

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
March 23, 2009

The City Commission met in a formal session Monday, March 23, 2009 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
Errol Jones, Vice Mayor/City Commissioner
Donald Crichlow, City Commissioner
Leanna S. A. Freeman, City Commissioner
Nancy Sikes-Kline, 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 Knight, Director, Planning and Building
Dr. William Adams, Director, Heritage Tourism
Jim Piggott, General Services Director
Martha Graham, Director, Public Works
Paul K. Williamson, Director, Public Affairs
Mark Litzinger, Comptroller
Carlos E. Mendoza, Assistant City Attorney
Loran Lueders, Police Chief
Mike Arnold, Fire Chief
Susan Goins, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Reverend Walter West, Anastasia Baptist 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 March 9, 2009. The motion was SECONDED by Commissioner Sikes-Kline and approved by UNANIMOUS VOICE VOTE.

3.C.1/ Proclamations

- 2009-07 - Proclaiming March 30, 2009 as Doctors' Day
- 2009-04 - Proclaiming April 14, 2009 through April 25, 2009 as Juvenile Justice Week

- 2009-05 - Designating April 2009 as Child Abuse Prevention Month.
- 2009-10 - Proclaiming April 2009 as Water Conservation Month

Mayor Boles read and presented each proclamation.

3.C.2/ Recognitions

(None)

4. Appeals and other Public Hearings

4.A./ Appeal of a Planning and Zoning Board decision regarding property located at 46 Masters Drive.

Mark Knight, Director, Planning and Building, stated that the Planning and Zoning Board (PZB) had reviewed a request to rezone property located at 46 Masters Drive from Commercial Low-one-(CL-1) to Commercial Low-two (CL-2) for the applicant to place a Bar-B-Q cart on the property. He explained that CL-2 zoning allowed for outdoor food service carts. He said that the PZB denied the application and an application to appeal the PZB decision was filed with the Planning and Building Department on February 5, 2009. He indicated that two concerns of the PZB were customers parking on Masters Drive, which would block traffic, and setting a precedent for other properties on the street. He pointed out that there were no distinguishing factors between 46 Masters Drive and other properties along the street. He said the surrounding zoning on Masters Drive was Residential Single Family two and CL-1. He said pursuant to section 28-29 (g) of the City Code, the Commission should find whether in its opinion error was made and within the terms of the section affirm, reverse or modify the action appealed as deemed just and equitable.

Ron Brown, City Attorney, explained that the question was whether the rezoning was proper under the Code and whether there were public health and safety issues that

would mitigate or aggravate against the rezoning.

Mayor Boles requested that the applicant provide information showing that the PZB had not applied the ordinance correctly.

Jasper Green, 46 Masters Drive, referred to the following:

- Bar-B-Q cart would not cause traffic problems
- Approximately 50 cars per hour entered the parking lot of a convenience store down the street without causing traffic problems
- Economy was bad, and he needed to make a living
- Was told that the Commission preferred not overturning PZB's decisions; therefore, what was the purpose of him appealing the decision
- Paid \$400 to apply for zoning change; however, he was told that the city did not like to change the zoning
- Questioned whether the Commission had discussed the matter prior to the meeting

Mr. Brown replied that the matter had been on the consent agenda for legal sufficiency approval at a previous meeting, at which time the Commission reviewed documents to ensure that the application had all the necessary materials for processing.

Commissioner Freeman reiterated that there had not been a private Commission meeting regarding the application.

Commissioner Crichlow stated that the PZB's main concern was changing the zoning to CL-2 would set a precedent and other property owners might want to rezone their property. He questioned the difference between CL-1 and CL-2 zoning.

Mr. Knight explained that CL-1 and CL-2 represented commercial zoning; however, CL-2 allowed for more intensity. He said

CL-1 was the lowest commercial intensity zoning. He said that the PZB expressed concern regarding setting a precedent.

Commissioner Jones questioned the difference between the applicants' property and the convenience store.

Mr. Knight replied that the convenience store had a paved parking lot with engineered curb cuts in front of the store. He said the applicant's parking lot was on the backside of the structure; therefore, customers not familiar with the property would have a tendency to park on Masters Drive as opposed to using the parking lot.

Commissioner Freeman questioned whether changing the zoning to CL-2 would increase the maximum lot coverage and reduce the side and rear setback requirements, and the response was affirmative.

