

## CITY OF ST. AUGUSTINE

### Regular City Commission Meeting June 12, 2006

The City Commission met in a formal session Monday, June 12, 2006 at 5:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Gardner, and the following were present.

#### **Roll Call:**

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

John Regan, Chief Operations Officer  
James P. Wilson, City Attorney  
Martha V. (Nell) Porter, City Clerk  
Timothy A. Burchfield, Chief Administrative Officer  
Mark Litzinger, City Comptroller  
Mark Knight, Director, Planning and Building Department  
Bob Leetch, Director of Utilities and Public Works  
Paul K. Williamson, Director, Public Affairs  
Jimmy Owens, Fire Chief  
Kevin Stark, Assistant Chief of Police  
Karen Rogers, Recording Secretary  
Susan Goins, Recording Secretary

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

Reverend Gardner Gordon, Coquina Community Church, delivered the invocation, and Commissioner Jones led the Pledge of Allegiance.

### **3. ADMINISTRATIVE ITEMS**

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

Mr. Burchfield noted modifications to the agenda items. He said that items under 11.C. were moved to 11.B. because they did not require a public hearing.

Mayor Gardner moved item 5.A. to immediately after the presentation of the American Eagle Day proclamation.

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

The minutes of May 22, 2006 were approved as presented and May 24, 2006 were approved as amended.

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

##### Non Agenda Item

Mayor Gardner recognized Private First Class A. Peyton Holtz. He stated that he was selected to attend West Point service academy and had a class standing of 76 out of more than 1100 cadets.

2006-29 American Eagle Day

Mayor Gardner presented a proclamation to the Eagles of Timberlin Creek Elementary School; Principal Cathy Hutchins, Dana Kendall, Taylor and Katie Hohmann, Sierra and Logan Flores and Savannah and Emma Shoemaker. He stated that the City

Commission of the City of St. Augustine proclaimed June 20, 2006, American Eagle Day and applauded them for their raised awareness of the American bald eagle.

Non Agenda Item

Mayor Gardner stated that the Army would be celebrating a birthday Wednesday, June 14, 2006 and there would be ceremonies at the barracks.

**4. General Public Presentations and Comments (3 minutes per presentation with maximum total time limit of 20 minutes).**

Dwight Hines, 150 Nesmith Avenue, stated that he was concerned because he had just received the cable agreement. He commented that it was important citizens worked on the cable agreement to be sure that it provided public access, but from looking at the agreement it appeared there was no information for someone that wanted to air a program. He expressed that the more people involved, the better for the community.

Mr. Hines referred to the National Park Service and management plan and talked about the established techniques used in marketing and recommended studies for long term affect of investing money.

Mayor Gardner replied that, regarding the National Park Management Plan, Superintendent Wilson had encouraged the public to select elements they liked or disliked from the different alternatives to submit as their input.

Ed Slavin, P. O. Box 3084, Mr. Slavin stated that the community should do more to protect eagles. He said that in October 2001, a local developer cut down an eagle nest tree in the City of St. Augustine. He said that the U.S. Fish and Wildlife Committee had conducted a criminal investigation, and recommended criminal prosecution for violation of three federal felony statues. He alleged that the memo sat in the U.S. Attorney's office and the 5-year statute of limitations would expire in October of 2006. He stated that Pierre

Thompson admitted to the crime, and he recommended that the Commission should call the U.S. Attorney Paul Perez and follow up with the case.

Mr. Slavin referred to the following:

- There should be an archeology ordinance to stop developers from tearing apart history
- There should be a national search with peer review and a head hunter for the next city manager instead of picking whoever was next in line
- A living wage for city employees, contractors and franchise employees

David Thundershield Queen, P.O. Box 270, stated that he wanted to urge the Commission to protect historic and sacred village sites including the Timucua and the Red House Bluff sites. He commented that they should honor the entire history of the City of St. Augustine.

Sherry Badger, 2772 South Collins Avenue, addressed Commissioner Boles and stated that she had asked him for a response on who would pay the attorney fees for the illegal dumping. She stated that he had not responded, and she asked the Mayor to respond to her query.

Mayor Gardner asked James Wilson, City Attorney, who would pay the attorney fees for the illegal dumping.

Mr. Wilson replied that it would be covered by insurance.

Ms. Badger recommended that the Commission look at the entire city staff in terms of corruption.

J.D. Pleasant P.O. Box 3788, stated that he had experience with Time Warner Cable Company and the City Commission. He said he had a show that featured night events in St. Augustine. He stated that it was important to show people that there were things to do in St. Augustine at night. But, he said that when he opposed the former commission and Mayor, he was discontinued from Fox Newsroom. He alleged that he had

paid a price when he opposed the commission.

Mr. Pleasant stated that he was opposed to the hiring of the city manager without a wide search for qualified candidates. He mentioned the *J.D Pleasant resolution*, which stated that Time Warner Cable was the city's videographer and anyone else that wanted to video tape meetings must do so from the back of the Commission room.

