

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
July 28 2008

The City Commission met in a formal session Monday, July 28, 2008 at 5:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Boles, and the following were present:

Roll Call:

Joe Boles, Mayor/City Commissioner
Donald A. Crichlow, Vice Mayor/City Commissioner
Susan Burk, City Commissioner
George Gardner, City Commissioner
Errol D. Jones, City Commissioner

William B. Harriss, City Manager
Ron Brown, City Attorney
Karen Rogers, City Clerk
Timothy A. Burchfield, Chief Administrative Officer
John Regan, Chief Operations Officer
Mark Knight, Director, Planning and Building
Mark Litzinger, City Comptroller
Jim Piggott, General Services Director
Tim Fleming, Deputy Director, General Services/Purchasing Manager
Dr. William Adams, Director, Heritage Tourism
Martha Campbell, Director, Public Works
Paul K. Williamson, Director, Public Affairs
Loran Lueders, Police Chief
Mike Arnold, Fire Chief
Susan Goins, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Reverend Earl Glisson, Anchor Faith 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 Gardner MOVED to approve the minutes of the regular City Commission Meeting of July 14, 2008. The motion was SECONDED by Commissioner Crichlow.

VOTE ON MOTION

AYES: Gardner, Crichlow, Burk, Jones, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

3.C.1/ Proclamations

(None)

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

(None)

5./ Ordinances – Public Hearing Required - First Reading

5.A/. Ordinances - First Reading

(None)

5.B/. Ordinances - Second Reading – Public Hearing

5.B.1/ Public Hearing - Ordinance 2008-14, concerning a Petition for Voluntary Annexation relative to property located east of the intersection of State Road 16 and Lewis Speedway.

The item was heard with item 5.B.2.

5.B.2/ Public Hearing - Ordinance 2008-15, authorizing the renewal of the Florida Power & Light Company Franchise Agreement. (To include a presentation on Underground Utilities).

Mayor Boles explained that Ordinance 2008-14 and Ordinance 2008-15 were related. He added that the presentation would include information regarding underground utilities.

John Regan, Chief Operations Officer, explained that David Cobb, North Area Manager, External Affairs, Florida Power & Light, had been negotiating with the city regarding the franchise agreement. He stated that FPL had provided power to the city for 80 years, of which 60 had been under franchise agreements. He said the current agreement would expire in June 2009. He referred to the franchise agreement as follows:

- Under the existing franchise agreement the city owned the right-of-way

- FPL paid the city a franchise fee considering their facilities were on the city right-of-way
- St. Johns County did not have a franchise agreement
- The Process of evaluation to determine whether to form a municipal electric system included several components
- Process of determining the value of the system was a standardized formula of accounting principals
- If the city built an electric company they would have to consider where to buy wholesale power
- The city could buy electrons from Alaska
- The city would have to hire staff to run the electric company
- Analyzed other communities and determined that FPL was the low cost provider
- The city would purchase by joining the Florida Municipal Power Association (work with a third party broker)
- The largest risk in power was having a power plant that was not cost efficient
- Thirty year agreement was in the interest of both parties because it provided stability to perform bond issues
- Regional company and fuel diversity made FPL a competitor
- FPL was largest builder of wind generators in the country
- Partner in community and assist the city in various arenas as it related to community goals
- FPL was regulated by the Public Service Commission

Mr. Regan stated that the Commission had several options and referred to the following:

- Do not sign the agreement; advantage would be more suppliers or more discussions with other utilities

- If the agreement expired the city would lose \$1.3 million revenue annually
- The city could sign the franchise agreement which would increase revenue \$5,000 per month

Mr. Regan concluded that the topic was complicated and might require more public education. He added that the city could hire an independent firm to research the matter which would cost approximately \$25,000 to \$30,000.

Mayor Boles suggested that the Commission schedule a workshop, and invite the public to ask questions. He suggested that Mr. Regan provide the presentation again to help him with his decision.

Commissioner Burk stated that the city had 13,000 people, and they were too small to own a power company. She pointed out that she had an engineering degree with a major in power generation, and she had worked for Westinghouse for 10 years.

Mr. Regan stated that they had a presentation about underground utilities, specifically Riberia Street, because the road was under design.

Commissioner Gardner stated that it would be an error to pass the franchise agreement at that time. He suggested having the public workshop as early as possible as the Commission owed it to the community.

Dave Cobb, Florida Power and Light, explained that:

- Franchise would give the city guaranteed margin on the sale of electricity without effort, expenditure of resources or risk
- The only municipalities with lower rates than FPL were large cities with a strong base of coal generation

- The relationship with the city had been good and FPL would like to continue it
- Franchise fee was a flat percentage throughout the term of the franchise
- Advantage of a franchise fee was it was based on the total bill and the utility tax

Commissioner Jones questioned the downside of the city running a utility from FPL's perspective.

Mr. Cobb replied that the city would spend a lot of time and effort, and they would probably charge customers more.

Commissioner Burk stated that the city was guaranteed the percentage without the risk. She added that running their own facility would be a risk.