Commissioner Crichlow explained that the zoning remained with the property, and if sold the new owner could pursue any commercial business allowed under CL-2 zoning. He added that CL-1 zoning provided protection for the neighborhood.

Mr. Brown explained that the PZB looked at the effect that CL-2 zoning had on the neighboring properties and safety issues regarding traffic and pedestrian use on Masters Drive. He pointed out that if they increased the zoning intensity it would set a precedent for other applicants that wanted to increase the zoning intensity on their property. He added that it raised the issue of spot zoning.

Commissioner Jones stated that he spoke with the applicant, and he was empathetic to his request. He said the request highlighted concerns regarding spot zoning and setting a precedent. He said if the city allowed the zoning change for 46 Masters Drive and not other properties on the street they could be accused of discrimination. He said considering that Masters Drive was a two lane street, it was not wide

enough for parking. He said speed bumps were added due to the residents concerns, as someone was killed on the street. He noted that the convenience store was 75-100 feet off Masters Drive and had a parking lot; therefore, the two structures could not be compared. He said that although the property had a parking lot in back, it was not visible from Masters Drive; therefore, customers might park on the street presenting a traffic hazard. He concluded that the Commission had to determine whether the PZB had erred in their interpretation of the rules.

MOTION

Commissioner Jones MOVED to deny the appeal. The motion was SECONDED by Commissioner Crichlow.

VOTE ON MOTION

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

NAYES: None

MOTION APPROVED UNANIMOUSLY

Mayor Boles informed the applicant that he could appeal the decision to the local Circuit Court. He said the length of the Commission discussion showed the seriousness of the review. He said there was empathy for the situation; however, they must balance the needs between the residents and change in commercial zoning.

Commissioner Freeman stated that the long term impact on the neighborhood was too severe.

5. Ordinances and Resolutions - Public Hearing Required

5.A/ Ordinances – First Reading

(None)

5.B/ Ordinances - Second Reading

5.B.1/ Public Hearing - Ordinance 2009-09, as amended, modifying the City

Code Prohibiting Sales and Solicitations in Traffic Lanes.

Carlos E. Mendoza, Assistant City Attorney, explained that Ordinance 2009-09 amended section 24-14 of the City Code prohibiting sales and solicitation in traffic lanes. He pointed out a Scribner's error in the original ordinance and stated that the prohibited distance was 100-yards back from the intersection of U.S.1 and State Road 207; not 100-feet. He stated that people attempted to conduct business in the middle of the intersection, which was approximately 4-feet wide. He explained that during a red light people wondered into traffic to consummate their transaction; however, when the light turned green the situation caused a halt in traffic and safety concerns.

Mayor Boles questioned whether the motion should be amended due to the Scribner's error, and the response was affirmative.

Mayor Boles opened the public hearing.

Ed Slavin referred to the following:

- The proposed ordinance was under inclusive
- People raising money for charitable contributions blocked traffic at other intersections
- Newspapers used independent contractors to solicit newspaper sales in the middle of intersections
- Businesses were not responsible for workers compensation if workers were independent contractors
- Off duty Fire Department employees were not covered by workers compensation while soliciting contributions for the United Way
- Ordinance should apply to every city intersection
- It was unsafe and tacky for people to block intersections

B.J. Kalaidi referred to the following:

- The ordinance would not keep her or others from free speech
- Selective enforcement created problems in the city
- Business owners on St. George Street, San Marco Avenue, King Street and Anastasia Boulevard verbally abused her
- Business owner had directed an employee to print a sign stating "honk if you like porn"
- Urged the Commission not to pass the ordinance

Mayor Boles closed the public hearing.

Mr. Brown pointed out that the ordinance was content neutral. He said that fire department employees soliciting contributions had been told to avoid banned areas in the city. He reiterated that the ordinance prohibited solicitation, free distribution or sales of merchandise, goods, properties, services or solicitation for charitable purposes.

Commissioner Crichlow stated that the Commission had passed similar ordinances for the intersections at King Street and U.S.1 and S.R.16 and U.S.1. He added that the law applied to everyone; not just the homeless.

Mr. Mendoza pointed out that pure speech was not affected by the ordinance; only sales and solicitations.

Commissioner Jones referred to a public comment and stated that the Commission did not have control over the actions of citizens. He said that it was unfortunate that the incident happened, and he hoped that people would be more courteous.

