlay zoning, but he added that many residents were not sure what overlay zoning was or how it worked. He said that at the last meeting it was agreed that there should be a survey of all the property owners to gather information on the following:

- What made the neighborhood unique
- What the residents liked about the neighborhood
- Were there any threats to the neighborhood

➤ Solutions for perceived problems

Commissioner Gardner said there was a petition circulating in his neighborhood that supported the idea of changing existing City Codes at Commission meetings rather than individually through overlay zoning. He said he hoped to get the survey to the neighborhood, follow-up and get feedback regarding concerns.

Mayor Boles said he appreciated his efforts.

Taxes:

Commissioner Gardner said the City spent more than \$1.6 million dollars hosting visitors. He said that other cities such as Savannah and Charleston turn to the visitors to help maintain their experience by having sales taxes, preservation fees and bed taxes. He said the Charter Government was at the mercy of State Statutes, and he added that Mayor Boles had mentioned that Key West had an expansive budget.

Mr. Burchfield said that Key West had a visitor's fee and they collected a substantial portion of taxes related to visitors.

Commissioner Gardner suggested implementing a City sales tax or a preservation fee. He said regardless of the direction, the City needed to find alternatives sources of revenue once the State legislature came to a decision regarding tax reform.

Commissioner Jones reports:

Commissioner Jones announced that the Nelson Mandela Municipal University Choir would be performing in the Plaza at noon on June 12<sup>th</sup>. He invited the public to attend.

Commissioner Burk reports:

Commissioner Burk said she wanted to invite one of the three Commissioners who voted for the proposed Boat Show to rescind their vote. She said she was

surprised that the Commission approved of the idea and felt that it would be detrimental to the visitors and compromise the view from the Bayfront.

Commissioner Crichlow said he felt that it was an opportunity to bring new visitors to the City. He said it might encourage them to return at a later date, and he thought it would be a good opportunity to showcase the City. He stated that he did not think a three-day event would damage the ambiance and historic character of the City.

Commissioner Burk said she attended numerous boat shows, and they were enjoyable but rowdy. She said the City already had the Kingfish Tournament, but the boat show was not a good Event. She said she did not believe that they were committed, therefore, it would be a good time to recall the vote.

Mr. Burchfield said a preliminary contract was being reviewed by the City Attorney's Office and discussions were being held regarding fees.

Commissioner Gardner said he had voted for it for financial reasons. He emphasized that the City needed to look at other sources of revenue, as it would help at a very slow time of the year. He said it had not been a commitment for an annual event.

Mayor Boles enquired whether anyone wanted to changed their vote, but there was no response.

Commissioner Crichlow reports:

Commissioner Crichlow said he anticipated further action by the Fish Island Developers. He said the Commission should consider hiring outside counsel to handle the case as it would take a considerable amount of time. He said there could be a discrepancy in boundary lines of the property and the City's property, and that could be added to the duties of outside counsel.

Mr. Brown said the inquiry had to do with land ownership as opposed to boundaries.

Commissioner Burk questioned whether it needed to be addressed separately. She said that an Appellate Attorney was not necessarily a Real Estate Attorney.

Mr. Brown said that if there was an appeal the City would be a defendant and if there was an issue regarding ownership and boundary that would be separate, but it would affect the rights of the Fish Island applicant. He said he understood that the issue was whether there was intervening City lands between the Fish Island property and the mean-high-water line.

Commissioner Crichlow said the City needed to determine when there was litigation involved. He concluded that there was some evidence that cast doubt on the issue.

Mr. Brown said that he understood that the Commission wanted outside legal counsel for an appeal of the Commission's decision to support the PZB.

Commissioner Jones said he was not aware of any additional information presented, and he requested the information.

Mr. Brown said a local historian provided information regarding intervening City lands between the western boundary of the Fish Island property and the mean-high-water line. He said that if that was true there would not be any Riparian Rights to the property. He said there was also another piece of evidence that Fish Island had been filled-in. He said that there might be an ownership interest in the property that had been filled-in. He concluded that the City was responsible for following up on the claim.

Mr. Harriss said that the assertion was that some of the land might belong to the City.

Mayor Boles requested that any information found be shared with the Fish Island Developers.

#### **MOTION**

**Commissioner Crichlow MOVED that in the event of an appeal, by the Fish Island Development, the City would be authorized to engage outside counsel to defend the City. The motion was seconded by Commissioner Jones and APPROVED by UNANIMOUS VOICE VOTE.**

#### **MOTION**

**Commissioner Crichlow MOVED to engage outside counsel to research the boundaries. The motion was SECONDED by Commissioner Gardner.**

Commissioner Jones enquired whether the information by the historian was substantial enough to require further action by the Commission.

Mayor Boles suggested a presentation for the Commission.

Mr. Harris said he could provide the information individually to the Commission, but the information was technical and difficult to understand.

Mayor Boles said that was why he wanted the presentation, and the City Attorney could answer any Commission questions.

