

CITY OF ST. AUGUSTINE

Regular City Commission Meeting  
Monday January 11, 2010

The City Commission met in a formal session Monday, January 11, 2010 at 5:00 P.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Joe Boles, and the following were present:

**1. Roll Call:**

Joe Boles, Mayor/City Commissioner  
Errol Jones, Vice Mayor/City Commissioner  
Donald Crichlow, City Commissioner  
Nancy Sikes-Kline, City Commissioner

Absent: Leanna S. A. Freeman, City Commissioner (excused)

Ron Brown, City Attorney  
Karen Rogers, City Clerk  
Timothy A. Burchfield, Chief Administrative Officer  
John Regan, Chief Operations Officer  
Mark Knight, Director, Planning and Building  
Jim Piggott, General Services Director  
Mark Litzinger, Comptroller  
Paul K. Williamson, Director, Public Affairs  
Carlos E. Mendoza, Assistant City Attorney  
Dana Ste. Claire, Director, Heritage Tourism/Executive Director, 450<sup>th</sup>  
Commemoration Celebration  
Steve Fricke, Commander, SAPD  
Mike Arnold, Fire Chief  
Martha Graham, Director, Public Works  
Darlene Kirkland, Recording Secretary

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**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

Dr. Jim Reeher, Grace United Methodist Church, delivered the invocation, and Commissioner Jones led the pledge of Allegiance.

**3. ADMINISTRATIVE ITEMS**

**3.A/ Modification of Agenda**

(None)

**3.B/ Approval of Minutes**

**MOTION**

**Commissioner Crichlow MOVED to approve the minutes of the regular meeting of December 14, 2009. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.**

**3.C.1/ Proclamations**

(None)

### **3.C.2/ Recognitions**

(None)

### **4. Appeals**

(None)

### **5. Ordinances and Resolutions - Public Hearing Required**

#### **5.A/ Ordinances – First Reading**

(None)

#### **5.B/ Ordinances - Second Reading**

##### **5.B.1/ Public Hearing – Ordinance 2009-39, regulating the operation of cafés on a portion of Aviles Street.**

John Regan, Chief Operations Officer, stated that outdoor dining was a key component in the Aviles Street business model, and Trinity Episcopal Church felt that it was necessary to accomplish the proposed business goals. He noted that there had been a change in specific language of Ordinance 2009-39, including the definition of a full service restaurant, as a result of discussions during the December 2009 Commission meeting.

Ron Brown, City Attorney, explained that the discussions related to whether full service restaurants as opposed to predominantly alcohol service establishments would be allowed to provide outdoor seating as well as the definition of full service restaurants prompted consideration to modify Ordinance 2009-39 as presented during the previous meeting. He stated that the full service restaurant definition would include the preparation, service and sales of food items for consumption within the premises. He noted that consideration had been given to the type of existing establishments on Aviles Street. He suggested adding language that would define establishments that included food preparation and sales in addition to sales and service of alcoholic beverages.

He pointed out that the agenda included an ordinance extending the hours of sales and service of alcoholic beverages within the City limits. He advised that a decision about the proposed ordinance would have impact on Ordinance 2009-39. He noted that Ordinance 2009-39 currently restricted alcohol sales to beer and wine. He stated that the Commission could consider the following:

- Hours of operation
- Modification of proposed fees
- Possibility of allowing a business to extend café seating to an adjacent business through an agreement
- Refund the application permit fee
- The effective date, because the street renovations would not be completed when and if the ordinance was passed

Mr. Brown stated that a proposed agreement with Trinity Episcopal Church regarding funding of the Aviles Street project would be presented to the Commission once it was completed. He suggested that the effective date of Ordinance 2009-39 could be established once the agreement was approved.

Commissioner Sikes-Kline questioned the language in the ordinance regarding the application fee and annual fees.

Mark Knight replied that the ordinance should read that there would be a one time application fee of \$150.00 in addition to annual fees, and he recommended a correction.

Commissioner Jones recommended a date certain following the Commission's final review and approval of the design plan.

Mr. Regan replied that the parking lot financing agreement with Trinity Episcopal Church would be completed first, and the design costs and timeframe would follow. He noted that staff would fast-track the construction project in consideration of the businesses on Aviles Street.

William B. Harriss, City Manager, recommended 90 days after acceptance of the construction project as an appropriate date certain for the ordinance to take effect.