Mr. Pleasant stated that he had moved out of city limits but attended to the commission meeting because whatever cable service they agree upon would affect the cable service in St. Augustine South. He recommended against renewing the cable franchise without public input for consideration of all alternatives and attempts to negotiate the best possible package of services.

## **5. Staff Reports and Presentations**

### **5.A/ Presentation by the Florida Association of City Clerks recognizing Martha V. (Nell) Porter, City Clerk.**<sup>1</sup>

Mayor Gardner introduced Faith Miller, City Clerk at Deltona and her Deputy Clerk whom recognized Nell Porter, St. Augustine, City Clerk on her retirement. Ms. Miller also recognized Ms. Porters' service as co-chairperson for the annual City Clerk conference, which was held in St. Augustine in 2004. She presented a resolution and flowers to Mrs. Porter on behalf of Florida Association of City Clerks.

### **5.B/ Presentation by staff regarding the Nights of Lights.**

Mr. Burchfield stated that there were possible violations of the Nights of Lights ordinance, in which some people continued to leave their lights on after the event ended on January 31<sup>st</sup> of each year.

Mr. Knight stated that Code Enforcement took pictures of different types of Nights of Lights displays on King Street, Anastasia Boulevard, San Marco Avenue and the historic district.

He reported that there were lights on bushes, fences, archways, christmas trees, windows, courtyards, balconies, umbrellas, entryways, signs and there were multi-color lights. He affirmed that in order to comply with the ordinance, the lights could not be visible to the public. He stated that a single light used to illuminate a sign or lights inside a window in which the string was not visible were acceptable but, building trim lights and a string or series of white or clear lights were a violation. He addressed the Commission with picture examples to find out which type of lights they would not accept.

Commissioner Boles asked about the number of complaints that had been received.

Mr. Knight replied that the same person made three different complaints. He said that the matter was brought up internally as one building belonged to the city. He said that complaints came in immediately following Nights of Lights because it got dark earlier and people could see the lights when they were going home. He stated that this time of year there were fewer complaints. He explained that he believed the original intent of the Nights of Lights was to have something special, and if the lights were up year round, there would not be anything special about the event.

Commissioner Boles stated that he felt comfortable enforcing the downtown Historic Preservation Districts where they focused on the Nights of Lights, but he was not clear about enforcing commercial districts like San Marco Avenue and King Street.

Mayor Gardner affirmed that the Nights of Lights brand of lighting signified building outlining and tree wrapping with white lights. He stated that he would like illumination of buildings to be voluntary for businesses.

Commissioner Boles stated that the question was whether the ordinance was proven and helpful. He expressed that the initial goal was to establish something that was unique to bring people downtown. He stated that they could regulate if there was a building outlined or trees wrapped, which was a

---

<sup>1</sup> Item 5A was heard before item 4.

holiday type decoration. He said he did not think that they needed to regulate interior and courtyard lights.

Mayor Gardner commented that he had not seen other cities with that type of lighting display. He said that after the Nights of Lights display was over, business owners left them up; therefore he would feel more comfortable providing alternate variations of lighting that would be acceptable.

Commissioner Jones suggested that they have a workshop with numbered photographs and show them to the public, because there were too many issues to resolve during the commission meeting. He said that they must also look at the intent of the people that started the ordinance and how they identified the Nights of Lights from holiday lights. He stated that he thought it would be different from holiday lights, as every city had holiday lighting. He said that they had to look at the matter in terms of the city limits and whether it was a city wide ordinance for the City and the historical districts. He said he thought that it had started in the historical district and expanded beyond to attract tourists. He stated that all the laws on the books should be enforced, and if an ordinance was not enforced it should not be on the books. He stated that the law should be clear and enforced when broken. He recommended that business owners attend the workshop and work with the commission to deal with the original intent.

Commissioner Boles agreed to the idea of the workshop.

Mayor Gardner stated that they would leave the topic for further discussion at the workshop.

### **5.C/ Staff presentation regarding the Parking and Traffic Master Plan.**

Mr. John Regan, Chief Operations Office, discussed the status of the parking facility. He presented a graphic of the site plan and said there was a change in schedule that affected the plan for the July 4<sup>th</sup> weekend. He said that the northern area for buses

would not be open for the July 4<sup>th</sup> weekend. He stated that they would fence off some areas to the public and would open the structure and the pedestrian plaza as described. He said that they would also work on marketing and promotions to encourage use of the structure, plus there would be free parking July 4<sup>th</sup> weekend. He said that they would pave Cordova Street and redesign the traffic bump-out on Orange and Cordova Streets because they realized that the radius was too tight. He said that they would have a security expert from an independent audit of the designs and systems make recommendations.

Mr. Regan presented a picture of a typical design for structures that were planned. He stated that there was another prototypical design on signage, and one design was similar to a cantilever used for traffic lights. He pointed out that the construction was estimated at more than half million dollars, but the budget was four hundred thousand dollars. He said that they had hired a firm for foundation designs and they recommended other designs that could be cheaper. He stated that following recommendations they were working on re-designing the signs so they would be less expensive. He said the estimated time for the new signage display was approximately four months.

