

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
June 9, 2008

The City Commission met in a formal session Monday, June 9, 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
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
Robin Upchurch, Assistant City Attorney
Susan Goins, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Lois Turner, Pentecostal Fellowship Center 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

Commissioner Gardner noted the following change to the minutes:

- Page six, right hand column, change the phrase "he had hired" to "he arraigned for"

MOTION

Commissioner Gardner MOVED to approve the minutes of the regular City Commission Meeting of May 12, 2008 as amended. The motion was SECONDED by Commissioner Jones and APPROVED by UNANIMOUS VOICE VOTE.

3.C.1/ Proclamations

3.C.2/ Recognitions -Presentation of the St. Augustine City Commission - Citizenship Awards

Paul K. Williamson, Director, Public Affairs, read and presented each award, and the City Commission acknowledged the recipients.

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

(None)

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

Following a brief discussion it was determined that the Commission would allow public comments during item 7.B.2.

Dwight Hines, referred to the following:

- Supported the acceptance of public art
- Challenged the second amended agreement with the Department of Environmental Protection

John Carroll Prosser, referred to the following:

- Noise from musicians on St. George Street
- Filing a lawsuit against the city

BJ Kalaidi, referred to the following:

- Residents should be given a ten dollar credit for days that the city had water restrictions
- City needed guidelines regarding the acceptance of public art

6.B/ Presentations (15 minutes per presentation)

7. Ordinances and Resolutions - No Public Hearing

7.A.Ordinances – First Reading

7.A.1/. Introduction and consideration of Ordinance 2008-11 Amending Chapter 26, relating to Wastewater Pretreatment.

Martha Campbell, Director, Public Works, explained that Ordinance 2008-11 brought the city's wastewater pretreatment ordinance into compliance with the requirements of the Florida Department of Environmental Protection and the Code of Federal Regulations.

MOTION

Commissioner Burk MOVED to pass Ordinance 2008-11 on first reading, read by title only and approved. The motion was SECONDED by Commissioner Jones.

Mr. Brown read the title as follows:

ORDINANCE NO. 2008-11

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING CHAPTER 26 OF THE CODE OF THE CITY OF ST. AUGUSTINE IN ORDER TO BRING THE CODE PROVISIONS AND THE OPERATION OF THE CITY'S WASTEWATER TREATMENT FACILITIES INTO COMPLIANCE WITH THE REGULATORY REQUIREMENTS OF THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE CODE OF FEDERAL REGULATIONS; SPECIFICALLY

AMENDING CODE SECTION 26-3 TO MODIFY THE DEFINITION OF "SIGNIFICANT NONCOMPLIANCE" AND TO ADD THE DEFINITION OF "UPSET;" SECTION 26-79 TO ADD A REFERENCE TO THE CODE OF FEDERAL REGULATIONS; SECTION 26-109 TO ADD REFERENCES TO "UPSET;" TO ADD A REFERENCE TO "INDUSTRIAL USER RESPONSIBILITY IN CASE OF UPSET" AND TO REDESIGNATE THE SUBPARAGRAPHS OF THE SECTION; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Burk, Jones, Crichlow, Gardner, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.A.2./ Introduction and consideration of Ordinance 2008-12, establishing the 415 South Ponce Planned Unit Development (PUD).

Mark Knight, Director, Planning and Building, explained that the modification was for a new Planned Unit Development at 415 South Ponce what and re-established the use of a restaurant at the Fran & Tam's restaurant. He stated that the River's Edge PUD had become invalid, and the city repealed the ordinance vacating the roads. He added that the matter was heard before the Planning and Zoning Board on May 21, 2008 and they recommended re-establishing the property for restaurant use.

Commissioner Crichlow questioned whether there was an easier way to modify the property than a PUD.

Mr. Knight replied that they could apply to rezone the property.

Following a brief discussion regarding the property, Mr. Knight clarified that the only

changes that could be made to the PUD without going before the Commission would be reusing the existing structure as a restaurant.

MOTION

Commissioner Crichlow MOVED to place Ordinance 2008-12 on first reading, read by title only and approved. The motion was SECONDED by Commissioner Gardner.

Mr. Brown read the title as follows:

ORDINANCE NO. 2008-12

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA ESTABLISHING THE 415 SOUTH PONCE 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: Crichlow, Gardner, Burk, Jones, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.B/ Resolutions

7.B.1/. Consideration of Resolution 2008-05 authorizing the State Highway Maintenance Agreement with the Florida Department of Transportation.

Ms. Campbell explained that Resolution 2008-05 was the annual contract with the FDOT for right-of-way maintenance. She stated that the city provided mowing, trimming and street sweeping along state highways under a contract agreement with the Florida Department of Transportation. She added that the contract would be renegotiated next year.