Commissioner Crichlow stated that he did not know how the city could setup the infrastructure for a utility company cheaper than a company that was generated for 4.5 million customers. He said thirty years was a long time for the city locked into the franchise but he thought that a franchise was the best thing to do. He asked for clarification regarding the best type of franchise and the criteria.

Mr. Cobb replied that all franchise agreements were the same in effort to keep them consistent, because they wanted to keep them equal and simple. He said the bottom line was FPL agreed to pay a franchise fee for use of the right-of-way, and the city agreed not to go into the electric business during the franchise period. He added that the agreement would not prevent another company from selling the city electricity.

Mayor Boles stated that the city was not financially ready to start a utility; however, they should allow Mr. Regan to explain the franchise agreement to the public. He said although they had first reading it was

summer and many people were on vacation.

Commissioner Jones stated that the city would have to start a new layer of government and triple in size to deal with a utility company, which could be a losing proposition.

Dave Cobb provided a presentation regarding underground utilities:¹

Understanding Underground

- The overhead to underground conversion process

FPL Encouraged Underground

- Almost 40% FPL distribution currently underground
- 67% of new homes and businesses were served underground
- FPL lended support to cities that wanted to codify
- Undergrounding was more expensive

Overhead-Underground Main Factors

- People looked at aesthetics when it came to undergrounding which was not totally invisible
- Reliability performance
- Conversions were a more difficult and costly process

Main Power Facilities

- Going from poles and wires to underground facilities
- Main line had a switch on overhead line to separate pieces of the system

Transformers

- Must be in a yard, business site, preferred not to have them on city right-of-way

Service "Drops"

- When converting buildings must be converted to accept underground service; work must be done by licensed electrician

Reliability: Normal Weather

- Overhead had more outages than underground

- Above ground problems were easier to fix
- Underground outages could be longer and harder to find and could be delayed by flooding issues

Reliability: Severe Storm Conditions

- Underground utilities were subject to flooding from standing water and tidal surge
- Salt water could delay restoration

Overhead susceptible to:

- More were susceptible to wind damage
- Debris
- Soft ground

Conversion Costs

- Contributing factors
- Congestion & density
- Site restoration
- Landscaping
- Easements
- Streetlights
- Cost range \$500,000 to \$4 million per mile

FPL's Plan to Support Conversions

- FPL had received approval to invest 25% of cost of qualified underground conversion projects sponsored by local governments
- Governmental Adjustment Factor (GAF), 25% of the base Contribution-In-Aid-of-Construction (CIAC)
- GAF was based on avoided storm restoration costs

GAF Eligibility Requirements

- Local government must be the applicant
- Community-wide project
- Approximately three pole line miles or minimum
- 200 detached units
- Islands or peninsulas
- All affected customers must convert their services from overhead to underground

Conversion Process

- Applicant provided written request
- FPL provides non-binding ballpark estimate

¹ Attached to original minutes

- Applicant paid engineering deposit
- FPL provided a preliminary facilities layout
- Applicant secures easements or ROW agreement while FPL started the engineering
- FPL performs detailed engineering/determines the binding cost

Right-of-Way Agreement

- Allowed underground equipment to be placed in rights-of-way as an alternative to private easements
- Facility installations criteria were met
- Local government assumed the responsibility for future relocations

Mayor opened the public hearing.

Several residents provided comments including the following:

- The city had not received enough public input
- Newspaper article gave the impression that there were only two options
- Commission should pick an option that would benefit the city
- According to a 2008 JD Power and Associates survey, FPL ranked below average in residential satisfaction among large electric utilities in the south
- City should research service provided by other utility companies
- The discussion should be tabled until all citizens had the opportunity to provide input
- The matter should be discussed with the County Commission
- The city should discuss the matter with the Florida Municipal Electric Association so they could explain their position
- Most FPL capital investments were buying small public utilities
- FPL had a bad reputation for restoring service after a hurricane

- The franchise agreement did not allow the city to buy their poles and wires
- The city needed more information
- FPL over charged the public
- Thirty year franchise was too long
- If the city used FPL they should question whether services such as broadband could be bundled
- The city probably would not want to be in utility business

Commissioner Gardner reiterated that they should have a public workshop.

Dave Cobb stated that the franchise fees had not changed. He added that St. Johns County did not have a franchise agreement because a franchise was not necessary to provide service.

Following a discussion it was determined that the Commission would delay their decision and have a public workshop.

MOTION

Commissioner Gardner MOVED to table action on Ordinance 2008-14 and Ordinance 2008-15 until the September 8, 2008 City Commission meeting. The motion was SECONDED by Commissioner Jones.

VOTE ON MOTION

AYES: Gardner, Jones, Crichlow, Burk, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

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

Dwight Hines referred to the following:

- Public records requests
- Supported the presentation regarding the Lighthouse partnership

B.J. Kalaidi referred to the following:

- Budget workshops
- Employees should not receive bottled water during meetings
- City should not pay water bills of city employees

Ed Slavin referred to the following:

- Thanked the Commission for delay in signing the franchise agreement
- Budget workshops should be televised
- Mr. Harriss polled the Commission on the sewage pipe issue, which was against the law
- Boil water alert on King Street

Mr. Brown referred to the comment that Mr. Harriss had polled the Commission. He explained that under the Sunshine Law polling was a circumstance when an individual that was not on the Commission attempted to talk with the Commission and arrive at a consensus by talking with them individually and relaying the discussion to each member. He emphasized that Mr. Harriss had not done that. He pointed out that the Commission could inform each other how they stood on a matter; however, the other person could not respond. He reiterated that one way communication was not problematic.

