

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
July 9, 2007

The City Commission met in a formal session Monday, July 9, 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
Karen Rogers, City Clerk
Timothy A. Burchfield, Chief Administrative Officer
John Regan, Chief Operations Officer
Mark Litzinger, City Comptroller
Jim Piggott, General Services Director
Mark Knight, Director, Planning and Building
Dr. William Adams, Director, Heritage Tourism
Sam Lansdale, Deputy Director Public Works
Paul K. Williamson, Director, Public Affairs
Robin Upchurch, Assistant City Attorney
Michael Arnold, Fire Chief
Loran Lueders, Police Chief
Susan Goins, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Reverend Ken Asplund, delivered the invocation, and Commissioner Jones led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

Following a brief discussion to modify the agenda, it was determined that item 9.A. regarding the Yellow Flag discussion would be heard after item 3.C.2. and the discussion regarding the adult

entertainment ordinances would be heard following the flag discussion.

3.B/ Approval of Minutes

MOTION

Commissioner Burk **MOVED** to approve the minutes of the regular meeting of June 25, 2007 as presented. The motion was **SECONDED** by Commissioner Gardner and **APPROVED** by **UNANIMOUS VOICE VOTE.**

3.C/ Proclamation

3.C.1/ Proclamations

- **2007-25 - Poll Worker Recruitment Month**

Mayor Boles read and presented the proclamation to Penny Halyburton, Supervisor of Elections.

3.C.2/ Recognitions

- Character Builder Youth Program Students

Commission Gardner stated that the Character Builder Program was created by the St. Augustine for Embrace Our Youth Committee. He said the program prepared youth for their future responsibilities. He acknowledged committee members Carrie Johnson, Dot Bell and Jack Palmer and four students enrolled in the program.

4. General Public Presentations and Comments (3 minutes per presentation with maximum total time limit of 20 minutes)¹

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

- The Sebastian Harbor Inn project was taking a long time to be completed
- Criminal investigation regarding illegal dumping
- Resolution 2007-13 removed voting rights for ten property owners

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

- The city misused property taxes
- City should not pay water of bills of city employees

Sandra Nelson, referred to the following:

- Requested clarification regarding sales in the Plaza

Mayor Boles stated that there was certain protected speech which included paintings, sculpture, printing and photography that could be sold in the Plaza. He suggested that she call the City Attorney's office to discuss the matter.

5. Staff Reports and Presentations

William B. Harriss, City Manager stated that the fireworks on July 4th activities went well and were successfully attended.

6. ITEMS BY CITY ATTORNEY

(None)

7. ITEMS BY CITY CLERK

7.A./ Notification of Proclamations

- **2007-27 - 20th Biennial SER Conference**
- **2007-28 - Prematurity Awareness Month**

8. ITEMS BY CITY MANAGER (Includes Consent Agenda)

8.A/ Consent Agenda

8.A.1/ Preview of upcoming Commission Meetings

8.A.2/ Consideration of Agreement for Building Construction Plan Review Services.

8.A.3/ Approval of a Grant Award from the Florida Department of Environmental Protection.

8.A.4/ Determination of legal sufficiency and acceptance of an application to appeal a Historic Architectural Review Board decision relative to property located 6 Artillery Lane.

Mr. Harriss read the consent agenda items.

¹ Heard after item 11.D.3.

MOTION

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

VOTE ON MOTION

AYES: Crichlow, Gardner, Burk, Jones, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

9. ITEMS BY THE MAYOR AND COMMISSIONERS

9.A/ Discussion regarding the display of the Yellow Flag.²

Barry Barnett, Palm Coast, Florida, requested that the city fly flags until all the troops came home from Iraq.³ He stated that other cities and counties were involved. He said the flags would show the city's support by remembering the troops that served in the armed forces as well as their families. He added that the flags cost approximately \$100 each.

Commissioner Burk stated that although she would personally fly the flag, it would not be appropriate to spend tax payer's money on the flag.

Mr. Barnett stated that the flag supported other causes, because the divorce rate in Camp Lejeune was up 70%. He pointed out that there had been offers from private citizens to assist with the cost; therefore, it would not burden the city.

Commissioner Burk replied that she was not concerned about the cost. She said it was not appropriate for the Commission to display a political or special interest group flag.