MOTION

Commissioner Crichlow MOVED to amend Ordinance 2009-09. The motion was SECONDED by Commissioner Sikes-Kline.

VOTE ON MOTION

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

NAYES: None

MOTION APPROVED UNANIMOUSLY

MOTION

Commissioner Crichlow MOVED to place Ordinance 2009-09 on second reading, read by title only and passed as amended. The motion was SECONDED by Commissioner Jones.

Mr. Brown read the title as follows:

ORDINANCE NO. 2009-09

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 RIGHT-OF-WAY OF STATE ROAD 207 FOR 100 YARDS WEST OF THE RIGHT-OF-WAY OF U.S. HIGHWAY 1; 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: Crichlow, Jones, Sikes-Kline,
Freeman, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

5.C/ Resolutions

(None)

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

Dwight Hines referred to the following:

- Securities Exchange Commission was investigating the city
- City failed to disclose illegal dumping
- Received Florida database for macro-invertebrates

B.J. Kalaidi referred to the following:

- Spending \$3.5 million for balloons and cake because Jamestown received money revealed the cries of selfish politicians
- Salaries, travel, advertising and planning expenses benefitted politicians and their friends
- Questioned who would travel to Spain with Mayor Boles and Commissioner Jones to expose sunshine violations
- Finance department should inform Len Weeks and others to use their own money if they wanted to tip more than 22%
- Menendez Gala cost taxpayers over \$32,000
- Taxpayers paid the Casa Monica Hotel \$10,000 on January 30, 2009
- Check issued on March 10, 2009 should have been for \$22,348.30 not \$32,348.30; therefore, the Casa Monica Hotel owed taxpayers \$10,000
- City employees residential incentive for free water cost the city \$35,280
- Ms. Burrell asked that the minimum monthly water gallon be reduced from 3,000 to 1,000 to encourage residents to conserve water
- Water rates continued to increase while free money was given to a select group of city employees
- Todd Grant had been paid \$31,708 to remove solid wastes from Holmes Boulevard; on May 9th he was given an increase of \$10 an hour; July 2008 the city paid \$295 to send him to a class at the University of Florida, and he was currently employed by the city
- City revenues were down

- To continue spending tax dollars on travel, wining/dining and positions for friends and wish lists items would destroy the city

Ed Slavin referred to the following:

- Thanked Commissioner Freeman for questioning the City Manager regarding the city's participation in Earth Hour and the manner in which Dana Ste. Claire was hired
- Hiring Dana Ste. Claire was a violation of title seven of the 1964 Civil Rights Act considering he had been hired without the city posting or advertising the job
- The city was not committed to equal employment
- City Manager should have a performance appraisal
- City Manager violated First Amendment rights
- City filed an emergency motion for more time on the issue of arresting artists and musicians in the Plaza
- The city spent a lot of money defending lawsuits
- The city had received bad legal advice¹

6.B/ Presentations (15 minutes per presentation)

(None)

7. Resolutions and Ordinances- No Public Hearing Required

7.A/ Ordinances – First Reading

7.A.1/ Introduction and consideration of Ordinance 2009-10, establishing the 180 St. George Street Planned Unit Development (PUD).

Commissioner Crichlow stated that he was the architect for the project and recused himself.

Mr. Knight explained that Ordinance 2009-10 established the 180 St. George Street Planned Unit Development (PUD). He said the project was a request to rezone to a PUD. He said that the PUD went before the Planning and Zoning Board (PZB) on March 3, 2009. He said the PUD went before the Historic Architectural Review Board (HARB) and received an Opinion of Appropriateness to develop the building. He said the PZB reviewed what had been approved by the HARB. He said the development plan narrative provided retail space on the ground floor and hotel space on the second floor. He concluded that the PZB recommended approval to the Commission.