Commissioner Crichlow stated that the ordinance could not be enacted until the project was completed and the outdoor spaces were ready to occupy. He pointed out that in addition to the recommendations by the City attorney the Commission should review lighting, outdoor entertainment, and whether the ordinance should apply to beer/wine sales only or all alcoholic beverages. He questioned who would be responsible for paying the related fees for use of adjacent spaces. He felt that the square footage rate should be reduced to \$5.00 per square foot.

Public hearing opened.

Dan Holiday supported the ordinance; however, he expressed concern with the cleaning of each space and the possibility of extended hours of operation. He felt that adequate lighting was crucial for public safety, and there should be lights attached to the side of the buildings. He stated that many business owners in the City were enthusiastic about the project.

Craig Colee supported the ordinance, and he felt that the project was positive for the businesses located on Aviles Street. He stated that outdoor seating could be appealing to customers. He expressed concern regarding lighting for the safety of customers as well as employees.

Mayor Boles questioned Mr. Colee's opinion regarding the hours of operation.

Mr. Colee replied that more customers would likely take advantage of later hours during weekends.

Commissioner Crichlow stated that a review could take place at a later time regarding possible issues occurring by allowing outdoor seating for extended hours.

Bruce McGuire commented on the market value of the outdoor café space proposed for lease, and he recommended a higher rate for square footage.

Mark Garrison stated that as a business owner he would serve food until 2:00 A.M. if the ordinance passed, but he did not plan on having outdoor entertainment.

Mary Ellington supported the project, and she stated that customers had also expressed their support.

Mayor Boles questioned whether the ordinance allowed outdoor seating areas for retail shops.

Commissioner Jones replied that the design concept included public benches along Aviles Street; therefore, eliminating the need for retail shops to have outdoor seating.

Mr. Brown clarified that the ordinance was structured so only restaurant owners/operators located on the west side of Aviles Street could apply for a café seating permit.

Phil McDaniel expressed support for Ordinance 2009-39, and he thanked the Commission for their consideration.

Public hearing was closed.

Mayor Boles announced that the agenda would be modified to hear item 11.B.2. after item 5.B.1., considering the number of citizens in attendance for the item.

Commissioner Jones stated that the project should be a one year venture and should be reviewed with regard to cost. He felt that the tenant of a property should be responsible for cleaning their areas and should be cited and fined for failing to do so. He stated that outdoor live entertainment and amplified music should be prohibited. He felt that any extension of café seating areas should be pre-approved by the City.

Mr. Harriss noted that Ordinance 2009-39 allowed for a two day special event permit, in which outdoor live entertainment would be permissible; however, a special event would be pre-approved by the City.

Commissioner Crichlow suggested allowing table top lighting, but any other lighting would be provided by the City.

Commissioner Sikes-Kline agreed that outdoor entertainment and amplified music should be prohibited except by special permit to protect residents living in close proximity. She felt that the project was geared toward outdoor dining, and she suggested limiting the outdoor service hours. She expressed concern regarding the area becoming predominately alcohol service; therefore, a conservative approach should be taken while developing the plan.

Commissioner Crichlow stated that he felt that the ordinance should apply to all businesses located on Aviles Street instead of primarily food service restaurants, and the hours of operation should not be restricted unless issues occurred.

Mayor Boles questioned the exterior fees per square foot.

Mr. Harriss replied that the average interior lease rate was \$20.00 to \$25.00 per square foot. He suggested that if the project proved successful the rate for exterior space could be adjusted.

Commissioner Crichlow questioned whether the outdoor lease agreement would be by the tenant only and would not permit a sublease, and the response was affirmative.

Mayor Boles questioned who had priority rights to the store frontage space in the event that a business that closed had an agreement with an adjacent business to lease their store frontage space.

Mr. Harriss clarified that the business frontage would be first priority to the current tenant.

Commissioner Crichlow questioned the utility connection fees for the store frontage spaces.

Mr. Regan replied that the utility connection fees were for each individual property and were non-transferable. He recommended that the church pay the connection fees, which could be reflected in the annual square footage lease rate. He noted that the church felt that by having a lower square footage fee in the beginning might assist businesses with start-up costs, but the fee could be reviewed and raised over time.

