

# CITY OF ST. AUGUSTINE

Regular City Commission Meeting  
April 26, 2010

The City Commission met in a formal session Monday, April 26, 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  
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  
Jim Piggott, General Services Director  
Mark Litzinger, Comptroller  
Paul K. Williamson, Director, Public Affairs  
Carlos E. Mendoza, Assistant City Attorney  
Loran Lueders, Police Chief  
Mike Arnold, Fire Chief  
Martha Graham, Director, Public Works  
Darlene Kirkland, Recording Secretary

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

Pastor Maddie Taylor, Hurst Chapel AME Church, delivered the invocation, and Commissioner Jones led the pledge of Allegiance.

## **3. ADMINISTRATIVE ITEMS**

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

Mayor Boles requested a brief update regarding *Home Again St. Johns* by Mike Davis be added to the agenda.

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

## **MOTION**

**Commissioner Sikes-Kline MOVED to approve the minutes of the regular meeting of April 12, 2010. The motion was SECONDED by Commissioner Jones and APPROVED BY UNANIMOUS VOICE VOTE.**

### **3.C.1/ Proclamations**

2010-15 – Letter Carriers Food Drive  
2010-17 – National Drug Court Month  
2010-18 – National Train Day

Mayor Boles read and presented the proclamations.

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

2010-06 – Recognizing Maria Santana for being selected as the only St. Augustine contestant in the Ms. Senior Jacksonville Pageant 2010

Mayor Boles presented the Recognition to Ms. Santana.

### **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 2010-13, relevant to the Firefighters' Pension.**

Tim Burchfield, Chief Administrative Officer, stated that in August 2009 an agreement with the firefighters' union had been made to include a BAC-DROP to the firefighters' retirement plan; however, after reviewing the options, it was determined that a Partial Lump-sum Option Plan (PLOP) would be added. He explained that the PLOP would allow a one-time partial lump-sum payment up to a maximum 25% of retirement benefits.

Public hearing was opened; however, there was no response.

### **MOTION**

**Commissioner Sikes-Kline MOVED to have Ordinance 2010-13 placed on second reading, read by title only and passed. The motion was SECONDED by Commissioner Crichlow.**

Ron Brown, City Attorney, read Ordinance 2010-13 as follows:

### **ORDINANCE NO. 2010-13**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE FIREFIGHTERS' PENSION TRUST FUND; AMENDING CHAPTER 20, PENSIONS AND RETIREMENT, ARTICLE V, FIREFIGHTERS' PENSION TRUST FUND, SECTION 20-200, OPTIONAL FORMS OF BENEFITS, OF THE CODE OF ORDINANCES OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

### **VOTE ON MOTION**

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

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

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

(None)

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

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

Michelle VanDoren spoke against the firing of cannons at the Fountain of Youth. She felt that it disturbed the ambiance and quality of the area.

Theresa Segal stated that a national search should be considered to fill the City Manager position. She pointed out that the City Manager was required to implement the policy of the Commission. She felt that the current economical climate could provide a highly qualified candidate.

Jason Fort requested the current weapons ordinance be amended to ban the discharging of cannons and heavy artillery within the City limits.

Ginny Stoppelli expressed concern regarding the firing direction of the Fountain of Youth cannons, and the safety of wild life.

B.J. Kalaidi felt that Ordinances 2010-14, 2010-15 and 2010-16 should not be passed. She expressed concern regarding 501(c)3 non-for-profit organizations, because the financial records were not required to be made public. She suggested that background checks and financial statements should be required for Steering Committee members. She further expressed concern regarding the enforcement of Code violations.

Ed Slavin spoke in support of a national search for the position of City Manager, and he or she should be chosen by a committee consisting of citizens and Commissioners.

Commissioner Sikes-Kline questioned the City's options concerning a resolution to the cannon firing at the Fountain of Youth.

Mr. Brown explained that when the initial complaints had been received, a noise measurement of seven firings had been conducted and five had not violated the noise ordinance. He noted that the Code relating to impulsive sounds allowed a maximum of 70 decibels with less than 10 occurrences per hour. He pointed out that the current Code was developed through scientific testimony and research to maintain content neutrality. He advised that the decibel levels for impulse sounds in the Code could be reduced or a ban on firing cannons or other artillery could be implemented; however, the measure could impact other permitted activities.

Commissioner Freeman questioned whether it was legal to fire a firearm on personal property.

Mr. Brown replied that only antique firearms and artillery could legally be discharged within City limits.

Commissioner Freeman questioned the definition of firearms and antique firearms, and how it applied to replicas.