Commissioner Crichlow stated it would be important for signage to indicate that there would be a shuttle service. He said it was important for people to know that if they parked, they would not have to walk a long distance to get to a destination. He suggested a shuttle sign that could be an optional sign that would be out of sight on days that they would not be offering the service.

Mr. Regan stated that the shuttle sign was a possibility and he added that as the structural design was changed the sizing of the sign could be changed as well.

Mayor Gardner questioned the schedule for free parking for July 4<sup>th</sup> weekend and what the rates for the parking would be.

Mr. Regan replied that the free days would begin Saturday, July 1, 2006 and the rates as approved by the commission would be \$1.25 per hour with a maximum daily rate of \$7.50. He said the monthly pass was for twenty four hours; seven days a week and would cost \$32 per month. He said that if a business bought 10 or more parking spaces it would cost \$25.60. He added that restaurants and Flagler College had contacted them for spaces, and Flagler College had requested 300 parking spaces.

Mr. Regan stated that with the metered parking system and the new rates the discount card would allow people an hourly rate of fifty cents. He said that the card could be used universally and if one used the lot regularly, the monthly pass would be the best option.

Mayor Gardner questioned Mr. Regan about free parking for people that did not stay in the garage for the full hour and for the different types of payment.

Mr. Regan replied that they thought about providing free parking for people that spent fifteen minutes in the garage. He said they would have cashier lanes, electronic lanes that citizens could pay while they were waiting for the gates to open and the third option was called pay on foot machines. He explained that third option for walking into the structure inserting the ticket and paying by cash, credit or debit card and the machine would give them a receipt.

Mayor Gardner questioned the radius on Orange Street.

Mr. Regan responded that by changing the radius it would make the bump smaller and it would eliminate the problem that the public encountered because of the current design. He said that they waited to see if it worked but it was not working well. He said they also had to wait, in terms of construction phases, for the right time that they could put in a better system.

Mayor Gardner questioned whether the bathrooms on the west end of the VIC would be ready by July 4<sup>th</sup> weekend.

Mr. Regan replied that the contractor was trying to have them ready for that weekend but due to a delay with the tile sub-contractor, he did not think they would be ready.

Mayor Gardner questioned whether there would be portable units available.

Mr. Regan replied affirmatively and talked about getting more immediate parking until the new signs were installed.

#### **5.D./ Staff presentation regarding the Public Transit Shuttle Proposals.**

Mr. Regan stated that there were four proposals, and he gave the Commissioners a copy of each proposal and went through the issues of each proposal as follows:

- Council on Aging - required the city to purchase vehicles, they used small capacity vehicles and CDL licensed vehicles, they were flexible and could do any route that the city needed
- St. Augustine Shuttle - owned by Virginia Whetstone and Stuart Gamsey, small capacity vehicle, fairly expensive, not ADA compliant
- St. Augustine Site Seeing Trains - did not address vehicle decoration, plan for ADA compliance was to have a second on call vehicle, good pricing, except the evening rate and they could meet the schedule
- Historic Tours of America – two identical vehicles that could seat twenty seven people with perimeter seating and could stand twelve to fifteen people, both vehicles were white and they could change the signage, the upper windows could open if needed, and there was handicap accessibility

Mr. Regan suggested directing staff to continue research on federal funding cycles for federal subsidies, improving coordination with the county and improving coordination with the COA. He pointed out that without federal funding it would be a large expense. He said that city operations required a higher level of service reliability and the COA would cost somewhere between half million to seven hundred thousand dollars a year, which was about what they spend for operating the water plant. He said they would get the garage underway, run the shuttle for a year, use it for data collection efforts and bring the information back to the commission. He said that Tours of America submitted the proposal that was most suited for their needs. He said that if the commission wanted to start quickly, he would recommend the commission authorize staff to negotiate and execute a contract, and they would have the shuttle operating by July 1, 2006. He said that if they took more time, it would change the schedule; however, that should be decided by the commission.

Mayor Gardner stated that the proposals had been received Friday afternoon, Mr. Regan's staff completed their review Monday and the Commission had just received them. He suggested that they would need time to look at the information included in each proposal. He said that the downtown meter rates would not be changed by July 4<sup>th</sup>, the parking reconfiguration would not be complete; and the completed parking structure would not be done; therefore they should not rush to have the shuttle running for the July 4<sup>th</sup> weekend.

Commissioner Burk stated that she thought they should move forward and authorize staff to negotiate with Historic Tours of America for a trial run.

Commissioner Crichlow stated that he agreed with Commissioner Burk, and he said it would not be necessary to study further because the proposal appeared to fit their needs. He stated that they had three weeks to get the buses ready; therefore, they should not further delay the project.

## MOTION

**Commissioner Burk MOVED to authorize staff to proceed with negotiations regarding the Public Transit Shuttle Proposals. The motion was SECONDED by Commissioner Crichlow.**

Commissioner Boles stated that employees should be the shuttle priority. He stated that since the employees had to park in the garage, and employees without cars commuted via cab or the sunshine bus, the city should provide a shuttle for them to avoid walking in the heat and rain. He said that it was fine for visitors to walk because they were not worried about getting to work.