Robert Buckmaster, Prudential Network Realty, 4190 Belford Road, Jacksonville Suite 475, referred to the following:

- Two story retail boutique hotel
- 21,000 square foot building
- 8,000 square feet of retail space and 13,000 square feet of hotel space
- Approximately 16-18 guest suites located on the second floor
- The site was currently a 17,000 square foot parking lot
- Proposed retail space on the first floor
- Ground floor entrance on Cathedral Place
- Offsite parking
- Courtyard in the rear of building for service access to the retail space
- Requested two parking spaces on Cathedral Place for guest loading and unloading
- Main consideration for the structure was the finished floor elevation
- St. George Street was approximately 6-feet above the mean high water mark; Federal Emergency Management Agency (FEMA) required a base flood elevation of 9-feet above mean high water
- Considered setting the building back 8-feet and creating a raised

¹ Brief recess 6:17 P.M. through 6:23 P.M.

sidewalk around the building 3-feet above street level to comply with FEMA regulations; however, handicap access and loss of square footage for retail space had been a concern

- Second option was to flood proof the building, which was an acceptable option under FEMA guidelines
- Flood proofing the building would be accomplished by water proofing the masonry walls up to 10-feet mean high water with an extra foot for wave action
- Utilize glass door front barriers and flood gates at the doors
- Flood gates worked like window shutters for use during storms
- The gates would be set in the door and an inflatable gasket would be activated to seal the door opening
- The solution had been approved by the Planning and Building Department and allowed the structure to be placed at street level
- During the February 2009 HARB meeting, an Opinion of Appropriateness was unanimously approved for the project
- HARB agreed that the architectural style was the most appropriate and compatible for the location
- The proposed 1850-1940 commercial style structure was characterized by a rectangular building plan with brick veneer; the buildings were often constructed directly on the street in close proximity to each other
- Sidewalls of the commercial building often formed party walls with adjacent buildings covering most of the lot that they occupied
- Lower zone on first floor had public spaces for retail and a hotel lobby
- Second floor was designated for private uses such as apartments and hotel rooms
- Design approved by the HARB could not conform to the HP-2 zoning standard of maximum

building size of 2,500 square feet, maximum street frontage of 40-feet and maximum lot coverage of 7,000-feet; although all other zoning criteria would be met such as height and setback

- Imposing the maximum building size, street frontage and lot coverage requirement on the PUD would severely compromise the approved design
- On March 3, 2009 the PZB unanimously recommended that the PUD be approved to allow the construction to proceed
- Representative for the adjacent property requested that they address drainage onto his property and the proximity of the new building to his second story windows
- Drainage from neighbors' balcony would drain onto the hotel roof and into the retention vault
- Proposed waterproofing the neighbors' existing wall to prevent water intrusion and sound proof walls where mechanical equipment would be located
- Final design must be approved by the HARB for a Certificate of Appropriateness

MOTION

Commissioner Jones MOVED to place Ordinance 2009-10 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Freeman.

Mr. Brown read the title as follows:

ORDINANCE NO. 2009-10

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA ESTABLISHING THE 180 ST. GEORGE STREET PLANNED UNIT DEVELOPMENT (PUD) PURSUANT TO SECTION 28-289 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR TERMS

AND CONDITIONS OF THE PUD; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Jones, Freeman, Sikes-Kline, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.A.2/ Introduction and consideration of Ordinance 2009-11, amending the Boys & Girls Club of St. Augustine Planned Unit Development (PUD).

Mr. Knight stated that Ordinance 2009-11 amended Ordinance 2007-26. He explained that the Boys & Girls Club of St. Augustine needed to relocate from their current location; however, they were not ready to construct the Planned Unit Development (PUD) approved in Ordinance 2007-26. He said they wanted to use temporary modular structures for a period not exceeding three years until completion of the PUD. He added that the ordinance was scheduled for review at the subsequent Planning and Zoning Board (PZB) meeting.

MOTION

Commissioner Jones MOVED to place Ordinance 2009-11 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Sikes-Kline.

Mr. Brown read the title as follows:

ORDINANCE NO. 2009-11

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA MODIFYING THE BOYS & GIRLS CLUB OF ST. AUGUSTINE PLANNED UNIT DEVELOPMENT ESTABLISHED PURSUANT TO ORDINANCE NO. 2007-26; ALLOWING FOR USE OF TEMPORARY MODULAR STRUCTURES FOR A PERIOD OF

THREE YEARS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

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

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.A.3/ Introduction and consideration of Ordinance 2009-12, amending the Whispering Creek Town Center Planned Unit Development (PUD).