Mr. Brown quoted the State of Florida's definitions as follows:

- "Antique firearm" means any firearm manufactured in or before 1918 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replica thereof, whether actually manufactured before or after the year 1918, and also any firearm using fixed ammunition manufactured in or before 1918, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade
- "Firearm" means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" does not include an antique firearm unless the antique firearm is used in the commission of a crime

Commissioner Crichlow questioned whether anyone had approached the owners of the Fountain of Youth.

Mr. Brown replied that Commander Barry Fox and he spoke with the owners, and the original complaint related to the cannon being fired during the evening on a few occasions. He explained that the regular firing schedule was from 10:00 A.M. to 4:00 P.M. on the hour. He stated that the owner, John Fraser, had provided additional remedial sound measurements to the City and surrounding residents.<sup>1</sup>

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<sup>1</sup> Attached to original minutes

Commissioner Crichlow questioned whether there had been complaints regarding cannon firings by the fort, and the response was negative.

Mr. Brown stated that the Mr. Fraser had proposed that he could reduce the charge, redirect the cannon towards the inlet, baffle the sound and reduce the number of firings. He added that the proposals would not eliminate the sound, only reduce it.

Mayor Boles expressed concern regarding possible future activities related to the 450<sup>th</sup> Commemoration Celebration. He requested proposals to help resolve the issue.

Commissioner Freeman expressed concern regarding the area residents being disturbed by the cannon firings and suggested requiring the Fountain of Youth to apply for a permit for special events.

Commissioner Sikes-Kline questioned whether the City's firearm Code referred to the State of Florida's definition.

Mr. Brown replied that the City's Code did not include specified definitions; therefore, the State of Florida's definition would apply and could be enforceable.

William B. Harriss, City Manager, pointed out that the cannons at the Fountain of Youth were probably antique replicas; therefore, could be discharged legally within the City limits according to the state's definition.

A brief discussion ensued regarding the possibility of reducing the decibel levels related to impulse sounds in the noise ordinance.

Commissioner Jones expressed concern regarding hampering future events if the decibel levels were adjusted. He pointed out that the majority of the income for the City and residents was directly related to tourism; therefore, it was important to provide immersive experiences for visitors.

He felt that an agreeable compromise could be reached.

John Fraser, owner, Fountain of Youth, stated that they had taken measures to reduce the sound levels from the cannons. He explained that the attraction was a living history museum, and they began daily cannon demonstrations in April 2008. He claimed that he had not received complaints regarding the noise prior to being contacted by Mr. Brown and Commander Fox.

Mayor Boles questioned whether there had been changes in the firing schedule prompting the complaints.

Mr. Fraser replied that there had been three occasions of cannon demonstrations during evening hours. He said that a time schedule had been created to fire on the hour from 10:00 A.M. to 5:00 P.M. He pointed out that residents had not made an effort to contact the Fountain of Youth regarding complaints. He expressed willingness to address the community's concerns.

Commissioner Freeman questioned whether there were additional measures that could further reduce the sound levels.

Mr. Fraser replied that the charge could be reduced more, and the baffle wall could be heightened.

Commissioner Sikes-Kline stated that she had received complaints from the area residents; therefore, the City had conducted sound studies related to potential noise ordinance violations. She suggested allowing the Fountain of Youth the opportunity to install sound reducing walls and then conduct another review. She expressed appreciation for the efforts that had been made and the willingness to resolve the issue.<sup>2</sup>

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<sup>2</sup> Brief recess from 6:24 P.M. to 6:33 P.M.

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

**6.B.1/ Presentation by a member of the North Florida Transportation Planning Organization (TPO) relevant to the development of the Transportation Improvement Program (TIP) for Fiscal Years 2010/2011 through 2014/2015.**

Wanda Forrest, representative, TPO, highlighted local transportation improvement projects for fiscal years 2010/2011 through 2014/2015 as follows:<sup>3</sup>

- Bridge of Lions rehabilitation completion and initial landscaping
- San Sebastian River to Malaga Street drainage improvements
- King Street from Malaga Street to Markland Place drainage improvements
- Roadway weather study Bridge of Lions and SR312
- SR16 from Green Acres Road to San Marco Avenue resurfacing
- SR312 at Sergeant Tutten Drive intersection improvement
- SR207 to SR16 extension of SR312
- Funding related to Council On Ageing / Sunshine Bus transportation
- US1 at San Sebastian River Bridge replacement

Mayor Boles questioned the time frame for construction of the San Sebastian Bridge.

Ms. Forrest replied that the construction would commence during fiscal year 2010/2011; however, the completion date was undetermined.

Mr. Harriss stated that the bridge replacement would be a 14 to 18 month project once construction began. He advised that King Street from the San Sebastian River to Malaga Street would be closed to one-lane traffic in August 2010

for drainage improvements, which could cause traffic issues.