Commissioner Crichlow said it was his understanding that it was their responsibility to address that claim.

Mr. Brown agreed.

Mayor Boles said they were willing to listen to a presentation if had merit at which point they could decide to hire outside counsel.

Mr. Brown said he would need to do further research. He clarified that the individual

making the claim was on a City board and could not be hired to do research. He said it would come down to an interpretation of maps and abstracts of title.

**Commissioner Gardner withdrew his SECOND to engage outside counsel to research the boundaries.**

**MOTION FAILED FOR LACK OF A SECOND.**

Mr. Harriss said they would arrange to have a presentation.

Commissioner Burk said it could be the City Attorney's interpretation, but it should be substantiated by documentation for the Commission's review.

Commissioner Crichlow said if the City was involved in litigation that involved submerged lands and private property, they should know where the boundary lines were.

#### Mayor Boles reports:

Mayor Boles reported that there was a new Mayor elected in Aviles, Spain, Pilar Varella and he questioned whether the Commission wanted to invite her as a guest for a visit and for further discussion on their role in the City's 450<sup>th</sup> Anniversary. He said he did not anticipate a trip soon by any members of the Commission anytime soon. He stated that he would be able to have someone sponsor a ticket and work out gratuities, but wanted feedback and felt that it should be an official invitation from the Commission. He was unsure if she had a spouse or not and investigate further and have Mr. Williamson address the protocol and perhaps invite the Cultural Minister and someone from their Chamber.

Commissioner Gardner said he endorsed the idea.

Commissioner Jones said he was concerned about the protocol and wanted to approach it correctly.

Mayor Boles reported that The Women's Exchange sent a proposal regarding the small courtyard outside the fence on their property. He said the City had control over the property, but he felt that the Women's Exchange should have control over the property, especially when they held events. He recommended that the City should give them the front section.

Commissioner Burk said she did not mind if it was blocked off during events, but felt that it should be open.

Mayor Boles said it would be an opportunity for the Women's Exchange to install a fence at their expense.

Commissioner Gardner suggested that the area should be used by the public instead of being fenced.

Mayor Boles said he would like to see the Exchange landscape the property and put some benches as they did not have a place to receive people. He said there was a marker on the property that could be moved to the corner for more visibility. He said he would meet with them to find out their plans.

Mr. Harriss said he would investigate what needed to be done to move forward with the Mayor's request.

#### Property Tax Reform

Mayor Boles said he was aware that there were concerns regarding the property tax cuts; and therefore, it was time to focus on revenue producing ideas. He said he would like to get a status report on the following items:

- The Harbor Management Plan and the mooring fields
- Securing grants for the waterworks building
- Phasing of the parking increase for parking rates

Mayor Boles said the City would have to move towards fees for services and invited suggestions from the public for revenue producing ideas. He stated that he would follow up with Gerald Dixon regarding the Port and Waterway Authority.

#### Lightner Museum

Mayor Boles said there were problems with leaks in the Lightner Building since the 1970's creating an uneasy relationship between the Lightner board and the City. He stated that the Lightner board was presently reviewing documents and would meet with the City to renegotiate a managing arrangement. He said he wanted to move towards a solution. He added that he was a board member of the Lightner Museum he had not received a call regarding the the flooding.

#### Special Events Field

Commissioner Gardner inquired about the status of the Special Events field.

Mr. John Reagan, Chief Operations Officer, reported that the field was scheduled for completion by the end of summer. He stated that the Assistant Public Works Director, Sam Lansdale, was the Project Manager. He said they would be restoring a grassy surface including water and electric.

Mayor Boles enquired whether the trains had stopped entering the San Marco merchant's area.

Mr. Reagan replied that they were presently in the permitting phase and were waiting on a response from Department Of Transportation.

### **11. Resolutions and Ordinances (To include public hearings)**

#### **11.A/ Resolutions**

#### **11.A.1/ Consideration of Resolution 2007-13 Ratifying a Survey Sketch of the**

**Boundaries of the City along Casanova Road.**

Mr. Brown reported that the Resolution resulted from questions that arose prior to 2006 concerning the City's boundary lines on Casanova Road. He said there were questions from residents regarding taxes and voting rights.

Mayor Boles asked who had raised the issue.

Mr. Brown said he was unsure of who raised the issue but the City Commission authorized the investigation. He said the City engaged Jones and Pellicer, Licensed Certified Surveyors, to locate the monuments in the Charter for that area of the City. He said the survey sketch had not changed the legal description of the City, and the City hired legal counsel, Mr. Geoff Dobson, to review the sketch. He said they were successful in locating some monuments, and all legal requirements were taken to locate the lines. He concluded that there were three alternatives, but they decided that the monument in the Salt Run area on the other side of Pelican Reef was in the City. He said there were other monuments located by the Surf Station and they were able to connect those and come up with a line that was determined to be most reasonable for the City's boundary line. He said that the survey sketch before the Commission was Certified, and it contained an explanation of their results. He said the survey included a line that bisected vacant properties and some houses, posing questions of who resided where and the tax requirements. He explained that the question as to where one resided would be the location of the bedroom in the house. He said if the bedroom was in the City then you were considered a resident. He added that the residents could request annexation to the City by completing a petition to be approved at the discretion of the Commission. He said that de-annexation required a special act of legislation.