Commissioner Burk stated that if that problem occurred, they would deal with it, which would mean the shuttle was a success.

Commissioner Boles expressed that it would not be a success for the shuttle if visitors parked in the garage and rode the shuttle for free. He emphasized that they should serve the people that were being displaced and consider whether the shuttle filled.

Commissioner Burk stated that since everyone agreed that there should be a shuttle, they should have another meeting to discuss the details.

Mr. Regan suggested negotiating a contract for the subsequent meeting and move forward and work with the service provider to possibly add a fare box.

Commissioner Crichlow asked Commissioner Boles to clarify the people that he thought should ride the shuttle.

Commissioner Boles replied that he would not want the shuttle to become a free air conditioned bus that everyone rode; moreover it would not be a good idea to start that way and then take the service away.

Commissioner Crichlow stated that he would not want to have the shuttle and not allow visitors to use it.

Mr. Regan said that if they were going to use a type of validation, they would have to plan for it.

**VOTE ON MOTION**

**AYES:** Burk, Crichlow, Jones, Boles

**NAYES:** Gardner

**MOTION CARRIED 4/1**

Mayor Gardner stated that he did not agree with the vote because he thought they were jumping too soon and as Commissioner Boles stated it was not a good idea to provide a service and then take it away.

Commissioner Boles requested a 90 day cancellation clause in the contract, and there was consensus.

**6. ITEMS BY CITY ATTORNEY**

Mr. Wilson stated that he didn't have another that wasn't already on the agenda.

**7. ITEMS BY CITY CLERK**

**7.A/ Notification of Proclamations**

2006-31 Recognizing Paul Davis and Danny Clark

Mrs. Porter reported that the proclamation had been issued.

**7.B/ Confirmation of an Administrative Appointment to the General Employee's Retirement Board of Trustees.**

Mrs. Porter reported that Wayne Howell's reappointment had been approved by the General Employees Board, and she required approval from the Commission.

**MOTION**

**Commissioner Boles MOVED to approve Confirmation of Wayne Howell to the General Employee's Retirement Board of Trustees. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.**

**8. ITEMS BY CITY MANAGER (Includes Consent Agenda)**

**8.A/ Consent Agenda**

**8.A.1/ Preview of upcoming Commission Meetings.**

**8.A.2/ Consideration of Release of Liens on Unit Connection Fee Mortgages.**

**8.A.3/ Approval of the Entry Corridor Review Committee Recommendation regarding sign color at 171 San Marco Avenue.**

Commissioner Jones stated that he wanted to make sure that the sign had exterior illumination.

Mr. Burchfield replied that they had agreed to exterior illumination.

**8.A.4/ Consideration of appropriation for the July 4th Fireworks Program.**

Mayor Gardner stated that the Tourist Development Council funded thirty five thousand dollars and the city funded five thousand for the event they require an additional eight thousand dollars.

Mr. Burchfield stated that the barges were located in the gulf dealing with hurricane Katrina after effects; therefore, the expense was to cover the cost of getting the bare to St. Augustine. He added that they could set their price due to the availability of barges.

Mayor Gardner questioned whether they could hope to get additional Tourist Development Council funding.

Mr. Burchfield replied that they could probably ask for more the next funding cycle if it looks like the barges would be a problem.

**8.A.5/ Consideration of Award of Contract for the Wastewater Treatment Plant Equipment Renewal/Replacement Project.**

Mayor Gardner questioned the difference between the Wastewater Treatment Plant

and the Water Treatment Plant noted in item 8.A.6. Mr. Burchfield stated that they were referring to the wastewater plant at the end of Riberia Street and the Water plant in 8.A.6 was on King and Palmer streets.

**8.A.6/ Consideration of Award of Contract for Construction Management At Risk for the Water Treatment Plant.**

**MOTION**

**Commissioner Crichlow MOVED to approve the Consent Agenda as presented. The motion was SECONDED by Commissioner Jones and approved by UNANIMOUS VOICE VOTE.**

**8.B/ Discussion Items**

**8.B.1/ Discussion regarding an easement for property located at 36 St. George Street.**

Mr. Burchfield stated that the address was in error, and the correct address was 56 St. George Street.

Commissioner Crichlow stated that he had a conflict with the issue and removed himself from voting and asked Mr. Wilson whether he should participate in the discussion.

Mr. Wilson questioned Commissioner Crichlow about the details of the conflict.

Commissioner Crichlow stated that a client had contacted him about doing work on the building in question.

Mr. Wilson recommended against participating in the discussion or voting on the matter.

Mr. Knight reported that a representative of 56 St. George street also known as Monk's Vineyard came to a project review to discuss the possibilities of using the upstairs section of the building, and creating a secondary ingress and egress. He stated that it was currently a wall to wall property line, the back stairway was state property; moreover, the

entire building was surrounded by state property. He reported that the applicant had asked for a secondary means of ingress and egress in case of a fire so that they would have use of the upstairs of the building for additional restaurant or retail space. Mr. Knight stated that they considered a floating easement that would be state owned but managed by the city. Mr. Knight explained a floating easement and stated that the Monk's Vineyard representative was present seeking Commission recommendation to the state for a floating easement for fire ingress and egress and to answer questions. He concluded that a floating easement would permit access to Cuna and St. George Streets and remove the threat of shutting down the business in question.