Mayor Boles stated that Aviles Street was St Augustine's oldest street, and he hoped that the project would showcase its history. He felt that human behavior did not change according to the type of alcohol consumed; therefore, the ordinance should not be limited to beer and wine. He suggested that the Commission review the program in six months from the date the program begins.

#### **MOTION**

**Commissioner Crichlow MOVED to approve Ordinance 2009-39 with the following amendments:**

- **Open to restaurants and bars**
- **Outdoor sales of all alcoholic beverages be allowed**
- **No outdoor entertainment or amplified music**
- **Square footage rate set at \$10.00**
- **Lease applied to tenant**
- **Lighting limited to tabletop only all other lighting provided by the City**
- **Outdoor operation of café would be the operating hours of the business**
- **Commission would review in six months**

Mr. Harriss questioned whether the review would be for each lease or of the ordinance.

Mayor Boles replied that he felt that the ordinance should be reviewed, and that all

leases should expire to provide for the review.

Mr. Harriss expressed concern regarding negotiations with the church if the ordinance expired in six months.

Mayor Boles stated that the tenants had a right to a specified time period regarding leases, and in the event issues occurred with the program the tenant's property rights would not be violated.

Mr. Brown stated that the church was anticipating a long term agreement in order to fund the project.

Mayor Boles clarified that the City would be funding the initial costs of the project, and the agreement with the church was to create a revenue stream for the church and to reimburse the City. He questioned the proposed project costs.

Mr. Regan replied that the financial model for the project was \$225,000.

Commissioner Jones stated that he felt that six months would not allow sufficient time, and if the Commission felt that major issues would occur within six months then the ordinance should not be passed; however, he would be willing to review the ordinance in one year.

**Commissioner Crichlow modified the motion as follows:**

- **Review ordinance in one year**
- **Modify square foot lease rate to \$5.00**
- **Effective date of Ordinance 2009-39 would be within 90 days from the approval of the contract with Trinity Episcopal Church**

**The motion was SECONDED by Commissioner Jones.**

Commissioner Sikes-Kline stated that the ordinance was for outdoor café dining and not for bars. She expressed concern

regarding the area becoming predominately a party atmosphere; therefore, the hours of operation for the outdoor areas should be limited.

Mayor Boles questioned whether limiting the hours of the outdoor operation would violate tenant's property rights.

Mr. Brown replied that the ordinance allowed the tenant to use public property for a private purpose for compensation; therefore, the City could govern and regulate use of the property.

Mr. Brown clarified that the hours of operation would not supersede the hours established by the City Code, and the response was affirmative.

#### **VOTE ON MOTION**

**AYES: Crichlow, Jones, Sikes-Kline  
Boles**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

Mr. Brown reviewed the motion to amend Ordinance 2009-39 as follows:

- Would not include definition of full service restaurant
- A copy of the receipt for payment of all utility connection fees due for the proposed café seating required
- Re-numbering of items in Section 22-503
- Cafés restricted to businesses located on the West side of Aviles Street only
- Would not include language that prohibited permits issued to businesses limited to take out food service
- Applied to businesses where food and beverages were prepared

**MOTION**

**Commissioner Sikes Kline MOVED to amend Ordinance 2009-39 to limit the hours of operation to 10:30 P.M. Sunday through Thursday and the operational hours for Friday and Saturday follow the normal closing hours of the business. The motion was SECONDED by Mayor Boles.**

Mayor Boles suggested allowing the hours of operation Sunday through Thursday until 11:00 P.M.

**Commissioner Sikes-Kline amended her motion to limit the outdoor seating hours of operation Sunday through Thursday until 11:00 P.M.**

**VOTE ON MOTION**

**AYES: Sikes-Kline, Boles  
NAYES: Crichlow, Jones  
MOTION FAILED 2/2**

Mr. Brown continued the proposed amendments as follows:

- All instances within the Code that referred to full service restaurant would be changed to restaurants and bars that prepared and served food
- Section 22-503 regarding the application fee would state "An application fee shall be accompanied by a non-refundable base application fee of \$150.00"
- Allow service of all alcoholic beverages to which the business was entitled according to their state license

**MOTION**

**Commissioner Crichlow MOVED to amend as explained by the City Attorney. The motion was SECONDED by Commissioner Jones.**

**VOTE ON MOTION**

**AYES: Crichlow, Jones, Sikes-Kline  
Boles  
NAYES: None  
MOTION APPROVED UNANIMOUSLY**

**MOTION**

**Commissioner Crichlow MOVED to have Ordinance 2009-39 as amended be place on second reading, read by title only and passed. The motion was SECONDED by Commissioner Jones.**