Mayor Boles asked if the owner of Lot number 25 paid taxes for the portion of the property located in the City and whether they paid taxes to the County.

Mr. Brown responded that they should be receiving two separate tax statements.

Mayor Boles said that all of the lots represented should receive two tax bills.

Mr. Brown replied affirmatively.

Mayor Boles asked if the Commission's actions would affect that.

Mr. Brown replied negatively as there would not be a large adjustment. He reported that Casanova Estates had been annexed.

Commissioner Jones enquired when the annexation for Casanova Estates took place.

Commissioner Crichlow said approximately three-years ago.

Commissioner Gardner said the lines were different but the legal descriptions were unchanged and the response was affirmative.

Commissioner Gardner questioned whether the City's actions would affect the individual's rights and whether a different survey could dispute the City's survey.

Mr. Brown said the City believed that the survey was accurate.

Commission Crichlow questioned whether the survey was ratified.

Mayor Boles clarified that the survey was done because there was a dispute by a resident whether they resided within the City.

Mr. Brown replied affirmatively. He said the only properties affected were on the survey.

Commissioner Jones said he recalled that the Supervisor of Elections requested that the City clarify the boundaries in question.

Mr. Burchfield reported that he had discussions with the Property Appraiser's Office, and they made determinations based on their records. He said that he was advised by the Property Appraiser's Office that the Commission would have to ratify where the existing City limits line was and present the information to them.

Commissioner Jones said on property number 19 was outside of City limits, but on a previous survey the line had cut through a portion of the house.

Mr. Burchfield said there were three lines as follows:

- One line reflected the property close to the road
- One line reflected it as shown on the survey
- One line showed part of the house outside the limits

#### **MOTION**

**Commissioner Crichlow MOVED to approve Resolution 2007-13 ratifying the Survey Sketch identifying the boundary of City along the portion of Casanova Road. The motion was SECONDED by Commissioner Burk.**

#### **VOTE ON MOTION**

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

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

#### **11.B/ Ordinances – First Reading**

**11.B.1/ Introduction and consideration of Ordinance 2007-09, Relating to Parking Violation Penalties.**

Mr. Mark Litzinger, Financial Comptroller, reported that Ordinance 2007-09 amended

the Code Section 24-31 and to forward information regarding individuals with three or more outstanding parking tickets to the Department of Highway Safety and Motor Vehicles.

Commissioner Gardner enquired whether this was regarding the recent legislation passed for the new system of citations.

Mr. Litzinger replied that the ticket was the first phase.

#### **MOTION**

**Commissioner Burk MOVED to approve Ordinance 2007-09 to be placed 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. 2007-09**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 24-31 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR COMPLIANCE WITH REQUIREMENTS OF SECTION 316.1967 SUB 6 FLORIDA STATUTES; FOR PROVIDING TO THE FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES; A LIST OF PERSONS WHO HAVE THREE OF MORE OUTSTANDING PARKING TICKETS; AND OR PERSONS WHO HAVE VIOLATIONS OF SECTION 316.1955 FLORIDA STATUTES; OR SIMILAR CITY ORDINANCES REGULATING PARKING SPACES DESIGNATED FOR USE BY DISABLED PERSONS; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

**VOTE ON MOTION**

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

**NAYES:** None

**MOTION CARRIED UNANIMOUSLY**

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

(None scheduled).

**11.D/ Ordinances – Second Reading –**

(None scheduled).

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

Dwight Hines, 150 Nesbitt Avenue, said he wanted to address the following issues:

- Public Records
- Budget

He said he was unable to decipher the database print out he received from the City. He said he would be meeting with his Attorney regarding clarification of public records. He said his options were mediation with the Florida State Attorney General or return to court. He said he was unable to determine how efficient the performances of the departments within the City were and the State had set up an Efficiency Board to collect data. He concluded that it was a good idea for the City to generate more revenue, as there would be budget cuts.

Ed Slavin, PO Box 3084, addressed the following points:

- He tried to run for City Commission in 2006
- Commissioner Crichlow asserted that he resided outside City limits
- His survey reflected that his residence was within city limits
- There was not proper notice or an opportunity to be heard on Item 11A.

- He said that he felt that City needed to be more cost effective with taxpayer money

Commissioner Crichlow said he did not have any input regarding the property line in the survey. He reported that it had been requested by the Supervisor of Elections.

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

(None scheduled).

**13. Adjournment**

There being no further business, the meeting was adjourned at 9:02 p.m.<sup>5</sup>

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MAYOR

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CITY CLERK

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<sup>5</sup> Transcribed by Maria Carlin