MOTION

Commissioner Burk **MOVED** to pass Resolution 2008-05. The motion was **SECONDED** by Commissioner Jones.

VOTE ON MOTION

AYES: Burk, Jones, Gardner, Crichlow, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

7.B.2/ Consideration of Resolution 2008-06 accepting the donation of a bronze sculpture: Fragment No. 8 from Ex Nihilo the central of tympanum of the Washington National Cathedral.

Phil McDaniel, President, St. Johns County Cultural Council, stated that the donation of the sculpture was an opportunity to add a remarkable piece of art to the city's collection. He said that the sculpture would be displayed in a public area to be appreciated by residents and tourists, and it would bring a sense of peace and harmony to one of the most visited spaces in the city.

Mardee Jenrette stated that she had been introduced to the works of Frederick Hart at Cutter & Cutter Fine Art of St. Augustine. She said the sculpture was uplifting and brought good, uplifted positive experiences to her during a difficult period of her life. She said that she purchased the sculpture and wanted it installed in a public place to be experienced by other people. She said she brought the idea to the Cutter family and they told her they would fund the project and installation. She said Rick Perioni and Mr. McDaniel were supportive and helped her negotiate the process to bring the matter before the Commission. She offered the sculpture *Fragment no. 8 from Ex Nihilo* to the city.

Matt Cutter, Cutter & Cutter Fine Art of St. Augustine, thanked the Commission for consideration of the gift. He explained that *Ex Nihilo* meant "out of nothing" and it was a metaphor for man coming into its own being. He described the sculpture as 4

males and 4 females that flowed around elements of fire, wind, water and earth. He added that the Cutter family would provide the coquina base.

Mayor Boles questioned whether there were conditions for the city to receive the gift, such as the ability to move the sculpture and the required maintenance.

William B. Harriss, City Manager replied that the sculpture required maintenance and should be locked up at night. He added that if City Hall was moved, the sculpture would be moved to the new location. He stated that the proposed area was quiet and opened for public viewing; however, it was not in the historic area. He said that some citizens had complained that the sculpture was religious; however, it was not inclusive of any religion.

Commissioner Gardner asked about the maintenance schedule.

Mr. Harriss replied that the sculpture must be waxed twice a year; therefore, maintenance would not be an issue.

Commissioner Crichlow asked why the city would need an ordinance regarding the acceptance of public art.

Mr. Brown replied that other cities appointed commissions to evaluate art including locations and maintenance. He said if the Commission wanted to set a policy regarding acceptance of public art, they could establish a board by ordinance.

Mayor Boles opened the public hearing.

Three residents spoke in favor of the art donation and referred to the following:

- Urged the Commission to accept the donation
- The art donation would be good for the city
- Hoped that more people would donate art to the city
- Generosity of the gift was inspiring

Mayor Boles closed the public hearing.

Commissioner Jones stated that the city had accepted public art in the past. He added that maintenance would not be an issue.

MOTION

Commissioner Jones MOVED to pass Resolution 2008-06. The motion was SECONDED by Commissioner Burk.

VOTE ON MOTION

AYES: Jones, Burk, Gardner, Crichlow, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY¹

Commissioner Gardner stated that having guidelines for acceptance of art was a good idea, and he suggested that the Cultural Council bring ideas to the Commission for an outline regarding gifts and loans of public art.

Commissioner Crichlow expressed concern about accepting art for the city that was appropriate and placed in an appropriate location. He said that considering the city was Spanish Colonial it would have an effect on the type of art they wanted to display in certain areas. He said contemporary art would not be appropriate in the Plaza; however, the parking garage would be a good place. He said guidelines for what was appropriate would be beneficial.

Mr. McDaniel stated that Cultural Councils had worked with various municipalities as advisors; however, the question was funding. He added that if the city could find a stream of revenue to fund it, they could create a public art plan and the Cultural Council would provide guidelines and recommendations.

Commissioner Jones suggested that they have a workshop with the Cultural Council to discuss the matter.

8. Staff Reports and Presentations

(None)

9. ITEMS BY CITY ATTORNEY

Mr. Brown stated that Commissioner Gardner and several residents had requested "dog friendly dining" ordinance. He said the Florida legislature had enacted the provision, which was a 3 year trial program to permit dogs to dine with their owners at participating restaurants. He explained that it allowed cities and counties by local ordinance to permit the activities, and he highlighted the following points in the Statute:

- Allowed dogs in limited areas in food establishments
- Dogs must be kept on a leash
- Accidents must be cleaned up
- Dogs were not permitted inside of the restaurant
- Statute provided that local governments were required to monitor permit holders for compliance and cooperation with the division of hotels and restaurants
- Provisions created in the Planning and Building Department to grant permits and inspect the facilities and charge permitting fees
- Enforcement issues
- Only restaurants that signed up could be involved

Mayor Boles asked about enforcement issues.