Mr. Knight stated that Ordinance 2009-12 amended Ordinance 2005-38 which established the Whispering Creek Town Center Planned Unit Development (PUD) to facilitate affordable housing. He explained that the proposed changes included decreasing the number of buildings from twelve 35-foot buildings to three 43-foot buildings with an entrance off Lewis Speedway. He said the proposed PUD went before the Planning and Zoning Board (PZB) on March 18, 2009 with the primary concern being fewer buildings with more height and increased open space or twelve buildings with less height and less open space. He said the PZB voted 6/1 to proceed with the project; however, they included two conditions on approval; decreased number of parking spaces from 250 to 235 and reduced parking space width from 9.5-feet wide to 9-feet wide to increased green space. He concluded that the applicant had submitted the revised plan.

Commissioner Crichlow questioned whether the PUD had been denied the first time that it went before the PZB.

Mr. Knight replied that the vote had been 3/3; therefore, the PZB moved to table the matter to a special meeting on March 18, 2009. He said during the special meeting the PZB had considered additional

information provided by the applicant and approved the PUD.

Commissioner Sikes-Kline stated that she had spoken with the Director of Planning and Building and requested that the plan include sidewalks between the commercial and residential areas to accommodate pedestrian access and additional sidewalks extending to the current sidewalks on Lewis Speedway. She added that pedestrian connectivity would be important for affordable housing.

Mr. Knight replied that he had spoken to the applicant prior to the meeting, and they were willing to consider the revisions for second reading.

Commissioner Crichlow requested the original site plan for comparison.

Matt Latti, 4475 U.S.1 South, stated that the applicant had proposed additional landscaping. He pointed out that there were trees and vegetation against the High School; however, the applicant proposed additional landscaping along the buffer.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2009-12 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Sikes-Kline.

Mr. Brown read the title as follows:

ORDINANCE NO. 2009-12

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING THE WHISPERING CREEK TOWN CENTER PLANNED UNIT DEVELOPMENT (PUD) ESTABLISHED PURSUANT TO ORDINANCE NO. 2005-38; ALLOWING FOR AFFORDABLE MULTIFAMILY HOUSING AND MODIFIED SITE DEVELOPMENT PLAN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID

PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

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

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.A.4/ Introduction and consideration of Ordinance 2009-13, adopting a 5-Year Schedule of Capital Improvements.

Mr. Knight stated that Ordinance 2009-13 adopted a five year schedule of capital improvements to submit to the Department of Community Affairs (DCA) to proceed with the adoption of amendments to the Comprehensive Plan. He explained that there were two types of capital improvements; mandatory and optional. He said there was nothing mandatory to incorporate into the five year schedule with the possible exception of a \$9,500 Water Treatment Plant expansion in the fifth year. He said that staff had compiled a capital improvement schedule incorporating optional capital improvements such as the Riberia Street Project phase 1, Whispering Creek park improvements, sidewalk improvements, and the R&R funds for utility bond revenues and utility renewal and redevelopment funds.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2009-13 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Sikes-Kline.

Mr. Brown read the title as follows:

ORDINANCE NO. 2009-13

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA ADOPTING A FINANCIALLY FEASIBLE 5-YEAR SCHEDULE OF CAPITAL IMPROVEMENTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND PROVIDING FOR SEVERANCE OF INVALID

SIONS OF THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

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

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.A.5/ Introduction and consideration of Ordinance 2009-14, amending the City Code to Allow Placement of Civil Rights Movement Foot Soldiers Monument in the Plaza de la Constitucion.

Mr. Brown explained that Ordinance 2009-14 amended the City Code relating to the language regarding replacement of monuments in the Plaza. He said the Code had been amended approximately 15 years ago to preclude the placement of monuments celebrating historical event occurring prior to February 21, 1821, which was the date of Florida from Spain to the United States. He said that since that time, there had been a couple of events that motivated the ordinance, as there had been a strong desire to recognize the efforts of the foot soldiers of the Civil Rights Movement in the early and mid 1960's, as well as the importance of St. Augustine related to the movement. He said the second event referred to a legal result regarding the subject of public speech, government speech and the placement of monuments in public places. He added that there had been a decision of the U.S. Supreme Court regarding the placement of monuments in public places. He said that the government controlled the placement of monuments in public places. He said the court believed that because the government decided to erect a monument would not mean that anyone had the right to do so. He concluded that the ordinance amended the prohibition on recognition of events after 1821 to allow an exception for the civil rights monument.