Mr. Brown read Ordinance 2009-39 as follows:

**ORDINANCE NO. 2009-39**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA ESTABLISHING SECTIONS 22-500 THROUGH 22-509 OF THE CODE OF THE CITY OF ST. AUGUSTINE, FLORIDA PROVIDING FOR AND REGULATING CAFÉS; PROVIDING DEFINITIONS; REQUIRING PERMITS FOR THE OPERATION OF CAFÉS ON PORTIONS OF AVILES STREET BY ANY AFFECTED TENANTS; PROVIDING FOR PERMIT FEES, RENEWAL FEES AND PENALTIES FOR LATE PAYMENTS; PROVIDING FOR PERMIT APPLICATIONS; PROVIDING FOR STANDARDS, CRITERIA AND CONDITIONS FOR PERMITTING; PROVIDING FOR LIABILITY AND INSURANCE; PROVIDING FOR REVOCATION OR SUSPENSION OF PERMIT; PROVIDING FOR REMOVAL AND STORAGE FEES; PROVIDING FOR NOTICE OF VIOLATION AND ENFORCEMENT; PROVIDING PENALTIES; 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 FOR AN EFFECTIVE DATE.

Commissioner Sikes-Kline reiterated her concerns regarding the potential bar atmosphere on Aviles Street; however, she supported the project.

#### **VOTE ON MOTION**

**AYES: Jones, Boles  
Crichlow, Sikes-Kline**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

#### **5.C/ Resolutions**

(None)

#### **6. General Public Comments and Presentations**

##### **6.A/ General Public Comments (3 minutes per individual)**

Virginia Whetstone read a letter she addressed to the Commission, and she requested that while considering the extension of alcoholic beverage service hours, the noise ordinance be revised as well. She expressed concern regarding noise disturbing transient guests staying at her establishments located in close proximity to bars and restaurants. She felt consideration should be given to residents, guests and the motel/hotel owner's revenue.<sup>1</sup>

Mayor Boles requested that the City Attorney review the noise ordinance regarding hotels/motels.

Commissioner Crichlow stated that discussions had taken place previously regarding the noise ordinance, and he recalled that decibel levels could be measured within a hotel/motel room, and that the noise ordinance had been modified to regard hotel/motel rooms as a residence.

Bruce McGuire said he felt that outdoor entertainment and amplified music on Aviles Street should be prohibited to avoid

disturbing residents and maintain a family atmosphere.

William Smith spoke in support of Ordinance 2010-01. He felt that by extending the hours of service within the City local business owners would not lose customers to businesses outside City limits that had extended hours of service.

Conrad Matt expressed concern regarding guests at his establishment being disturbed at such a late hour if Ordinance 2010-01 was passed.

##### **6.B/ Presentations (15 minutes per presentation)**

(None)

#### **7. Resolutions and Ordinances- No Public Hearing Required**

##### **7.A/ Ordinances – First Reading**

Mayor Boles explained that ordinances on first readings were not open for public comment, as first readings allowed the Commission to determine whether an ordinance should be placed on second reading, which allowed public comment.

##### **7.A.1/ Introduction and consideration of Ordinance 2010-01, temporarily amending Section 4-3 of the City Code regulating the sale, service and consumption of alcoholic beverages.**

Mr. Brown explained that Ordinance 2010-01 would temporarily amend Section 4.3 of the City Code to extend the hours of sales, service and consumption of alcoholic beverages from 1:00 A.M. to 2:00 A.M. He noted that St. Johns County and the City of St. Augustine Beach had modified their codes to temporarily allow extended hours. He pointed out that the state beverage code allowed hours of operation from 7:00 A.M. until 12:00 A.M. unless modified by local code. He stated that Ordinance 2010-01 would not modify the opening hours or liquor sales on Sunday. He concluded that

<sup>1</sup> Letter attached to original minutes

there was a sunset provision in the ordinance that expired on July 12, 2010 unless action was taken by the Commission prior to that date.