Non-Agenda Item

Update on *Home Again St. Johns*

Mike Davis, Chairman, stated that a meeting had taken place with local agencies to discuss improvements to services provided to the homeless. He noted goals as follows:

- Moving St. Francis House out of downtown St. Augustine
- Improve services
- Coordinate communications between agencies

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

**7.A/ Ordinances – First Reading**

**7.A.1/ Introduction and consideration of Ordinance 2010-14, relevant to the Whispering Creek Town Center Planned Unit Development.**

Mr. Knight, Director, Planning and Building, stated that the original Planned Unit Development (PUD) included condominiums and commercial units. He explained that the property was cleared, and construction on the commercial units had begun; however, there was no recent activity. He advised that the original proposal for the condominiums was for affordable housing, which was approved, but never constructed. He stated that a new proposal was presented to the Planning and Zoning Board (PZB) for a 132 bed assisted living facility and 30 independent living apartments, in which PZB recommended approval unanimously. He added that the preservation area and infrastructure established in the original PUD would be retained.

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

**MOTION**

**Commissioner Crichlow MOVED to have Ordinance 2010-14 placed on first reading, read by title only and passed. The motion was SECONDED by Commissioner Sikes-Kline.**

Mr. Brown read Ordinance 2010-14 as follows:

**ORDINANCE NO. 2010-14**

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 AND AMENDED BY ORDINANCE NO. 2009-12; 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.

Commissioner Jones pointed out that there was an athletic field adjacent to the facility that could create possible issues regarding lighting and noise during athletic events.

Mr. Knight stated that during the PZB hearing, the concerns were addressed; however, the developer assured the board that there would not be issues.

**VOTE ON MOTION**

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

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

**7.A.2/ Introduction and consideration of Ordinance 2010-15, relevant to amending the Comprehensive Plan, Future Land Use Map to reclassify a parcel of land containing approximately 0.5 acres located on the east side of U.S. Highway 1, north of Lewis Boulevard in the City of St. Augustine.**

Mr. Knight stated that proposed Ordinances 2010-15 and 2010-16 were related to the same property. He explained that the property had been subject to the Rivers Edge project PUD; however, the project failed. He stated that there was a request by the property owner to re-establish the original CM-2 zoning.

Commissioner Crichlow questioned whether the entire area of the Rivers Edge PUD project had previously been zoned CM-2 and whether the other property owners would request to re-establish CM-2 zoning.

Mr. Knight replied that the majority of the area was originally zoned CM-2; however, not all property owners were willing to re-zone.

Commissioner Crichlow questioned whether CM-2 zoning was subject to the adult entertainment district Ordinance, and the response was affirmative.

**MOTION**

**Commissioner Crichlow MOVED to have Ordinance 2010-15 placed on first reading, read by title only and passed. The motion was SECONDED by Commissioner Freeman.**

Mr. Brown read Ordinance 2010-15 as follows:

**ORDINANCE NO. 2010-15**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING THE CITY OF ST. AUGUSTINE COMPREHENSIVE PLAN, FUTURE LAND USE MAP TO RECLASSIFY A PARCEL OF LAND CONTAINING APPROXIMATELY 0.5 ACRES LOCATED ON THE EAST SIDE OF U.S. HIGHWAY NO. 1 NORTH OF THE INTERSECTION WITH LEWIS BOULEVARD IN THE CITY OF ST. AUGUSTINE AND BEING MORE PARTICULARLY DESCRIBED HEREINAFTER FROM RESIDENTIAL

MEDIUM DENSITY/MIXED USE TO COMMERCIAL MEDIUM INTENSITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND PROVISIONS OF COMPREHENSIVE PLAN; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

**VOTE ON MOTION**

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

**NAYES:** None

**MOTION APPROVED UNANIMOUSLY**

**7.A.3/** Introduction and consideration of Ordinance 2010-16, relevant to rezoning approximately 0.5 acres located on the east side of U.S. Highway 1, north of Lewis Boulevard in the City of St. Augustine from its current classification of Residential and General Office (RGO) to Commercial Medium-Two (CM-2).

**MOTION**

Commissioner Crichlow **MOVED** to have Ordinance 2010-16 placed on first reading, read by title only and passed. The motion was **SECONDED** by Commissioner Sikes-Kline.