Mayor Boles questioned whether the flags would be flown indefinitely.

Mr. Barnett replied that the flags should be flown until the troops were home from any conflict.

Commissioner Gardner said that he supported flying the flags; moreover, it was not a political statement.

Commissioner Jones stated that he would fly the flag for personal use; however, he did not think it was appropriate for the city. He stated that he would like public opinion of the matter prior to making a decision.

Commissioner Crichlow expressed concern that the city would be required to fly flags of other organizations if the city flew the flag in support of the troops.

Mr. Brown stated that city owned flag poles were regulated by city policy. He said the policy allowed the display of the American flag, Florida flag, city flag and the MIA POW flag. He said the MIA POW flag was subject to a federal statute that allowed the display of the flag. He said the city would have to be careful, as other people would want the city to fly a flag for their cause.

Commissioner Burk supported obtaining public input. She said some residents could feel that the wording "bring our troops home" indicated that the city did not support the war. She concluded that if the community felt the flag was a political statement, then they should not fly it.

MOTION

Commissioner Gardner MOVED to table consideration regarding the display of the Yellow Flag until the subsequent meeting. The motion was SECONDED by Commissioner Jones.

Following a brief discussion regarding public notification of the matter, Mayor Boles suggested advertising in the St. Augustine Record.

² Heard after item 3.C.2.

³ Attached to original minutes

VOTE ON MOTION

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

NAYES: None

MOTION APPROVED UNANIMOUSLY

Mayor Boles – Panhandling

Mayor Boles stated that citizens had expressed concern about panhandling in the city. He said it was difficult for police to catch perpetrators during the crime, and he questioned whether pictures could be taken. He said he wanted Commission support for a workshop to discuss the matter. He concluded that they were planning a fund raiser for a homeless shelter relocation fund for St. Francis House during the first Nights of Lights.

Mr. Harriss stated that the Commission could discuss the matter along with other issues pertaining to the budget.

Mayor Boles suggested that they combine the issue with the discussion on Ordinance 2007-11.

450th Celebration

He said Senator Mel Martinez had formed a national Commission for the 450th celebration. He said Mr. Martinez had expertise with the Hispanic community nation wide. He said the fund raising efforts were to raise \$250,000 to \$500,000 for the celebration, involve the state and hire staff. He said the Mayor of Williamsburg would provide information and advice considering she was the chairman of Jamestown's 400th celebration committee.

Commissioner Gardner – Neighborhood Overlay

Commissioner Gardner stated that he had been working on the neighborhood overlay zoning and conducted a survey in the Fullerwood neighborhood. He said he had received 47 responses; however, 90 property owners had signed an independent petition against the proposal. He said most

citizens could not understand the current code and its short comings. He said he would like staff to look at the survey comments and provide recommendations to the Commission. He added that he would also like for the Planning and Zoning Board to discuss the matter.

Commissioner Jones – Hammond Foundation

Commissioner Jones stated that the Hammond Foundation was going to sponsor a summer concert at Flagler College on July 22, 2007 at 4p.m to benefit college scholarship.

Commissioner Crichlow – City Survey

Commissioner Crichlow referred to the Fish Island Development and said it had been brought to his attention that there was confusion regarding the city boundary in the area. He displayed a diagram of the area and stated that there were documents from 1913 that conveyed unto the area of the city all the unsurveyed marsh or submerged lands within and adjacent to the city. He referred to a map from the tax assessor's office and indicated the areas that were designated to the city. He pointed out that taxes had not been paid on the area. He said a quit claim deed had deeded property extending beyond the high water mark. He said if the city had not received taxes for the property and it was city land, no one could quit claim part of the city property to someone else. He stated that part of the litigation could involve riparian rights for access the water. He said it could mean that the owner of the property might be able to come up with documentation that their property went to the high water mark; however, without documentation they would not have riparian right claims. He said they were not certain of the boundary lines since the property was deeded to the city in 1914. He said the city hired a surveyor of the area to determine the property line; however, the survey could not be located. He pointed out that it was important to find the survey prior to litigation. He suggested that the attorney

research and resolve the matter to determine the boundary line.

Mayor Boles stated that it would be important to establish the boundary line considering legislation regarding mooring fields; moreover, several boaters had boats and structures that intruded into the area. He questioned whether the city should perform another survey.