**MOTION**

**Mayor Boles MOVED to have Ordinance 2010-01 placed on first reading, read by title only and passed. The motion was SECONDED by Commissioner Jones.**

Mr. Brown read Ordinance 2010-01 as follows:

**ORDINANCE NO. 2010-01**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA TEMPORARILY AMENDING SECTION 4-3 OF THE CODE OF THE CITY OF ST. AUGUSTINE REGULATING THE SALE, SERVICE AND CONSUMPTION OF ALCOHOLIC BEVERAGES, INCLUDING BEER, MALT BEVERAGES, WINES AND LIQUOR BY PERSONS AND ENTITIES HOLDING A STATE BEVERAGE LICENSE; MAKING FINDINGS OF FACT; PROVIDING FOR THE TEMPORARY EXTENSION OF HOURS OF SALES, SERVICE OR CONSUMPTION OF CERTAIN TYPES OF ALCOHOLIC BEVERAGES; PROVIDING FOR EFFECTIVE DATES FOR TEMPORARY EXTENSION OF HOURS; PROVIDING FOR CONTINUED EFFECTIVENESS OF UNAMENDED PROVISIONS OF CODE SECTION 4-3; PROVIDING FOR SUNSET OF THIS ORDINANCE; PROVIDING FOR EFFECT OF SUNSET OF THIS ORDINANCE; PROVIDING FOR THE REESTABLISHMENT OF CODE SECTION 4-3; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID

**PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Commissioner Sikes-Kline stated that the City had followed the regular process according to City Charter regarding the passage of Ordinance 2010-01, and she felt that the effort was toward economic stimulus. She recommended careful monitoring for potential increased alcohol related incidents while the ordinance was in effect.

Commissioner Crichlow questioned the opinions of law enforcement.

Mr. Harriss replied that law enforcement felt that there would not be a significant increase of alcohol related incidences if the sales, service and consumption hours were extended to 2:00 A.M.

**VOTE ON MOTION**

**AYES: Boles, Jones  
Crichlow, Sikes-Kline**

**NAYES: None  
MOTION APPROVED UNANIMOUSLY**

**7.A.2/ Introduction and consideration of Ordinance 2010-02, creating City Code Section 22-14 and providing for regulation of vending activities and street performer activities in the West Plaza.**

Mr. Brown stated that after significant discussions regarding vending in the City's Plaza, a lottery system had been developed to regulate vending to the market within the Plaza. He said the result was vendors had moved to the West Plaza causing an increase in issues regarding safety, interference with business interest and pedestrian traffic. He stated that supporting evidence would be presented to the Commission during the January 25, 2010 meeting.

**MOTION**

**Commissioner Sikes-Kline MOVED to have Ordinance 2010-02 placed on first reading, read by title only and passed. The motion was SECONDED by Commissioner Jones.**

Mr. Brown read Ordinance 2010-02 as follows:

**ORDINANCE NO. 2010-02**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA CREATING SECTION 22-14 OF THE CODE OF THE CITY OF ST. AUGUSTINE PROVIDING FOR REGULATION OF VENDING ACTIVITIES AND STREET PERFORMER ACTIVITIES IN THE PLAZA DE LA CONSTITUCION WEST OF ST. GEORGE STREET; MAKING FINDINGS; PROVIDING FOR PENALTIES; 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: Sikes-Kline, Jones  
Crichlow, Boles**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

**7.A.3/ Introduction and consideration of Ordinance 2010-03, creating Section 22-15 of the City Code and providing for regulation of vending activities and street performer activities in the Ponce de Leon Circle and Anderson Circle.**

Mr. Brown stated that Ordinance 2010-03 would prohibit vending activities in the Ponce de Leon and Anderson Circles, and it specified the historic nature of the circles. He noted that the ordinance was developed in conjunction with Ordinance 2010-02.

**MOTION**

**Commissioner Jones MOVED to have Ordinance 2010-03 placed on first reading, read by title only and passed. The motion was SECONDED by Commissioner Crichlow.**

Mr. Brown read Ordinance 2010-03 as follows:

**ORDINANCE NO. 2010-03**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA CREATING SECTION 22-15 OF THE CODE OF THE CITY OF ST. AUGUSTINE PROVIDING FOR REGULATION OF VENDING ACTIVITIES AND STREET PERFORMER ACTIVITIES IN THE PONCE DE LEON CIRCLE AND THE ANDERSON CIRCLE; MAKING FINDINGS; PROVIDING FOR PENALTIES; 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: Jones, Crichlow  
Sikes-Kline, Boles**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

**7.A.4/ Introduction and consideration of Ordinance 2010-04, amending City Code Section 24-14 prohibiting sales and solicitations in traffic lanes.**

Mr. Brown explained that Ordinance 2010-04 addressed issues regarding solicitation activities that had been observed by the St. Augustine Police Department and business owners at the intersection of King and Malaga Streets. He stated that proposed Ordinance 2010-04 provided for traffic and safety regulation. He reported that evidence regarding the issues would be

presented to the Commission during the January 25, 2010 meeting.

