

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
February 25, 2008

The City Commission met in a formal session Monday, February 25, 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
Jim Piggott, General Services Director
Mark Knight, Director, Planning and Building
Mark Litzinger, City Comptroller
Dr. William Adams, Director, Heritage Tourism
Martha Campbell, Director, Public Works
Sam Lansdale, Deputy 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

Gabbat Jerry Kass, Congregation Sons of Israel, delivered the invocation, and Commissioner Jones led the Pledge of Allegiance.

3. ADMINISTRATIVE ITEMS

3.A/ Modification of Agenda

Commissioner Crichlow stated that the owners of the dock at the Weinstein property on May Street requested reconsideration, because they modified the dock.

Following a brief discussion, it was determined that the matter would be heard under item 12.B.

3.B/ Approval of Minutes

The minutes of the regular City Commission Meeting of February 11, 2008 were approved as presented.

3.C.1/ Proclamations

(None)

3.C.2/ Recognitions

(None)

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

4.A/. Appeal of a Planning and Zoning Board decision relative to property located at 256 Riberia Street.¹

Commissioner Gardner pointed out that the agenda had been modified to schedule public hearings prior to the public comment period, but appeals do not have public hearings.

Mark Knight, Director, Planning and Building, stated that the appeal was based on decision by the Planning and Zoning Board on January 2, 2008 denying the application for construction of boat storage buildings in Conservation Overlay Zone Two for property located at 256 Riberia Street. He referred to a diagram and explained the surrounding areas.¹ He said pursuant to Section 28-29 of the Code, the Commission should determine whether an error was made and affirm, reverse or modify the action appealed. He added that if the applicant presented modifications to the action under appeal, the Commission could deny the appeal or remand the matter to the PZB for further review.

Commissioner Gardner questioned whether the city could rezone the area.

Ron Brown, City Attorney, replied that the concept of zoning was at the request of the owner of a property; as opposed to a city initiated zoning. He said if the property owner requested re-zoning the city would have to consider whether it would be appropriate. He pointed out that administrative re-zoning against the will of the property owner, would pose difficulties in terms of the property rights that the owner acquired upon purchase of the property. He added that to the extent of administrative re-zoning, there would be residual rights of the property owner to maintain the use for as long as the use continued.

¹ Attached to original minutes

Mr. Knight stated that two plans were presented to the PZB; the preferred plan A and plan B that would not require board approval because it would not impact the conservation zone.

Mr. Brown stated that the court review of the decisions focused on three areas, whether the owner received due process and fair hearing of issues, whether city followed the requirements of law and applied the Code to the facts and whether there was substantial and competent evidence in the record of factual basis to support the decision.

Ellen Avery-Smith, Rogers Towers Attorney, 170 Malaga Street, introduced members of the team including Rob Matthews, Matthews Design Group, Engineer and Ryan Carter, Environmental Services, Inc., Project Environmental Consultant. She stated that Dale Wincil was the contract purchaser of the property; however, he was not present. She pointed out that he did not own the property; however, it was under contract. She explained that there were two plans and she displayed diagrams of the proposed buildings and referred to the following:

- Plan A placed three dry stack storage buildings perpendicular to the San Sebastian River
- Plan A preserved the view corridor
- Plan B prevented encroachment into the Conservation Overlay Zone
- Plan B met criteria of the City Code and oriented the buildings parallel to the River which would block entire view from all passersby and residents
- Square footage in plan B was less
- 35-foot height in plan A and plan B

Rob Matthews, Rob Matthews Design Group, Civil Engineer, stated that each site plan had unique aspects that must be taken into account and he referred to the following:

- Plans A and B had less than 80% lot coverage

- Plan A included three dry stack buildings which would preserve the view corridor
- Plan B was outside of the conservation overlay zone and acceptable by the city
- Plan B would block views by all passersby

Mayor Boles asked why the builder wanted to use plan A.

Ms. Avery-Smith replied that plan A was a more efficient for the client, and he considered the impact on the neighborhood.

Mr. Matthews explained diagrams and surrounding areas and stated that he had performed twenty concept plans to preserve the corridors. He said that plan A had a 100-foot set back and building A was designed for office space and buildings C and D would be in the conservation zone.

Mayor Boles asked for clarification why PZB had erred.

Ms. Avery-Smith replied and referred to the following:

- Future land use designation was marine industrial
- Maximum height in land use category was 35-feet with maximum lot coverage of 80%
- Section 342.07 of State Statutes recognized that there was an important state interest in facilitating boating and other recreational access to state waters
- Two experts including a civil engineer discussed the conservation overlay zone/stormwater design, etc. and the environmental consultant discussed issues related to the environment
- There was no evidence presented by other experts at the PZB meeting
- Residents indicated that they had no expertise in areas subject to the application and testified as laypeople

- Florida law indicated that lay-person testimony must be fact based in order to be competent substantial evidence
- Eight Lincolville residents had testified in opposition and discussed parking and traffic on Riberia Street and stormwater retention
- Lay testimony must be specifically related to scenic vista or other criteria in the Code that could be addressed by lay people; not issues beyond the scope of the conservation overlay zone code

Mr. Brown reiterated that the court wanted substantial and competent evidence to support the decision.