Mr. Brown replied that enforcement would likely come from complaints. He said that Jacksonville had prepared an ordinance; however, it was rejected by the Planning Commission.

¹ Brief recess 6:02 P.M. to 6:11P.M.

Commissioner Gardner asked about inspections.

Mr. Harriss replied that restaurants would receive rules and regulations and if the city received complaints, staff would investigate. Commissioner Burk stated that it was progressive and she was in favor of it.

Following a discussion it was determined that staff would prepare an ordinance for Commission review.

10. ITEMS BY CITY CLERK

10.A/ Notification of Proclamations

- 2008-21 - Certificate of Recognition for Reverend R. Moore
- 2008-22 - Atlantic Rally for Cruisers
- 2008-23 - Glenmoor Elder Appreciation Week
- 2008-24 - Greek Landing Days
- 2008-25 - Tax Collector Conference

Non-Agenda Item

Commissioner Gardner stated that the City Attorney had provided the Commission with information regarding the audible noise ordinance. He said the current noise ordinance was meter based; however, St. Augustine Beach used a plainly audible method that measured audible sound 200-feet from the noise. He requested Commission concurrence to look at revising the ordinance and base it on the plainly audible measurement, because it was more sensible and important in a city with heavy pedestrian traffic.

Commissioner Crichlow stated that he had received complaints from hotels and motels regarding the noise. He said that he wanted it modified, so the city could have more control.

Mr. Brown pointed out that the Commission must keep in mind that there must be equal enforcement and what would be affected. He said it would include people at the

winery, restaurants that produced music and cannons at the Fort.

Mr. Harriss stated that the Commission must determine how extensive the problem was because there were noises that only affected a few people.

Robin Upchurch, Assistant City Attorney, stated that Sergeant Braddock had assisted the Planning and Zoning Board with several issues regarding the noise ordinance, such as familiarity of decibel levels, the number of complaints before an officer responded and whether police officers knew how to use the meters. She pointed out that the meter measurement must be taken from the complaining property and some neighbors might not want others to know that they had complained.

Following a brief discussion it was determined that the Commission would have a workshop to discuss the matter before the ordinance was rewritten.

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 Liens on Unit Connection Fee Mortgages.

11.A.3/ Consideration of renewal of commercial lease agreements for the State-owned properties.

11.A.4/ Consideration of Agreement with Flagler College for Fiber Optic Conduit in the Right-of-Way.

11.A.5/ Notification of vacancy on the Planning and Zoning Board.

11.A.6/ Notification of vacancy on the Code Enforcement, Adjustments and Appeals Board.

Mr. Harriss read the consent agenda items.

Commissioner Jones asked for clarification regarding item 11.A.4.

Mr. Harriss explained that Flagler College requested installing a fiber optic conduit in the right-of-way on Valencia Street from the main college campus to the new dorms and offices on Malaga Street. He said staff investigated and realized that the city needed to install fiber optics in the roadway to connect the Police and Fire Departments to City Hall. He said the agreement allowed them to do it without cost to the city.

MOTION

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

11.B/ Discussion Items

11.B.1/ Discussion regarding the Evaluation and Appraisal Report.

Valerie Evans, Regional Planning Council, referred to the following:

- Regional Council worked with staff on the preparation of the Evaluation Appraisal Report for the Comprehensive Plan
- Several public workshops had been held
- Major issues would be provided to the Department of Community Affairs
- They would receive a letter of understanding from DCA to move forward and develop the report
- Once they received DCA's approval she would provide a draft report to the Commission
- Referred to a list of major issues²

Ms. Evans reiterated that the next step was submitting a letter of understanding from DCA.

12. ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Jones stated that they wanted to make downtown St. Augustine more pedestrian friendly and eliminate automobile traffic to increase business in the area. He said they investigated Hypolita Street and had discussed the matter with property owners and Len Weeks would provide a presentation.

Len Weeks, referred to the following:

- Eliminate parking downtown including 8 spaces on Hypolita Street
- Buildings and cars were being hit because the street was 8 feet wide
- City fire truck had hit the building while driving
- A goal was to make the city more pedestrian friendly
- The parking facility allowed for parking
- Requested that the city remove parking on the Hypolita Street before installing new meters
- Provided letters from several business owners in support of the modification
- City would be safer and more pedestrian friendly
- Tenants were in favor of the change
- Requested "no parking" street signs instead of painted yellow lines

Commissioner Gardner questioned whether he wanted a sidewalk on the other side of the street.