Ms. Irene Arriola explained that she was there as a representative of the property because the owner was out of town. She stated that she discussed the issue with the Fire Marshall, Building Official, City Manager and Director of Planning and Building. She said it was hard to believe that Monk's Vineyard was the only building on St. George Street with that type of problem. She stated that Pizzalley's had built on another owner's property that was based on permission to cross their property. She stated that if that changed, Pizzalley's would have an interior tunnel to route traffic to the rear of the building. She stated that when Mr. Rayno looked at the building, he said it was not wide enough improved form of ingress and egress for fire safety. She stated that the land locked building and the floating easement seemed to work because at some point in the future the state in conjunction with the city or the city in conjunction with another partner would want to develop that property, and the tenants would be faced with the same problem. She said that Nick Andrade had told her that if the city was going to build, they would be required to have a back door exit. She stated that everyone would be faced with the same dilemma at some point and with permission from the city; she volunteered to tackle the issue as a project for everyone.

**MOTION**



**Commissioner Jones MOVED to send a letter of support to the State to seek the easement for 56 St. George Street. The motion was SECONDED by Commissioner Burk and approved by UNANIMOUS VOICE VOTE.<sup>2</sup>**

Commissioner Burk stated that the letter of support should state and agree to modify the lease agreement accordingly.

Mr. Wilson questioned whether the easement would be permanent or revocable.

Commissioner Burk clarified that it would be a permanent floating easement.<sup>3</sup>

## **9. ITEMS BY THE MAYOR AND COMMISSIONERS**

Commissioner Boles – Casa del Hidalgo  
Commissioner Boles commented that someone said there was a problem with the Casa del Hidalgo property. He stated that the water was leaking into the loggia and flooding the bathroom. He said that there was no gutters allowed in the district that would move the water out of the loggia, and he was worried that someone would slip and fall.

Mr. Burchfield stated that Mr. Shields and his team were trying to determine the source and since it had not rained again, it would be hard to determine.

Commissioner Jones – U.S.S. Farragut  
Commissioner Jones mentioned that Saturday the Commission had the opportunity to attend the commissioning of the U.S.S. Farragut at Mayport and it was an excellent ceremony. He stated that he was impressed with the young military personnel and it made him proud to be an American.

Commissioner Crichlow – U.S.S. Farragut  
Commissioner Crichlow stated that he also

attended the event in Jacksonville and stated that it was very nice.

Mayor Gardner – Alcazar Room  
Mayor Gardner asked if there was some type of regulation regarding positioning of cameras in the Commission room.

Mr. Burchfield replied that there had been an issue concerning cameras in the past, as the media and the public had set up cameras in the front row blocking the public's view, so they asked them to place them in the back of the room. He reported that when Time Warner had been filming, their cameras were situated in the front of the room, but since that time the city had established a new audio visual system.

Mayor Gardner questioned whether it was a matter of Commission policy.

Mr. Wilson replied that was correct as part of the problem had been the cameramen disturbed the meeting as they walked around the room creating a distraction.

Mayor Gardner said that Mr. Pleasant had insinuated that filming in the back of the room caused technical problems, but personally he would not mind if people sat behind the staff table as long as they did not wander around the room.

Commissioner Jones questioned whether they were referring to tripods or whether cameramen had walked around the room.

Mr. Burchfield replied that they had experienced both situations.

Commissioner Jones suggested that they could sit on the floor. He stated that they probably could not get more than two or three tripods behind the staff; therefore, it would be a first come first served.

Mr. Burchfield stated that Mr. Wilson gave him Resolution 2004-30 stating that Time Warner Cable was the official videographer of the City Commission meetings and no other tripod would be allowed to setup forward of the back row of chairs unless advanced

<sup>2</sup> Commissioner Crichlow recused himself from the vote and discussion

<sup>3</sup> A brief recess 7:10 pm- 7:38pm.

permission was granted by the City Manager. He stated that only hand held camera equipment was acceptable.

Mayor Gardner stated that he did not agree with the idea of favoring one element of the media over the other.

Commissioner Jones stated that comparing news cameras and Time Warner Cable was different, because Time Warner Cable had been there to film the meetings. He pointed out that the news media would be there for a particular agenda item... He requested a copy of the ordinance be included in the subsequent agenda packet for Commission review and potential discussion.

Mrs. Porter stated that there was a copy of the document in the Commissioner's handbook.

Mayor Gardner questioned Prosser Hallack's recommendation for the Code Revision and when the contract provided for a presentation to the Commission for review.