Mr. Brown stated that the owners of the Thompson interest had disagreed with the property appraiser's assessment as to where the property was located. He said the Thompson interest had claimed they had deeds and abstracts of the title that went back to 1867. He said the property line was not clear and the matter would probably go to litigation if it could not be resolved. He concluded that he would discuss the matter with the property appraiser the following week and provide a report at the subsequent Commission meeting.

Fireworks

Commissioner Crichlow commended Mr. Williamson on the fireworks display during the July 4th celebration.

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

(None)

11. Resolutions and Ordinances (To include public hearings)

11.A/ Resolutions

(None)

11.B/ Ordinances – First Reading-Introduction and consideration of Ordinance 2007-14, modifying the Sebastian Inland Harbor Planned Unit Development (PUD).

Mr. Knight summarized that Ordinance 2007-14 amended the Sebastian Inland Harbor Planned Unit Development. He said the matter had been heard by the PZB on June 5, 2007, and they recommended approval. He explained the amendments to the development as follows:⁴

- Reducing the number of condominiums from 110 to 70
- Increasing the number of hotel rooms from 120 to 225
- Increasing the amount of retail space on King Street from 19,000 square feet to 27,000 square feet
- Increasing the retail space on Sebastian Harbor Drive (formerly Lorida Street) from 7,200 square feet to 9,060 square feet
- Reducing the number of lofts on Sebastian Harbor Drive from 18 units to 15 units
- Introducing a tower feature 90 feet in height to the hotel
- Increasing the building setback for the multi-level parking garage from a 5-foot setback from Iberia Street to a 10-foot setback from Iberia Street
- Reserves the right of the owner to close the public areas of the site between midnight and 7:00 a.m.
- Increasing the number of parking spaces from 600 to 636
- Updating the project phasing schedule
- Modifying the site plan to include changes to the boardwalk, swimming pool associated with the condominiums, change to the parking garage location, change to the access from Iberia Street and Sebastian Harbor Drive

Mayor Boles asked for clarification regarding the 90-foot tower.

Mr. Knight explained that originally they proposed a 70 and 90-foot tower; however, the PZB had agreed to one 90-foot tower.

⁴ Attached to original minutes

Commissioner Crichlow stated that at the Architectural Review Committee meeting they had discussed parameters for approval so they could design the development. He said the ARC had not fully supported the 90-foot tower; however, they agreed to provide flexibility for the architect. He added that they had not viewed the final design; moreover, they might not approve the 90-foot tower if it was not necessary. He pointed out that the additional hotel rooms, retail and banquet space made the project more accessible to the public.

Commissioner Gardner stated that he would not support a 90-foot tower without knowing the environment around it. He expressed concern about the increased levels in the parking facility.

Commissioner Crichlow explained that there would be seven levels including the top deck, and the structure would not exceed the 50-foot allowable height.

Commissioner Jones asked for clarification regarding the tower height relative to other towers in the city.

Mr. Knight replied that they completed a comparison of the towers in the downtown area and the tallest was in the 90-foot range.

Commissioner Jones questioned that if they approved the tower whether it would not exceed other towers in town, and the response was affirmative.

Following a discussion regarding public parking spaces, Mr. Knight stated that there were 40 general public use spaces.

Commissioner Crichlow stated that initially they had discussed 100 public spaces; however, the amount was decreased to allow for additional hotel rooms.

Commissioner Burk expressed concern that the public would lose parking spaces for additional hotel rooms and retail space. She added that they had fought for a certain

number of condominiums, but now they were decreased.

Commissioner Jones pointed out that the project would generate additional jobs in the area.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2007-14 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. 2007-14

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, MODIFYING THE SEBASTIAN INLAND HARBOR PLANNED UNIT DEVELOPMENT (PUD), ESTABLISHED PURSUANT TO ORDINANCE NO. 2004-23, PURSUANT TO SECTIONS 28-286 THROUGH 28-291 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR MODIFIED TERMS AND CONDITIONS OF THE PUD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Commissioner Gardner questioned whether they would be approving the concept of a 90-foot tower subject to final approval by ARC.

Mr. Knight replied that if passed after second reading the tower would be approved in concept and subject to the design approval of the ARC.

Commissioner Crichlow stated that they could discuss the matter at the subsequent meeting and amend it if necessary.