Ms. Smith stated that parking and traffic were not part of the code to be considered for conservation overlay zone approval.

Commissioner Burk expressed concern that two of the buildings were 100% in the conservation zone, and she added that it was excessive.

Mayor Boles stated that the PZB had not wanted the buildings in the conservation zone.

MOTION

Commissioner Burk MOVED to deny the appeal and affirm the Planning and Zoning Board denial of the request. The motion was SECONDED by Mayor Boles.

Commissioner Crichlow stated that there would be no grounds to oppose plan B. He said the PZB was justified in denying the application; however, if the Commission upheld the appeal the owner could build plan B. He expressed concern that if the Commission denied the project something worse could be built.

Commissioner Burk suggested that the owner remove the buildings that were 100% in the conservation zone.

Mayor Boles stated that in the past other applicants indicated if their project was not approved they would build what they were allowed to build. He said since the PZB indicated they did not want buildings in the conservation zone he would uphold their decision.

Commissioner Crichlow suggested that they redesign the buildings to be moved away from the wetlands; however, the Commission had to determine whether PZB had erred, and he did not believe that they had.

Commissioner Gardner stated that he wondered what would look better and what was better for the city. He said plan A looked better, and he expressed concern that something else could be built. He added that if the Commission denied the project the court could favor the applicant. He said that would support overturning the decision and supporting the appellant.

Commissioner Jones stated that he would vote that the PZB had not erred; however, he was concerned that the owner would build plan B.

Following a discussion regarding ex-parte communications, Commissioner Gardner and Burk stated that they had received calls from the owners of the property.

Commissioner Crichlow stated that he preferred plan A and would vote in favor of it.

VOTE ON MOTION

AYES: Burk, Boles, Jones

NAYES: Gardner, Crichlow

MOTION CARRIED 3/2

Following a brief discussion it was determined that the Commission would wave the one year time period to bring a modified plan before the PZB.

MOTION

Commissioner Crichlow MOVED to wave the one year time period to return the matter to the PZB for the filing period. The motion was SECONDED by Commissioner Gardner and APPROVED by UNANIMOUS VOICE VOTE.²

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).

Karen Rochelle, 1350 Riviera Street, referred to the following:

- Parking during construction of Bridge of Lions

Thomas Rochelle, 1350 Riviera Street, referred to the following:

- The city needed more parking

B.J. Kalaidi, 8 Newcomb Street, referred to the following:

- City paying water bills of city employees
- The city wasted tax payers' money

6.B/ Presentations (15 minutes per presentation)

6.B.1/. Presentation regarding the Bridge of Lions.

Paul K. Williamson, Director, Public Affairs, introduced Laurie Sanderson, URS, Public Information Officer.³

² Brief recess 6:25 – 6: 32 p.m.

³ End of tape 1

Ms. Sanderson was asked a series of questions concerning parking during the construction of the Bridge of Lions, and her responses were as follows:

- Parking spaces in front of Zhanra's Restaurant and Rochelle's Clothing would be used as a roadway for six to eight months during reconstruction of drainage on south side of Anastasia Boulevard
- After completion they would switch and the traffic would use the south side of Anastasia Boulevard and drainage would occur on north side
- The bridge would open in fall 2009
- The width of the roadway would remain the same
- Designated space in front of Rochelle's Clothing would be removed

Following a discussion regarding the removal of the designated space in front of Rochelle's Clothing, Ms. Sanderson suggested that the owner of Rochelle's and the city send a letter to the project manager of the design phase to express their concern.

Loran Lueders, Police Chief, said the statute indicated that if there was room to safely park on a four lane highway parking would not be a violation. He pointed out that parking would be prohibited if the car was parked in an area designated as no parking or blocked a driveway.

Mike Yeager, URS, Senior Project Engineer, reiterated that the city ask the design engineer to review whether they could retain the parking spot and exclude gore hashing.

Ms. Sanderson concluded that following completion of the bridge in fall 2009, the temporary bridge would be removed and the park on the west end would be reconstructed and a park on the east end would be installed.

Commissioner Crichlow stated that he had requested architectural lighting under the bridge. He said although he had received an affirmative response the project was too far along to incorporate into the construction and would have to be a retrofit.

Following a brief discussion, Commissioner Crichlow suggested that the city sell small portions of the old bridge and trolley rails to raise money for historic preservation.

7. Ordinances and Resolutions - No Public Hearing

7.A. Ordinances – First Reading

7.A.1/. Introduction and consideration of Ordinance 2008-07 rezoning property located at 130, 132, 134 & 136 King Street and 131, 133 & 135 Oviedo Street to Planned Unit Development.

Mr. Knight explained that Ordinance 2008-07 rezoned property located at 130, 132, 134 and 136 King Street and 131, 133 and 135 Oviedo Street to a Planned Unit Development for an 80-room hotel. He said the PZB had denied the application; however, the applicant's representative requested that the Commission consider the request to rezone the property.