Mr. Knight stated that the contract was not an open ended contract; but it was not to exceed \$58,000 and they had a timeline for completion of the product. He said that they were going to meet with staff again to finalize the product, take it to the Planning and Zoning Board in August and following the recommendation of the Planning and Zoning Board, they would bring it to the City Commission. He said that the final product would be available for the City Commission in August or September.

Mayor Gardner questioned whether they recommended a total code revision or specific areas to be addressed.

Mr. Knight stated that they took specific areas and looked at it then, compiled a list of features in those areas that contributed to the neighborhood, they looked at characteristics of the neighborhoods as options for future adoption of regulations to encourage preservation of those characteristics. He reported that the city had minimum set backs in residential districts; however, they did not

have maximum set backs. He said that in some of the neighborhoods homes could be located to the back of the property, so they are looking at a maximum set back for residential neighborhoods as well.

Commissioner Jones questioned whether they could get a preliminary draft of the revision, because it would give the commissioners a chance to see whether they were on the right track before the end of the contract.

Mr. Knight stated that they should get the first final draft for staff review, and he would forward it to the Commission.

Mayor Gardner reiterated the process of review prior to going before the Commission.

Commissioner Crichlow questioned whether there was a letter of engagement that outlined the scope of their review. He stated that he thought that it was going to be an overview of all of city the ordinances, as was the public was expecting overall look at the City's ordinances.

Mr. Knight stated that the entire focus was on the zoning code.

Mayor Gardner addressed Mr. Knight by saying that he mentioned building styles and that addresses the building ordinances.

Mayor Knight stated that it is still land a development regulation and it would not be a construction code.

Mayor Gardner stated that they touch of neighborhood characteristics which is what he was mainly concerned about.

Commissioner Jones stated that one of his concerns as a Commissioner was to provide feedback to the public

## **10. Appeals and Public Hearings (NOT PERTAINING TO ORDINANCES & RESOLUTIONS)**

(None scheduled for this meeting)

## **11. RESOLUTIONS AND ORDINANCES (To include public hearing)**

## **11.A/ Resolutions**

James Whitehouse, Assistant City Attorney reported that he worked on a draft franchise renewal agreement between Time Warner Cable and the City of St. Augustine. He added that they had been in constant negotiations with Time Warner Cable since the prior franchise agreement expired.

Mayor Gardner asked if the ordinance had expired in the year 2004.

Mr. Whitehouse replied that the original agreement had been signed in October 1994, and it was a ten year agreement. He reported that the city had ongoing negotiations with Time Warner before the contract expired and to date. He stated that the franchise agreement could continue under the previous term; however, they had come to a mutual agreement on all of the issues contained in the draft before the commission. He stated that resolution authorized the City Manager to sign the agreement.

Mayor Gardner questioned the letter of transmittal, and whether the city would be receiving a one time grant from Time Warner for twenty nine thousand dollars for maintenance of the audio-visual equipment.

Mr. Whitehouse replied that the money would serve as a capital grant for maintenance.

Mayor Gardner questioned whether the transfer of service from Time Warner to Comcast would have an impact on the agreement.

Mr. Whitehouse replied that the successors were bound by the same terms of the agreement.

Mayor Gardner indicated that citizens would be concerned about the three channels for public use. He stated that the city had been sharing a channel with the county for Commission meetings, but he would prefer a separate government channel the city. He stated that the communication department at

Flagler College was starting a television communication course, and if the city was entitled to additional channels, he would like to see them as part of a plan. He added that the public channels tended to be abused; therefore he would and he would favor regulatory control. He commented that he wanted Mr. Whitehouse's thoughts on the issues.

Mr. Whitehouse stated that he had secured a government channel that would be initially be shared with the City of St. Augustine Beach. He stated that the city could broadcast other meetings such as HARB or Code Enforcement and some type of government programming, so the city would have to sign an inter-local agreement with the beach to determine play back times and who would use the channel at what times. He stated that under the agreement, if the city got a certain amount of hours of broadcast time, Time Warner would provide the city with a separate channel.

Mayor Gardner questioned whether St. Augustine Beach had a separate franchise agreement with them.

Mr. Whitehouse replied affirmatively, and he said that it was similar to the agreement for the city.

Mayor Gardner questioned whether Time Warner felt that each city would consume separate channels or would they rather have a shared channel.

Mr. Whitehouse replied that Time Warner had the right to ask the city to keep a certain amount of time to avoid a dead air channel. He commented that the city would not have continuous, non repetitive programming for the full amount of time. He reiterated that if the city got to that point, Time Warner agreed to provide them with a separate channel.

Mayor Gardner stated that the city had wanted to broadcast a HARB meeting, but it conflicted with the County Commission meeting. He emphasized that with the amount of meetings that each city wanted to broadcast, there was the possibility of a

conflict of schedule, which would defeat the purpose of the channel.

Mr. Whitehouse stated he had a meeting with the St. Augustine Beach City Manager and commission and they agreed to work with the city to have the city's meetings broadcast live. He stated that the city meetings were in the evening and the Beach Commission met at different times. He reported that the only conflict would be the budget meetings and St. Augustine Beach agreed to let the city broadcast at that time since our population was larger.