VOTE ON MOTION

AYES: Crichlow, Jones, Gardner, Boles

NAYES: Burk

MOTION APPROVED UNANIMOUSLY

Commissioner Crichlow stated that the docks and slips for the marina and they would start on the condominiums by the end of the summer.

11.C. Ordinances – First Reading – Public Hearing

(None)

11.D.1/ Public Hearing - First Reading - Ordinance 2007-10, creating a new section relating to Adult Entertainment Code.⁵

Mayor Boles stated that several adult businesses had previously been opened in the city; however, closed because they were unsuccessful. He said the city wanted to define, prohibit and restrict adult entertainment, because issues such as nudity; signage and hours of operation had never been restricted in the city. He pointed out that currently anyone could apply for an adult entertainment business in any portion of the city with retail businesses. He added that with advice of constitutional counsel they had decided to ban adult entertainment businesses with the exception of four parcels of property. He said the four parcels were currently occupied with businesses. He said St. Johns County did not have an ordinance to regulate adult businesses, and they had spent years dealing with the problem. He added that the goal was to make it economically undesirable for adult entertainment businesses to move into the city.

Michael Kahn, Melbourne, Florida, stated that the regulatory ordinance and locational ordinance had been amended.⁶ He said the regulatory ordinance had two minor changes resulting from a new case that further regulated adult entertainment. He said the location ordinance had been amended to add sections four and five on page six of the ordinance. He said the amendments were technical in regard to requirements mandated by Florida Statutes

⁵ Heard after item 9.A.

⁶ Attached to original minutes

and the Code. He said in order to provide for location specifics and to specifically put adult entertainment into a small area the city had to comply with Florida Statute 166.0413C. He pointed out that in order to specifically provide for the locations of adult performance establishments there had to be a provision amending section 28.2 of the Code in the Code that was an. He said an undercover policeman was present to discuss problems with adult entertainment businesses in Jacksonville. He said the public nudity ordinance limited the amount of nudity in adult entertainment establishments, sexually oriented businesses and in general. He said the location ordinance dramatically limited the area that adult entertainment could be located. He said since the first hearing of the proposed ordinances there had been a victory provided to cities from the 11th Circuit.⁷ He said the 11th Circuit judge stated that anything that was part of the record could be cited and used to support ordinances.

Sergeant Paul Rustivo, Jacksonville Sheriff's Office, Unit Supervisor, Vice Squad, answered a series of questions by Mr. Kahn, and his responses were as follows:

- Worked undercover for the Jacksonville Sheriff's Office for four years
- The Vice Squad investigated prostitution, gambling and adult entertainment businesses including dancing establishments and adult entertainment dealing in nudity
- St. Augustine currently did not have an active adult entertainment industry
- Supported creating ordinances to regulate adult entertainment before problems occurred
- The ordinances banned adult entertainment establishments from residential districts

⁷ Attached to original minutes

- Adult entertainment establishments encouraged crime including illegal drugs, prostitution and guns
- The location ordinance was beneficial because it centralized the businesses to one area providing better police scrutiny

Mayor Boles questioned whether he was familiar with the ordinances in Jacksonville, and the response was positive. He questioned whether he had reviewed the city's three proposed ordinances, and the response was affirmative. Mayor Boles asked how long Jacksonville had dealt with problems regarding adult entertainment businesses.

Mr. Rustivo replied that Jacksonville had problems since the businesses had opened but recent ordinance changes managed the problems.

Commissioner Crichlow questioned the police resources devoted to the problem.

Mr. Rustivo replied that most of their work was related to prostitution; however, problems pertaining to adult entertainment burdened that effort. He said they had spent time building cases against prostitution and drugs in adult business establishments. He added that localized businesses would be easier to patrol and monitor.

Mr. Kahn stated that alcohol could not be sold at adult businesses and they could not be located within 500-feet of an establishment selling alcohol. He pointed out that historically adult businesses were not successful without the sale of alcohol.

Commissioner Crichlow stated that several residents had questioned whether they could designate adult entertainment to a swamp area. He asked for clarification regarding the areas the business could be limited to and still uphold constitutional scrutiny.