MOTION

Commissioner Gardner MOVED to place Ordinance 2008-07 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. 2008-07

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA ESTABLISHING THE KING STREET HOTEL 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: Gardner, Crichlow, Jones, Boles

NAYES: Burk

MOTION CARRIED 4/1

7.B./ Resolutions

(None)

8. Staff Reports and Presentations

(None)

9. ITEMS BY CITY ATTORNEY

(None)

10. ITEMS BY CITY CLERK

10.A/ Notification of Proclamations

- **2008-04 - African Methodist Episcopal Church 11th District Conference Day**
- **2008-05 - St. Augustine Yellow Jackets**

11. ITEMS BY CITY MANAGER (Includes Consent Agenda

11.A/ Consent Agenda

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

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

11.A.3/ Determination of legal sufficiency and acceptance of an application to appeal a Historic Architectural Review Board decision relative to property located at 1 San Salvador Street.

11.A.4/ Consideration of a Memorandum of Understanding with the Professional Firefighters of St. Augustine Local No. 2282.

11.A.5/ Consideration of an Easement Agreement with the Florida Power and Light.

11.A.6/ Consideration of a Contract with England, Thims and Miller, Inc. for a Traffic Engineering Safety/Feasibility Study.

11.A.7/ Consideration of renewal of the Intergovernmental Agreement with the Florida Department of State, Division of Historical Resources regarding the State Properties.

11.A.8/ Consideration of contract with England, Thims and Miller, Inc. for professional services on the Riberia Street Improvements Project.

William B. Harriss, City Manager, read the consent agenda items.

Commissioner Gardner asked for clarification regarding item 11.A.5.

Mr. Harriss replied that the matter concerned a transformer located at the new water plant.

MOTION

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

VOTE ON MOTION

AYES: Gardner, Crichlow, Jones, Burk, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

Mr. Harriss explained that item 11.A.8. was a professional contract for construction and design services for the Riberia Street stormwater improvements.

11.B. Discussion Items

Mr. Regan introduced the new Public Works Director, Martha Campbell.

Mr. Regan reported that the parking facility had won the first place award for exceptional innovation and design of a new parking facility in Florida.

12. ITEMS BY THE MAYOR AND COMMISSIONERS

Commissioner Crichlow – Dock Reconsideration

Commissioner Crichlow stated that the owners of 36 May Street reconfigured the dock and requested reconsideration of their application.

MOTION

Commissioner Crichlow MOVED to reconsider the vote. The motion was SECONDED by Commissioner Gardner.

VOTE ON MOTION

AYES: Crichlow, Gardner, Jones, Boles

NAYES: Burk

MOTION CARRIED 4/1

During the voice vote, Commissioner Burk stated that she did not remember the matter and would vote against the reconsideration.

Jim Wilson, 19 Old Mission Avenue, stated that the Commission had expressed concern that the T-head of the dock encroached the title water-way, which was navigable by canoes and kayaks. He explained that they moved the T-head 25-feet closer to the bridge on May Street to clear the waterway. He requested that the Commission grant approval contingent upon approval from the DOT.

Commissioner Burk suggested remanding the matter to the PZB; because there were other concerns including the vista and environment.

MOTION

Commissioner Burk MOVED to remand the matter to the PZB for reconsideration based upon the new location of the dock. The motion was SECONDED by Commissioner Gardner.

VOTE ON MOTION

AYES: Burk, Gardner, Crichlow, Jones, Boles

NAYES: None

MOTION APPROVED UNANIMOUSLY

Commissioner Crichlow – Police Department

Commissioner Crichlow commended the Police Department for recovering property that had been stolen from his house.

Commissioner Burk – Book

Commissioner Burk stated that Rita Stark had given her a book about Christopher Columbus and she provided a copy to the Commission.

Public Works Director

Commissioner Burk referred to the new Public Works Director and stated that she was pleased that highly qualified women were being hired in high management positions within the city.

Mayor Boles - Sunshine Laws

Mayor Boles stated that someone had commented that the Commissioners do not socialize with each other; however, that was due to sunshine laws.

Thank You Note

Mayor Boles stated that the city had received a thank you note from Herbie Greenleaf for the service award that he had received.

Commissioner Gardner – Historical Society

Commissioner Gardner thanked the Historical Society for the symposium about St. Augustine.

Parking Enforcement

Commissioner Gardner clarified that parking was enforced Monday through Saturday 8:00 a.m. to 5:00 p.m.

Personal Protection Class

Commissioner Gardner stated that on March 18, 2008, 6:00 p.m. to 8:00 p.m., there would be a class for personal protection sponsored by the St. Augustine Police Department, St. Johns County Sheriff Department and the Lincolnvile Association.

Patrol Officer in Historic District

Mr. Harriss stated that the St. George Street beat cop would begin patrolling the downtown business area March 2008.

Mayor Boles – State Funding

Mayor Boles stated that due to repeal in legislation the Secretary of State indicated that the city would have to pay for the city's 450th birthday celebration.

13. Adjournment

There being no further business, the meeting was adjourned at 7:40 p.m.⁴

MAYOR

CITY CLERK, CMC

⁴ Transcribed by Susan Goins