Mayor Gardner questioned whether Flagler College had been involved in any of the discussions with Time Warner Cable.

Mr. Whitehouse stated that there was contact and he was not sure whether Flagler College's use of the government channel would be limited since the city's time was limited to government uses; therefore it might not work. He stated that Time Warner had assured him that they would have a channel available for the school. He stated that he was not sure if that impacted the county or the city. He indicated that the threshold was for the city to reach a certain amount of non-repetitive cable casting before receiving their own channel.

Mayor Gardner stated that a ten year agreement was a long time and he would not want to close any doors, which happened with franchise agreements in the past. He emphasized that government and education communication was vital.

Commissioner Boles questioned whether there would be a downside if the agreement was not signed at that time.

Mr. Whitehouse stated that it was hard to say, because they were constrained due to federal and state law. He commented that both governments had become involved in communications, cable and the fees that were charged. He stated that there were some issues in the ordinance concerning fees and the city could not charge certain fees as they should be received through the

communications services taxes. He said that the issue was clarified in the re-negotiated franchise agreement.

Commissioner Boles questioned whether Time Warner had a deadline to sign the agreement.

Mr. Whitehouse stated that Time Warner wanted to have the agreement completed because of the transfer to Comcast, and he added that the commission already agreed to the transfer.

Commissioner Jones questioned whether another cable company could come to the city and provide cable services.

Mr. Whitehouse replied that the agreement was a non-exclusive franchise agreement stating that Time Warner would continue to provide cable services but if another company wanted to provide services, the city could set up another franchise.

Mayor Gardner questioned whether the contract could be terminated before the ten year period was over without the agreement of both parties.

Mr. Whitehouse responded affirmatively.

Commissioner Boles expressed that he wanted to move to table the issue for further study until he had more information about the issue. He stated that he could not get all of the information that he needed to out of the reading.

After a brief discussion it was determined that they would have a workshop.

**11.A.1/ Public Hearing - Resolution 2006-09, authorizing the City Manager to Execute the Cable Television Franchise Renewal Agreement with Time Warner Cable, Inc.**

Ed Slavin, P. O. Box 3084 - stated that ten years was too long and the contract was worded in a way that would not protect the interest of the city. He stated that the contract would take away provisions in the

city cable ordinance; therefore they needed to have a public hearing with first and second hearings. He added that people should be able to discuss their cable complaints.

Dwight Hines, 150 Nesmith Avenue – agreed with Mr. Slavin because it would allow citizens to get involved. He said he would like to see the cost in the agreement. He emphasized that Time Warner should provide equipment, training, and tutorials for the public access channel.

J.D. Pleasant P.O. Box 3788 - stated the following:

- more public access
- support by the FCC
- commission meetings should be on the local television station
- there should be a forum for public concerns

Mr. Pleasant accused the Commission of breaking the sunshine regarding his aforementioned complaint in Item 4. and he threatened to report the Commissioners in the morning.

Mayor Gardner responded that he had taken notes during the meeting for discussion during Commissioner comments and one item was the position of the cameras. He recommended that Mr. Pleasant file his complaint, and he stated that he was insulted by Mr. Pleasant's insinuations.

Fred Campbell 126 Hercules Road - stated that he wanted to thank the board for doing a good job, and he said that it was a good idea to table the issue. He suggested that it was a one sided contract and the city could get a better deal. He recommended that St. Augustine Beach and the City of St. Augustine have their own channels.

Fred Matzke P.O. Box 1732 - stated that he would like the item tabled, because was a ten year deal. He said that since there were five more months on the contract the city should discuss it further.

Commissioner Jones questioned why the issue was brought up eighteen months after the original contract ended.

Mr. Whitehouse responded that he had been working on the re-negotiation since a year prior to the end of the contract and customer service issues. After a brief discussion about customer service issues it was determined that most citizens were not aware that they could register complaints about Time Warner to the city.

Mr. Whitehouse expressed that there were not many areas on the agreement that could be changed based on what the public wanted. He stated that the main issues of the contract were the government access channel and the capital grant for working on remodeling the commission room.

Commissioner Jones stated that additional clarification of the terms of the agreement would make the public feel more comfortable with the final decision.

Mr. Whitehouse stated that the commission could not negotiate every clause in the contract, because it would take too long. He suggested that if there were certain areas the commission would like to address, they should look at them ahead of time because it could become time consuming.

Mark Russell, General Manager for Time Warner Cable explained that it took a long time to negotiate the agreement, because they had started negotiations with all three franchises at the same time, then the Comcast issue came up. He stated that the public wanted several access channels however; they could only make demands for the area that Time Warner regulated. He explained that everyone wanted a channel, but if there were additional channels with bulletin board advertisements, ultimately citizens would not buy the service. He suggested that the commission consider the matter before they tabled it. He stated that the agreement did not specifically address public access because they had talked about letting citizens give the city with tapes to put on the local channel. He concluded that he

would not want to hold off on signing the agreement.

Commissioner Boles explained that he wanted to table the issue to research information about the terms of the contract, because there might be a provision in the contract he did not understand. He said that the goal of the commission was to ensure that public satisfaction with the service.