**MOTION**

**Commissioner Jones MOVED to have Ordinance 2010-04 placed on first reading, read by title only and passed. The motion was SECONDED by Commissioner Sikes-Kline.**

Mr. Brown read Ordinance 2010-04 as follows:

**ORDINANCE NO. 2010-04**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING SECTION 24-14 OF THE CODE OF THE CITY OF ST. AUGUSTINE PROHIBITING SALES AND SOLICITATIONS IN TRAFFIC LANES; ENLARGING THE AREA OF PROHIBITION TO INCLUDE THE INTERSECTION OF THE RIGHT-OF-WAY OF STATE ROAD 5-A, ALSO KNOWN AS KING STREET AND MALAGA STREET AND FOR A DISTANCE OF 50 YARDS IN EITHER DIRECTION FROM THE INTERSECTION; MAKING FINDINGS; 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.

Commissioner Sikes-Kline expressed frustration with the inability to eliminate solicitation activity through out the entire city.

Mr. Harriss stated that the United States Constitution would not allow solicitation to be banned city wide. He explained that the Supreme Court considered solicitation as a form of freedom of speech.

**VOTE ON MOTION**

**AYES: Jones, Sikes-Kline  
Crichlow, Boles**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

**7.A.5/ Introduction and consideration of Ordinance 2010-05, amending Section 8-402 if the City Code to eliminate use criteria as it pertains to floodplain management for existing non-residential structures.**

Mr. Knight stated that the City had adopted the 1997 edition of the Southern Building Code Congress International that included an optional floodplain management Code. He explained that the Code included a section regarding the use of existing structures, and in the event a change of use occurred an evaluation was conducted for flood improvements. He stated that it could create an economic burden on businesses, and that proposed Ordinance 2010-05 would eliminate the change of use criteria referring to existing structures.

Commissioner Crichlow stated that bringing existing structures up to current Code was important; however, the costs involved with meeting the floodplain Code requirements for existing structures could be detrimental to a new business.

**MOTION**

**Commissioner Crichlow MOVED to have Ordinance 2010-05 placed on first reading, read by title only and passed. The motion was SECONDED by Commissioner Jones.**

Mr. Brown read Ordinance 2010-05 as follows:

**ORDINANCE NO. 2010-05**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING SECTION 8-402 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO ELIMINATE

USE CRITERIA AS IT PERTAINS TO FLOODPLAIN MANAGEMENT FOR EXISTING NON-RESIDENTIAL STRUCTURES; 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 FOR AN EFFECTIVE DATE.

**VOTE ON MOTION**

**AYES: Crichlow, Jones  
Sikes-Kline, Boles**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

**7.B/ Resolutions**

**7.B.1/ Resolution 2010-01, relevant to Economic Stimulus Project Memorandum of Agreement with Florida Department of Transportation.**

Martha Graham, Director Public Works, stated that proposed Resolution 2010-01 was an agreement with the Florida Department of Transportation (FDOT) regarding the construction of a sidewalk for West Castillo Drive between San Marco Avenue and US1. She explained that the agreement was for the FDOT to design and construct the sidewalk, and the City would accept ownership and maintain the sidewalk. She stated that the sidewalk had been approved by the North Florida Transportation Planning Organization (NFTPO) for Economic Stimulus funding.

Mr. Harriss pointed out that Commissioner Sikes-Kline had been instrumental in achieving the funding through her work with the NFTPO.