Judith Seraphin, referred to the following:

- The Commission had not treated the residents well during public comments
- At a Lincolnville Neighborhood Association meeting in which Commissioner Jones was present, Mr. Regan stated that Riberia Street improvements were not planned
- Members of the Lincolnville Neighborhood Association recommended that the city discuss underground utilities while they were repairing the streets

Commissioner Burk responded that Commissioner Jones had requested underground utilities on Riberia Street for at least six years.

Commissioner Jones reiterated that he had advocated the issue for years.

6.B/ Presentations (15 minutes per presentation)

6.B.1/ Presentation by the St. Augustine Lighthouse and Museum regarding a partnership with Malaga, Spain - sponsored by Commissioner Jones.

Dr. Sam Turner, Director Archeology, St. Augustine Lighthouse, provided a presentation regarding the project between the Lighthouse Archeological Maritime Program LAMP boatworks at the Lighthouse and the shipyard in Malaga, Spain.² He presented a flag to the city from Spain and a signed block of wood from the shipwreck of Rafael dedicated to the Mayor.

7. Ordinances and Resolutions - No Public Hearing

7.A.Ordinances – First Reading

(None)

7.B/ Resolutions

7.B.1/ Consideration of Resolution 2008-09, authorizing the execution of a Safety Project Maintenance Agreement with the Florida Department of Transportation (FDOT).

Ms. Campbell explained that Resolution 2008-09 was related to a maintenance agreement with the Florida Department of Transportation (FDOT) for a new traffic signal on Malaga Street. She added that the light would be painted a non-standard color that the city would maintain.

² Attached to original minutes

MOTION

Commissioner Crichlow **MOVED** to pass Resolution 2008-09. The motion was **SECONDED** by Commissioner Gardner.

VOTE ON MOTION

AYES: Crichlow, Gardner, Jones, Burk, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

8. Staff Reports and Presentations

Mr. Knight explained that at the prior City Commission meeting a concern had been raised about tree preservation at the Whispering Creek Planned Unit Development (PUD) on Lewis Speedway. He provided a site plan that was attached to the PUD that showed the preservation area. He said staff examined the area following the meeting and all of the trees were still being preserved and there was no intrusion into the preservation area; therefore, there was no violation to the ordinance.

9. ITEMS BY CITY ATTORNEY

(None)

10. ITEMS BY CITY CLERK

10.A/ Notification of Proclamations

(None)

11. ITEMS BY CITY MANAGER (Includes Consent Agenda

11.A/ Consent Agenda

11.A.1/ Preview of upcoming Commission Meetings.

11.A.2/ Authorization to negotiate a contract for Design/Build of the Heritage Tourism Signage Program.

11.A.3/ Consideration of Budget Workshop dates.

11.A.4/ Consideration of Contract with Camp Dresser and McKee (CDM) for consultant services relative to the Wellfield Expansion.

11.A.5/ Notification of two upcoming term expirations on the Planning and Zoning Board.

11.A.6/ Notification of two upcoming term expirations on the Board of Trustees St. Augustine Police Officers' Retirement System.

Mr. Harriss read the consent agenda items.

Commissioner Gardner questioned the budget workshop dates.

Mr. Harriss replied that the meetings were scheduled for August 21st and August 22nd at 9:00A.M.

Mayor Boles stated that he was scheduled for court the morning of August 21; however, he would be available in the afternoon.

Commissioner Crichlow stated that there were two upcoming term expirations on the Planning and Zoning Board; therefore, they needed applications. He said if anyone was interested, they could get more information from the City Clerk's office.

MOTION

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

VOTE ON MOTION

AYES: Crichlow, Jones, Gardner, Burk, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

11.B/ Discussion Items

(None)

12. ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Gardner – Tree Ordinance

Commissioner Gardner stated that he had requested distribution of the tree ordinance to the Commission. He pointed out that there were side notes on the ordinance by two members of the Street Tree Advisory Committee, and they had asked that he sponsor a presentation to the Commission for the ordinance and recommended revisions. He concluded that if there was Commission approval he would recommend review of the ordinance and revisions by the Street Tree Advisory Committee and the PZB. He pointed out that most of the revisions referred to the protection of the trees during construction and replacing trees that had been cut.

Mayor Boles asked for clarification regarding the revisions.

Mr. Harriss replied that the revisions had been made by Street Tree Committee members Charles Lippi and Gina Burrell. He concluded that the revisions would be reviewed by the entire Street Tree Committee and the PZB for analysis followed by the Commission.

13. Adjournment

There being no further business, the meeting was adjourned at 6:40 P.M.³

VICE MAYOR

CITY CLERK, CMC

³ Transcribed by Susan Goins