MOTION

Commissioner Sikes-Kline MOVED to place Ordinance 2009-14 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. 2009-14

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING SECTION 22-9 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SPECIFIC AUTHORITY TO PERMIT THE LOCATION AND INSTALLATION IN THE PLAZA DE LA CONSTITUCION OF A MONUMENT TO THE ST. AUGUSTINE CIVIL RIGHTS FOOT SOLDIERS; 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, Freeman, Crichlow, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.A.6/ Introduction and consideration of Ordinance 2009-15, regarding Landscape Irrigation Restrictions.

Martha Graham, Director, Public Works, explained that the city was required to adopt irrigation restriction regulations as part of the city's consumptive use permit with the St. Johns River Water Management District. She said that irrigation was restricted from 10:00 a.m. through 4:00 p.m., and the scheduled days were as follows:

- Monday - No watering
- Tuesday – Businesses

- Wednesday - Odd numbered homes
- Thursday - Even numbered homes
- Fridays - Businesses
- Saturday - Odd numbered homes
- Sunday - Even numbered homes

MOTION

Commissioner Sikes-Kline MOVED to place Ordinance 2009-15 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. 2009-15

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA PROVIDING FOR LOCAL IMPLEMENTATION OF THE WATER CONSERVATION RULE FOR LANDSCAPE IRRIGATION OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT; PROVIDING DEFINITIONS; PROVIDING THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING EXCEPTIONS TO THE LANDSCAPE IRRIGATION SCHEDULE; PROVIDING FOR VARIANCES FROM THE SPECIFIC DAY OF THE WEEK LIMITATIONS; PROVIDING FOR APPLICABILITY OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; 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, Crichlow, Jones, Freeman, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.B/ Resolutions

7.B.1/ Consideration of Resolution 2009-09, designating 8:30 p.m. to 9:30 p.m. on March 28, 2009 as Earth Hour in St. Augustine.

John Regan, Chief Operations Officer, explained that Resolution 2009-09 recognized the city's support for Earth Hour, which increased awareness of energy conservation. He said that the city would participate by dimming the lights in the downtown historic parking facility on March 28, 2009 from 8:30 p.m. to 9:30 p.m.

MOTION

Commissioner Jones MOVED to pass Resolution 2009-09. The motion was SECONDED by Commissioner Freeman.

VOTE ON MOTION

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

NAYES: None

MOTION APPROVED UNANIMOUSLY

8. Staff Reports and Presentations

(None)

9. ITEMS BY CITY ATTORNEY

Island Offices Inc. Annexation – Doug Randall Appeal

Mr. Brown stated that Island Offices Inc. had requested annexation into the city for property located off Old Beach Road and S.R. A1A. He explained that in order for the annexation to be contiguous to city it required the cooperation of the owner of Pizza Garden Restaurant; however, the owner withdrew her request to annex her property into the city; therefore, it would be impossible for the Island Offices property to be annexed.

Bates vs. the City of St. Augustine

Mr. Brown referred to the pending litigation regarding Ordinance 22-6 Bates vs. the

City of St. Augustine and stated that a hearing was scheduled on a motion for temporary injunction in Jacksonville at the Federal District Court on Monday April 13, 2009 at 9:00 a.m. He explained that the order was based on the city's request for a seven day extension to file the city's response of pleading and to change the date of hearing due to the fact that there was less than ten days to file a response and the City Attorney was scheduled to be out of town during the original date. He said that the opposition had refused to grant cooperation to reschedule; therefore, the city was forced to file an emergency motion seeking the rescheduling. He said the court granted the reschedule, and they moved for an evidentiary hearing.

Police Department Training

Mr. Brown stated that the Assistant City Attorney had been working with the Police Department regarding training and advice for enforcement of various Codes and ordinances. He reported that the number of citations had increased, because police were more comfortable enforcing citations. He added that the City Attorney's Office would begin prosecuting misdemeanors for incidences that occurred in the city.

10. ITEMS BY CITY CLERK

10.A/ Notification of Proclamations

- 2009-09 - Certificates of Recognition presented to Sarah Howe and Lexi Packo for Outstanding Volunteer and Community Service with Florida's Hometown U.S.A.

10.B/ Consideration of one appointment to the Historic Architectural Review Board.