**MOTION**

**Commissioner Sikes-Kline MOVED to pass Resolution 2010-01. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.**

**8. Staff Reports and Presentations**

**9. ITEMS BY CITY ATTORNEY**

Mr. Brown reported that he, Mr. Knight and Assistant City Attorney Carlos Mendoza had attended a hearing on January 6, 2010 regarding a Bert Harris lawsuit filed against the City related to the Fish Island Development. He explained that a settlement agreement had been approved by the Commission and a motion had been filed with the court for approval; however, a motion to intervene had been filed by Joseph Lopinto. He said that Judge Traynor instructed the City to prepare recommended orders for his review; which were due by January 25, 2010. He stated that a response should be received from the court in February. He concluded that a Writ of Certiorari had also been filed by Mr. Lopinto claiming that the procedures used to adopt the settlement agreement violated essential requirements of law; however, once the settlement agreement was ratified by Judge Traynor the issue would be resolved.

**10. ITEMS BY CITY CLERK**

**10.A/ Notification of Proclamations.**

2010-01 – K9 Veteran’s Day

2010-02 – Arbor Day

**10.B.1/ Consideration of one (1) appointment to the Historic Preservation Advisory Committee replacing Miriam Pujals who resigned.**

Karen Rogers, City Clerk, stated that according to a 2008 Resolution each Commissioner appointed one member to the Historic Preservation Advisory Committee (HPAC) board; therefore, due to the resignation of Miriam Pujals, Commissioner Sikes-Kline would appoint someone to fill Ms. Pujals’ seat.

Commissioner Sikes-Kline recommended the appointment of Michelle Reyna to the HPAC.

**MOTION**

**Commissioner Jones MOVED in favor of the appointment by Commissioner Sikes-Kline. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.**

**11. ITEMS BY CITY MANAGER (Includes Consent Agenda**

**11.A/ Consent Agenda**

**11.A.1/ Preview of upcoming Commission meetings.**

**11.A.2/ Consideration of Release of Lien on a Unit Connection Fee Mortgage.**

(None)

**11.A.3/ Refund related to the over-payment of solid waste pick-up service.**

**11.A.4/ Authorization to transfer Stormwater Reserve funds for specific construction located at Inlet Drive, Charlotte Place and Pine Street.**

**MOTION**

**Commissioner Jones MOVED to approve the Consent Agenda. The motion was SECONDED by Commissioner Sikes-Kline and approved by UNANIMOUS VOICE VOTE.**

**11.B/ Discussion Items.**

**11.B.1/ Discussion regarding a proposed Greyhound Bus Stop at the Visitor Information Center.**

Mr. Regan stated that a call had been received by Greyhound's district manager, Emma Grey, expressing an immediate need to relocate the Greyhound bus station, and a request had been made to use the north side of the Visitors Information Center parking facility. He noted that an e-ticket system would be implemented. He stated

that staff had authorized the use for a two week period to prepare a review for the Commission to consider an operating agreement with Greyhound. He advised that the agreement would provide a revenue source for the City. He stated that the agreement would be for Greyhound to pay \$1,000 per month for the use. He pointed out that there could be opportunities to create a shuttle system with the Council on Aging and the Sunshine Bus service.

Commissioner Crichlow expressed concern regarding the clarity of the bus stops, and possible confusion for passengers. He suggested that there be an identified dedicated area for Greyhound.

Mr. Regan replied that through discussions with Greyhound representatives it had been suggested to improve signage to eliminate confusion. He stated that the busses were there for a minimal time; thereby, leaving the area vacant for a greater portion of each day.

After a brief discussion it was determined that a review would be conducted to determine the most efficient area for the Greyhound busses.

Commissioner Sikes-Kline questioned the procedure of transferring passengers from the bus to other means of transportation.

Mr. Harriss replied that staff would establish the procedures in cooperation with Greyhound. He stated that the agreement would begin on a month-to-month basis.

**MOTION**

**Commissioner Jones MOVED to authorize staff to move forward with the planning of the proposed Greyhound agreement. The motion was SECONDED by Commissioner Sikes-Kline and approved by UNANIMOUS VOICE VOTE.**

**11.B.2/ Discussion regarding policy relative to motorcycle parking in and around the Historic Downtown Parking Facility.<sup>2</sup>**

Mr. Regan reported that the City Manager had requested that staff review the parking policy regarding motorcycles, and provide recommended parking options. He stated that the goal was to provide safe and adequate parking for motorcycles at a minimal cost to the City. He explained that the gates in the Historic Downtown Parking Facility caused a safety hazard, because they were not designed for motorcycles. He noted that the highest use period by motorcycles were during special events, specifically Bike Week, and during those peak periods motorcycles accounted for 1% of the vehicle count.<sup>3</sup> He recommended the following:

- Construct a motorcycle parking facility - cost range estimated from \$50,000 to \$250,000
- Create a separate entrance system for motorcycles in the existing parking facility - cost range estimated from \$25,000 to \$30,000
- Dedicate an existing lane for motorcycles at the parking facility

Mr. Regan stated that there were three entrances for the parking facility, and the third could be dedicated for motorcycles only, unless there was a special event that required an additional automobile entrance. He explained that those days there would be a pay-on-entry system and motorcyclists could use any entrance. He explained that, when the entrance, would be used as a dedicated motorcycle entrance the gate would be raised and a removable system would be installed to narrow the lane. He stated that it would be a pay-on-exit system for a flat rate of \$4.00 per day or \$2.00 per day for park-now card holders. He noted that the handicapped motorcyclists could utilize the facility free of charge. He

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<sup>2</sup> Item heard after item 5.B.1

<sup>3</sup> Report attached to original minutes

suggested in addition to a cashier being on staff, that video monitoring could be installed as a means of revenue control and safety.

Commissioner Sikes-Kline questioned which parking spaces would be available for motorcycles.

Mr. Regan replied that all parking spaces would be available; however, the parking would vary depending on usage. He stated that during special events, when there would be high volume usage, parking multiple motorcycles within each space would be encouraged.

**MOTION**

**Commissioner Jones MOVED to approve staff recommendation as related to accessibility in the Historic Downtown Parking Facility for motorcycles. The motion was SECONDED by Commissioner Sikes-Kline.**

**VOTE ON MOTION**

**AYES: Jones, Sikes-Kline  
Crichlow, Boles**

**NAYES: None  
MOTION APPROVED UNANIMOUSLY<sup>4</sup>**

**12. Items by Mayor and Commissioners**

Commissioner Jones commended staff for outstanding service related to the recent water main breaks due to cold weather.

Commissioner Crichlow stated that there was possible funding available other than economic stimulus to create employment opportunities through the FDOT, and he suggested that the City apply for project funding through the same program.

Mr. Harriss stated that the job creation funding was allocated through the NFTPO, and the City had projects that could possibly qualify.

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<sup>4</sup> Brief recess from 6:53 P.M. to 6:59 P.M.

Commissioner Sikes-Kline stated that funding through the NFTPO was in the preliminary stages; however, Mr. Knight had been monitoring the progress.

Commissioner Crichlow reported that St. Johns County had received three annual North East Florida Regional Council (NEFRC) awards for the following:

- Cultural Affairs Department for the St. Augustine Amphitheater
- Economic Growth Award for the Fair Housing Authority
- Environmental Award for the conversion of restaurant grease waste into bio-diesel fuel

Commissioner Sikes-Kline provided the Commission with the NFTPO stimulus list of prioritized list of projects, and she noted projects that involved the City as follows:<sup>5</sup>

- Castillo Drive sidewalk improvement
- SR207 and SR312 intersection improvement
- Old Dixie Highway resurfacing from SR312 to SR207
- South Dixie Highway resurfacing and curb replacement from SR207 to Anderson Street

Commissioner Sikes-Kline noted that the total for City projects benefit was \$623,613. She commended the City Fire Department for their efforts in saving a home that was located within feet of a structure fire, and she expressed appreciation for St. Johns County's assistance.

Mayor Boles reported that the Tourist Development Council had recommended and St. Johns County Commission had passed the \$.04 increase in the bed tax. He stated that the allocation would be used for advertising. He noted that the Destination Master Plan would be presented March 15, 2010. He announced that the Council on Aging's River House facility opening would be held January 23, 2010. He stated that

<sup>5</sup> List attached to original minutes

the City had submitted nomination recommendations for the National 450<sup>th</sup> Commission to the Secretary of Interior, and the results were as follow:

- Senator Bob Graham – accepted
- Father Tom Willis – accepted
- General Colin Powell - declined

Mayor Boles requested the Commission suggest recommendations to replace General Colin Powell. He stated that discussions had taken place with Andrew Young as a possible replacement, and he also suggested James Nathaniel Eaton Sr. as a possible nominee.

### 13. Adjournment

There being no further business, the meeting was adjourned at 8:14 P.M.<sup>6</sup>

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MAYOR

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CITY CLERK, CMC

<sup>6</sup> Transcribed by Darlene Kirkland