Mr. Kahn replied that the city could not place adult entertainment where an establishment could not survive. He said the United States Supreme Court and the 11th Circuit stated that the businesses had to be located in a relevant real estate market.⁸ He said that if they found the ordinance was unconstitutional, an adult business could open anywhere in the city and challenge the city to close it.

Commissioner Crichlow questioned whether the businesses that currently operated the space were required to rent for adult entertainment and the response was positive. He questioned whether there was anything to prevent the four property owners from putting deed restrictions on the property to ban adult entertainment.

Mr. Kahn replied that if the property owners deed restricted the property the city would have to provide another location. He said if all of the property owners put deed restrictions on the property, adult entertainment businesses could locate anywhere in the city, because it would invalidate the city's ordinance.

Commissioner Jones stated that the city had to provide an area within city limits for adult entertainment establishment and if the area had been deed restricted, they would not have had a chance to open the business.

Mr. Knight referred to the zoning map and explained how the city determined the appointed location.⁹ He explained that they had eliminated the areas they would not want adult entertainment as follows; residential districts, historic districts, entry corridors, and low intensity commercial, which left medium intensity commercial, industrial properties, open land and Planned Unit Developments. He said they removed PUD's, and eliminated open land which was wetlands and not developable leaving commercial medium intensity. He said they looked at commercial areas on the backside

⁸ End of tape 1

⁹ Attached to original minutes

of residential districts, commercial areas that were in close proximity to residential districts and they narrowed it to the most minimal area, which was the Werninck Lumber, Depot Plaza, the motel and Fusion Point.

Mayor Boles opened the public hearing.

1. Judith Carrozo, 112 Egret Road
2. Hannah LaRosa, 12 Louise Street
3. Peter Aronchick, 26 Ponce de Leon Avenue
4. Michael Ghelerter, 1201 Francis Street
5. Emily Fontenean, 26 Ponce de Leon Avenue
6. Betty Morgan 1A Barefoot Beach Lane
7. Frank Johns, 6245 Circle 13 South, Hastings, Florida
8. William McCallon, 3508 Harbor Drive
9. Charles Lassister, 320 Redwing Lane
10. Robert Maddera, 4000 Grande Vista Boulevard
11. Helen Henderson, 25 Miruela Avenue
12. Nancy Grote, 2912 Vista Cove Road
13. Joy D'Elia, 31 Colony Street
14. Sandra Nelson, 22 East Park Avenue
15. John Pearson, 5870 Capo Island Road
16. Nancy Dingle, 1255 Ponce Island Drive
17. Ted Corley, 1547 Harbor Oaks Road
18. Ed Slavin, P.O. Box 3084
19. Patel, Red Carpet Inn, 3101 Duhced
20. Melinda Rakoncay, 86 Magnolia Avenue
21. Sara Waters 1080 BellaVista Drive
22. Mickey Day, 1070 Bella Vista Boulevard
23. Elaine Dilbeck, 128 Oak Avenue
24. David Woods, 3200 Kings Road
25. Maureen Ortegas, 1445 Masters Drive
26. B.J. Kalaidi, 8 Newcomb Street
27. James Woods, property owner in area

The aforementioned residents spoke against the adult entertainment ordinances and referred to the following:

- There would be a greater negative impact if all of the adult businesses were located in one area
- Adult businesses would increase the crime rate in the area
- The area would suffer from a decrease in property value

- Adult entertainment establishments would make other businesses less desirable
- Schools and parks were located within a half mile of the location
- The proposed location was a gateway into the city
- Adult businesses should not be located near children
- Adult entertainment establishments would set a negative image for the city
- Adult entertainment businesses should not be welcomed into the city
- If adult entertainment came into the area, it would be hard to get rid of it
- Since the ordinances were so restricted, the city did not need a specific location for adult entertainment

Mayor Boles closed the public hearing.

Mayor Boles questioned whether adult businesses must be located in one area.

Mr. Kahn replied no. He stated that the method to determine a location was to prioritize areas they wanted distance from. He added that other jurisdictions had found that people had objections to adult businesses no matter where they were located.

Commissioner Burk questioned whether Ordinance 2007-10 and 2007-12 could be upheld without passing Ordinance 2007-11. Mr. Kahn replied affirmatively; however, without ordinance 2007-11 adult entertainment could locate anywhere.

Commissioner Burk questioned whether Ordinance 2007-11 could be created without reference to a specific district.