Ms. Rogers explained that one appointment was requested for the Historic Architectural Review Board. She said that applications had been received from the following:

- Howard Davis, 252 St. George Street, St. Johns County
- Gerald D. Dixon, 145 Sunset Circle, St. Augustine
- Robert M. Hall, 42 Spanish Street, St. Augustine
- Jay Whitaker Moore, 23 Mulberry Street, St. Augustine
- Walter O'Kon, 7720 Riverdale Road, St. Johns County
- Miriam E. Pujals, 72 Sanford Street, St. Augustine
- Ken Smith, 110 Cypress Landing, St. Johns County

Commissioner Freeman stated that the Commission should appoint city residents unless they lacked the necessary qualifications.

Mayor Boles stated that preference was given to city residents; however, the ordinance did not required residency.

Commissioner Crichlow stated that Ken Smith had worked with Hershel Shepherd, and he was influential in historic restoration projects throughout the state.

Commissioner Sikes-Kline stated that Walter O'Kon was a former HARB member and he was on the Historic Resource Review Board; therefore, the appointment would improve relations with historic interests.

Mr. Brown asked for clarification regarding the county board that Walter O'Kon served on.

Commissioner Sikes-Kline replied that he served on the St. Johns County Historic Resource Review Board, which was the review board for St. Johns County.

Mr. Brown questioned whether the St. Johns County Historic Resource Review Board delegated responsibility to the HARB, and the response was affirmative.

William B. Harriss, City Manager, stated that if the county's board had decision

making authority, he could not serve on both boards.

Mr. Brown stated that the HARB received delegation from that Commission to make decisions on behalf of the city Commission. He said if Mr. O'Kon accepted the HARB appointment, it would probably disqualify him from the St. Johns County board.

Mayor Boles stated that he would not want an applicant prejudiced by information that might not be accurate. He questioned whether the Commissioners wanted to postpone the vote until they received more information.

Following a discussion it was determined that the Commission would proceed with the vote.

Following a vote there was a 2/2 tie for Ken Smith and Gerald Dixon; Walter O'Kon received one vote.

Commissioner Freeman stated that she voted for Gerry Dixon. She said although she believed that Howard Davis and Ken Smith were qualified, it was important that board members lived in the city. She added that she served on the Planning and Zoning Board (PZB) with Mr. Dixon for approximately five years, and it was a loss to the city when he left the board.

Following a second ballot Ken Smith received majority vote 3/2.

Non-Agenda Item

Mr. Regan stated that a public outreach meeting had been scheduled for March 24, 2009 in the Alcazar Room at City Hall from 7:00 p.m. to 9:00 p.m. to discuss the Iberia Street project. He said that the Director of Public Works would facilitate the presentation followed by public discussion. He added that the project design included underground conduits.

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 a Release of Lien on Unit Connection Fee Mortgage.

Mr. Harriss read the consent agenda items.

MOTION

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

VOTE ON MOTION

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

NAYES: None

MOTION APPROVED UNANIMOUSLY

11.B/ Discussion Items

(None)

12. Items by Mayor and Commissioners

Commissioner Crichlow – Maria Sanchez Lake

Commissioner Crichlow stated that the Maria Sanchez Lake project was near completion and Marcus Pinson, Project Manager, was doing a good job. He added that dredging would also be required.

Commissioner Sikes-Kline City Tour

Commissioner Sikes-Kline thanked city staff for the tour of city departments and added that she gathered a lot of information.

Commissioner Jones - Governor Crist's Meeting

Commissioner Jones stated that he had attended Governor Crist's meeting, and he discussed the city's funding needs

including Riberia Street, West Augustine and the seawall.

Meeting in Washington D.C.

Commissioner Jones stated that he was going to Washington D.C. with the Chief Operations Officer to meet with senators and Representative Mica regarding the city's eligibility for stimulus money.

Francis Field

Commissioner Jones stated that the city had become aware of possible problems regarding planning for Francis Field. He said staff needed to set objectives and determine the role that Francis Field would have in the anniversary celebration.

Paul K. Williamson, Director, Public Affairs, stated that staff had requested a six month moratorium for accepting new events on Francis Field. He explained that it would give staff the opportunity to discuss the effects of Francis Field on city services. He said that neighborhood associations and producers of large events could also provide input regarding their needs. He said that staff would provide a report to the Commission during the summer with the mission for Francis Field and how it would best serve the community. He pointed out that previously scheduled events would not be affected.

13. Adjournment

There being no further business, the meeting was adjourned at 7:36 P.M.²

MAYOR

CITY CLERK, CMC

² Transcribed by Susan Goins