Mr. Weeks replied affirmatively, and he added that he would also like landscaping.

² Attached to original minutes

Commissioner Gardner asked if he would be a partner with the city, and the response was affirmative.

Commissioner Crichlow stated that he supported removal of the parking spaces; however, adding a sidewalk was a different issue. He said he was opposed to the idea, because buildings were built on the property line which was unique to the city and its history. He said they should not adapt the city to the 21st century.

Mr. Weeks replied that the sidewalk on the south side of Hypolita Street was on his property and was not a city sidewalk. He explained that he partnered with the city and installed it. He said it was a safety issue and he would like Hypolita Street more pedestrian safe.

MOTION

Commissioner Jones MOVED to instruct staff to proceed with removal of parking and look at necessary changes. The motion was SECONDED by Commissioner Gardner and approved by UNANIMOUS VOICE VOTE.

Meeting for the 450th Anniversary

Mayor Boles stated that there would be a 450th anniversary kickoff meeting at Flagler College Auditorium on June 25th from 7:00 P.M. to 8:00 P.M. He added that he had received an email from Kevin Doyle, the state coordinator for Senator Martinez indicating that there would be a hearing regarding a Federal Commission on Tuesday, June 17, 2008.

Commissioner Crichlow - Interagency of Homelessness

Mayor Boles stated that a representative from the Interagency of Homelessness would meet with staff in July 2008.

Commissioner Crichlow - Disposal of Fish Following Tournament

Commissioner Crichlow stated that there had been complaints after the tournament regarding where the fish were disposed after they were weighed. He said fish had been disposed around the dock and dead fish were floating in the bay.

Timothy A. Burchfield, Chief Administrative Officer, replied that the King Fish were sold; and another tournament had a fish fry; however, he would discuss the matter with the Dock Master.

Commissioner Gardner – Kiosks - Visitor's Information Center

Commissioner Gardner questioned whether anything had been done to setup displays in the VIC.

Mr. Harriss replied that they had not worked anything out yet; however, he would discuss the matter with the Director of Heritage Tourism to ascertain what had been done.

Following a discussion regarding the kiosks Commissioner Gardner stated that they could contact the St. Augustine Independent Restaurant Association (SAIRA) and other organizations to determine whether they wanted to use the kiosks.

Street Paving

Commissioner Gardner asked when the section of Hypolita Street between Charlotte Street and Avenida Menedez would be repaved.

Ms. Campbell replied that the city was in the process of collecting bids; however, they did not have an opening date. She stated that they should have a contractor within six weeks.

City Entertainment Zone

Commissioner Gardner asked for thoughts on the financial and technical aspects of creating an artists and entertainment zone in the unused section of the Colonial

Spanish Quarter. He said the city could designate an area off of St. George Street.

Mr. Harriss replied that it would be a good idea to bring people into the area. He said they could begin on a weekend to see how it progressed.

Following a discussion there was Commission consensus to review the matter with staff.

Homeless Coalition

Commissioner Gardner stated that the Homeless Coalition was in the process of building 4 homes on Smith Street and as part of the development they needed utility taps, which costs \$5,200 for each house. He said they had a grant that would not cover all expenses and he was approached to question whether the city could waive connection fees. He said the City Manager said that under the bonding agreements the city could not waive fees, because they were part of the collateral. He pointed out that he had previously asked that \$25,000 be set aside, with Commission concurrence, for capital improvements for the Spanish Quarter. He said since the improvements had not been made, he recommended that the Commission transfer the money toward construction of the houses. He said he would like the money rededicated, and he would recommend that the Homeless Coalition contact the county and to explain that the city would provide \$25,000 and the county should provide \$250,000.

Commissioner Burk stated that she had no chance to think about it, and she was not ready to make a decision regarding the matter.

Commissioner Crichlow expressed concern about setting a precedent. He stated that he might want to redirect money that had not been used in the budget for a private organization.

Commissioner Gardner replied that the Homeless Coalition was a public agency.

Mayor Boles stated that the Homeless Coalition was a wonderful organization; however, tax payer's money was not used to support charitable organizations in any municipality. He stated that he could not support the matter.

Commissioner Gardner stated that he wanted to determine whether a Commissioner could redirect funds that were no longer being used or needed for a designated purpose.

13. Adjournment

There being no further business, the meeting was adjourned at 7:54 P.M.³

MAYOR

CITY CLERK, CMC

³ Transcribed by Susan Goins