Mr. Kahn replied that the city had to repeal the current law regarding conditional use permitting. He said they would have to start from the beginning and decide the areas they wanted to protect and develop restrictions layer by layer. He suggested protecting the historic districts schools,

churches, etc. He said that Ordinance 2007-11 was still proposed and by law the city would have zoning in process protection. He said they could pend the ordinance for amendment to protect the city and have a workshop to further discuss the matter.

Following a brief discussion, Mayor Boles clarified that the current city law pertaining to location was unconditional and an adult entertainment business could locate anywhere in the city; therefore, they would table the discussion which would provide the city with zoning in process protection.

MOTION

Commissioner Jones MOVED to place Ordinance 2007-10 on second reading, read by title only and passed. The motion was SECONDED by Commissioner Burk.

Mr. Brown read the title as follows:

ORDINANCE NO. 2007-10

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, ST. JOHNS COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, BY REPEALING SECTIONS 4-4 AND 28-209(3)(k), AND SUBSTITUTING IN THEIR PLACE AND STEAD A NEW SECTION TITLED "ADULT ENTERTAINMENT CODE"; MAKING FINDINGS; STATING THE INTENT OF THE ORDINANCE; PROVIDING DEFINITIONS; PROVIDING FOR CLASSIFICATIONS OF ADULT ENTERTAINMENT ESTABLISHMENTS AND SEXUALLY-ORIENTED BUSINESSES; REQUIRING THE LICENSING OF ADULT BOOKSTORES AND ADULT VIDEO STORES, ADULT PERFORMANCE ESTABLISHMENTS, ADULT MOTELS, ADULT THEATERS, COMMERCIAL BODILY CONTACT ESTABLISHMENTS AND ESCORT SERVICES, AS DEFINED; PROVIDING REQUIREMENTS AND PROCEDURES FOR LICENSE APPLICATION, ISSUANCE, RENEWAL, SUSPENSION AND REVOCATION; PRO-

VIDING FOR A LICENSE APPLICATION FEE; IMPOSING SPECIAL ADVERTISING RESTRICTIONS; PROVIDING FOR ANNUAL LICENSE FEES; REGULATING THE TRANSFER OF LICENSES AND CHANGE IN NAME OF A LICENSED ESTABLISHMENT; PROVIDING HEARING PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES; PROVIDING FOR PROMPT JUDICIAL REVIEW OF SUSPENSION AND REVOCATION DECISIONS; PROVIDING GENERAL REGULATIONS FOR ALL ADULT ENTERTAINMENT ESTABLISHMENTS AND SEXUALLY-ORIENTED BUSINESSES; PROVIDING SPECIFIC REGULATIONS FOR SEXUALLY-ORIENTED BUSINESSES, ADULT THEATERS, ADULT PERFORMANCE ESTABLISHMENTS, COMMERCIAL BODILY CONTACT ESTABLISHMENTS, AND ESCORT SERVICES; PROHIBITING CUSTOMERS OF ADULT ENTERTAINMENT ESTABLISHMENTS AND SEXUALLY-ORIENTED BUSINESSES FROM ENGAGING IN CERTAIN ACTS; PROHIBITING WORKERS AND OPERATORS OF ADULT ENTERTAINMENT ESTABLISHMENTS AND SEXUALLY-ORIENTED BUSINESSES FROM ENGAGING IN CERTAIN ACTS; PROHIBITING ADULT ENTERTAINMENT ESTABLISHMENTS AND SEXUALLY-ORIENTED BUSINESSES FROM OPERATING WITHOUT A LICENSE OR OPERATING CONTRARY TO THE APPLICABLE REGULATIONS; PROVIDING FOR AN EXCEPTION FROM REGULATIONS FOR BONA FIDE USE OF REST ROOMS; PROHIBITING OPERATORS OF ADULT ENTERTAINMENT ESTABLISHMENTS AND SEXUALLY-ORIENTED BUSINESSES FROM ALLOWING MINORS TO ENTER, REMAIN, OR WORK AT ANY SUCH ESTABLISHMENT OR BUSINESS DURING HOURS OF OPERATION; PROHIBITING OPERATORS OF SUCH ESTABLISHMENTS AND BUSINESSES FROM OPERATING WITHOUT COMPLYING WITH THE REQUIREMENTS FOR MAINTAINING RECORDS, POSTING LICENSES AND OTHER INFORMATION OR THE REQUIREMENTS CONCERNING HOURS OF OPERATION; PROVIDING