Mr. Brown read Ordinance 2010-16 as follows:

**ORDINANCE NO. 2010-16**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA REZONING APPROXIMATELY 0.5 ACRES OF PROPERTY LOCATED ON THE EAST SIDE OF U.S. HIGHWAY NO. 1 NORTH OF THE INTERSECTION WITH LEWIS BOULEVARD IN THE CITY OF ST. AUGUSTINE, AS MORE PARTICULARLY DESCRIBED HEREINAFTER, FROM ITS CURRENT CLASSIFICATION OF RESIDENTIAL AND GENERAL OFFICE (RGO) TO THE CLASSIFICATION OF COMMERCIAL MEDIUM-TWO (CM-2); PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES;

PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

**VOTE ON MOTION**

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

**NAYES:** None

**MOTION APPROVED UNANIMOUSLY**

**7.B/ Resolutions**

(None)

**8. Staff Reports and Presentations**

**9. ITEMS BY CITY ATTORNEY**

Mr. Brown stated that during the recess, he had facilitated a conversation between Mr. Fraser and area residents. He explained that the changes would be made as indicated, and the Commission would be updated.

**10. ITEMS BY CITY CLERK**

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

2010-16 – Cathedral Festival

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

**11.A/ Consent Agenda**

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

**11.A.2/** Release of Lien for Utility Connection Mortgage.

**11.A.3/** Consideration to grant a License for Use of City Right-of-Way relevant to 164 Inlet Place.

**11.A.4/** Consideration of an Interlocal Agreement with St. Johns County relevant to the Ravenswood Drainage Project and St. Johns County's application for Community Development Block Grant funding.

**11.A.5/ Notification of one (1) term expiration on the General Employees' Retirement Board.**

Commissioner Crichlow questioned the right-of-way usage relevant to 164 Inlet Place.

Mr. Harriss replied that the homeowner had requested to install pavers from the property line to the asphalt road, which required a license.

**MOTION**

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

**11.B/ Discussion Items.**

Mr. Harriss presented to the Commission an aerial photograph taken by Phil Whitley of the Bridge of Lions opening ceremony.

Mr. Burchfield reported that one of the City Hall air conditioning chillers was determined to be irreparable. He stated that a similar replacement chiller would cost \$80,000; however, an optional energy efficient model would cost \$160,000. He noted that if an energy efficient model were installed, there would be a minimum \$20,000 annual electrical consumption savings.

Commissioner Freeman questioned the performance guarantee for the energy efficient model, and the response was 20 to 30 years.

Mr. Burchfield explained that the annual savings would reimburse the City within a maximum four year period. He requested that the Commission approve an expenditure of \$160,000 from the City's reserve funds to purchase an energy efficient chiller replacement.

Commissioner Sikes-Kline questioned the repair costs and guarantee for the existing chiller.

Mr. Burchfield replied that the repair estimates was \$60,000, and there would be no guarantee that the repaired chiller would not break down again.

**MOTION**

**Commissioner Jones MOVED to authorize the purchase of an energy efficient chiller for \$160,000. The motion was SECONDED by Commissioner Sikes-Kline.**

**VOTE ON MOTION**

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

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

**11.B.1/ Establishment of procedure for selection of the position of City Manager.**

Mayor Boles stated that, following the announcement of retirement by Mr. Harriss, he had received numerous calls regarding the selection for the City Manager's position. He felt that because of St. Augustine's uniqueness, the position required someone that was familiar with it. He said that because John Regan, Chief Operations Officer, had been employed by the City for the past 12 years, he would be an optimal candidate for the position. He added that he had received letters and phone calls of recommendation from numerous former Mayors in support of Mr. Regan.<sup>4</sup>

Commissioner Freeman expressed support for Mr. Regan being appointed as City Manager. She felt that it would be a waste of time and money to conduct a national search. She stated that the Commission had to make difficult decisions sometimes;

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<sup>4</sup> Letters attached to original minutes

however, selecting Mr. Regan for the position of City Manager was not difficult. Commissioner Sikes-Kline read a prepared statement, and proposed that John Regan be named the City Manager, because of his dedication, experience and innovative ideas.<sup>5</sup>

#### **MOTION**

**Commissioner Sikes-Kline MOVED to begin contract negotiations with John Regan for the position of City Manager. The motion was SECONDED by Commissioner Freeman.**

Commissioner Crichlow stated that if the Commission determined that a national search was necessary, he felt that the end result would be to appoint Mr. Regan. He felt that Mr. Regan had proven his creativity and professionalism in addition to his ability and managerial skills.

Commissioner Jones felt that there should be the opportunity for other City staff members to express their interest in the position for City Manager; however, he agreed with the statements by the Commissioners regarding Mr. Regan.

#### **VOTE ON MOTION**

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

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

After a brief discussion it was determined that Mayor Boles and Ron Brown would negotiate the contract with Mr. Regan, after which the contract would be presented to the Commission for approval.

Commissioner Jones expressed appreciation for Mr. Harriss' dedication and hard work.

#### **12. Items by Mayor and Commissioners**

#### **13. Adjournment**

There being no further business, the meeting was adjourned at 7:25 P.M.<sup>6</sup>

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MAYOR

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CITY CLERK, CMC

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

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