SPECIAL PROHIBITIONS RELATING TO ESCORTS AND ESCORT SERVICES AND COMMERCIAL BODILY CONTACT ESTABLISHMENTS; PROVIDING A SAVINGS PROVISION; PROVIDING THAT BUSINESS TAXES BE LEVIED IN ACCORDANCE WITH THIS ORDINANCE AND THAT ADULT ENTERTAINMENT ESTABLISHMENTS AND SEXUALLY-ORIENTED BUSINESSES SHALL NOT BE APPROVED AS HOME OCCUPATIONS; PROHIBITING SEXUAL ENCOUNTER BUSINESSES; PROVIDING FOR IMMUNITY FROM PROSECUTION FOR TRESPASS WHILE ENFORCING THIS ORDINANCE; PROVIDING PENALTIES FOR VIOLATIONS OF THIS CODE; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CITY OF ST. AUGUSTINE CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Jones, Burk, Gardner, Crichlow, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

11.D.2/ Public Hearing - First Reading - Ordinance 2007-11, relating to location requirements for Adult Entertainment Establishments.

MOTION

Commissioner Burk MOVED to table Ordinance 2007-11 for amendment until the August 13, 2007 City Commission meeting. The motion was SECONDED by Commissioner Jones.

Commissioner Crichlow stated that he believed they needed a location ordinance. He said to be fair to the neighborhood they should look at the issue; however, he without a location restriction, they did not have a strong ordinance.

VOTE ON MOTION

AYES: Burk, Jones, Crichlow, Gardner Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY¹⁰

11.C.3/ Public Hearing – First Reading - Ordinance 2007-12, relating to Public Nudity.

MOTION

Commissioner Jones MOVED to place Ordinance 2007-12 on second reading, read by title only and passed. The motion was SECONDED by Commissioner Burk.

Mr. Brown read the title as follows:

ORDINANCE NO. 2007-12

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, ST. JOHNS, FLORIDA, TO BE KNOWN AS THE "CITY OF ST. AUGUSTINE PUBLIC NUDITY ORDINANCE"; STATING THE INTENT OF THE ORDINANCE; PROVIDING FOR THE DEFINITION OF NUDITY AS PROHIBITED BY THIS ORDINANCE AND PROVIDING FOR OTHER DEFINITIONS; PROVIDING FOR LEGISLATIVE FINDINGS; PROHIBITING NUDITY AND SEXUAL CONDUCT OR THE SIMULATION THEREOF; PROHIBITING NUDITY IN PUBLIC PLACES; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR EFFECTIVENESS IN THE ENTIRETY OF THE CITY LIMITS OF CITY OF ST. AUGUSTINE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE VIII, SECTION 2, CONSTITUTION OF THE STATE OF FLORIDA; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR INCLUSION IN THE CITY OF ST. AUGUSTINE CODE OF ORDINANCES; PROVIDING FOR A SEVER-

¹⁰ Brief recess

ABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Jones, Burk, Crichlow, Gardner, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

11.D. Public Hearing – Second Reading - Ordinance 2007-13, providing for the Creation of a Fire Self-Inspection Program.

Michael Arnold, Fire Chief, summarized that Ordinance 2007-13 established a voluntary fire inspection for small business owners. He said that considering staff was limited for inspections, it would provide time for bigger projects. He said the ordinance provided for the Fire Department to perform random spot checks of businesses that volunteered.

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

MOTION

Commissioner Burk MOVED to place Ordinance 2007-13 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. 2007-13

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 12, CREATING SECTION 12-2, OF THE CODE OF THE CITY OF ST. AUGUSTINE ENTITLED "FIRE SELF-INSPECTION PROGRAM" TO ESTABLISH A VOLUNTARY FIRE SELF-INSPECTION PROGRAM FOR LOW RISK FACILITIES; PROVIDING FOR PENALTY; 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, Gardner, Crichlow, Jones, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

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

(None)

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

(None)

13. Adjournment

There being no further business, the meeting was adjourned at 10:25 p.m.¹¹

MAYOR

CITY CLERK, CMC

¹¹ Transcribed by Susan Goins