**Commissioner Crichlow MOVED to accept the cable franchise agreement renewal as presented by staff. The motion was SECONDED by Commissioner Jones.**

**VOTE ON MOTION**

**AYES: Crichlow, Jones, Gardner**

**NAYES: Boles**

**MOTION CARRIED 3/1**

**Adoption – Resolution 2006-09.**

**11.A.2/ Consideration of Resolution 2006-10, establishing a Disadvantaged Business Enterprise Program**

Mr. Burchfield explained that the resolution related to Mr. Regan's parking structure project. He stated that the city had been allotted federal funding through a Representative MICA and through the FTA as a requirement to get the funds (approximately eight hundred thousand dollars) the city had to create a Disadvantaged Business Enterprise Program. He stated that the resolution required commission adoption so the city could proceed.

Mayor Gardner questioned whether it was specific to the building and the facility.

Mr. Burchfield replied that it was specific to any DOT assisted contracts.

**MOTION**

**Commissioner Jones MOVED that Resolution 2006-10, be passed as proposed. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.**

**11.B/ Ordinances – First Reading**

**None scheduled for this meeting**

**11.C/ Ordinances – First Reading – Public Hearing Required**

**11.C.1/ Introduction and consideration of Ordinance 2006-14, establishing the River's Edge Planned Unit Development (PUD).**

Mr. Knight stated that the Rivers Edge Planned Unit Development (PUD) was before the Commission as a Comprehensive Plan amendment to change the land use designation from commercial medium intensity to residential mixed use and achieve fifty foot height limit. He stated that. The ordinance 2006-14 was approved by the Planning and Zoning Board with four or five conditions:

- A letter of agreement with Florida Power and Light concerning underground or relocated power lines
- In the event that the public access dock could not be permitted in the location, it would be permitted along the upland edge
- The river walk should be designed to allow it to be tied to any future river walk to the north to avoid a terminus in the wetlands
- The lift station would be relocated at the developers expense
- The river walk should be operated and maintained in accordance with standards established by the city for the San Sebastian Vineland Harbor project

Mr. Knight stated that the PUD had 99 condominium units, a restaurant, 337 parking spaces and an existing 70 slip marina that they would like to expand to a 150 slip marina. He remarked that they agreed to keep at least 70 for public use and 20 for transient use.

John Bailey, Attorney for Rivers Edge Associates, LLC explained that to get the project approved, they needed a land use Comprehensive Plan amendment, they needed the PUD and some roads vacated. He stated that the Comprehensive Plan amendment should be back from the DCA by July 1, 2006, at which time they would go before the commission. He said that they had agreed to the conditions from the Planning and Zoning Board, the text had been amended several times, the plan was well reviewed, and the project would benefit the city.

Commissioner Crichlow questioned whether the PUD insured that the lot coverage would be maintained.

Mr. Bailey replied that the lot coverage in the site plan and PUD stated it would be 20% max, which was low. He stated that under the PUD ordinance they could go to 35% lot coverage. The second thing was the site plan and architectural drawings were submitted to the PZB and one of the things that they had to put in the text was that they will come back to the PZB with the final architectural design of the buildings and the project and they must comply with what was submitted at the last meeting.

There was a brief discussion as to what was included in the amount of buildable coverage, and it was determined that buildable coverage included the building footprint.

Mayor Gardner asked what other type of commercial space they were planning.

Mr. Bailey replied that it would probably develop like most marina commercial space with a fish and bait shop, a store with sandwiches and beer, and the type of stores that would service people that used the marina. He said the added benefit would be other businesses that provided services to people that live in the adjacent condos.

Commissioner Crichlow stated that the project was not developed to the full density potential but it would result in more highway

trips. He questioned whether they would install a traffic light.

Mr. Bailey replied that they would need to get approval from the DOT for curb cuts, and they typically required turn lanes and storage lanes. He explained that only require traffic lights if there was enough traffic generated. He said that they had submitted a traffic study to the city to demonstrate that the project would not generate any more trips than all of the various uses that were currently there.

## **MOTION**

**Commissioner Crichlow MOVED to place Ordinance 2006-14, on first reading, read by title only and approved. Commissioner Jones SECONDED the motion.**

Mr. Wilson read the title as follows:

### **ORDINANCE NO. 2006-14**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ESTABLISHING THE RIVER'S EDGE 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 SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

## **VOTE ON MOTION**

**AYES: Crichlow, Jones, Boles**

**NAYES: Gardner**

**MOTION CARRIED: 3/1**

## **11.C.2/ Introduction and consideration of Ordinance 2006-15 regulating Walking Tours Utilizing Public Rights-of-way.**

Mr. Wilson stated that there were concerns regarding the size of walking tours and some of the dangers created by walking tours in having the right-of-way. He stated the details of the ordinance:

- limits the size of tours to no more than 20 people per group excluding the tour guide and required the tour guides operate in the public right of way
- keep distances between each group and avoid traffic in the right-of-way especially when they vehicles cross in operating lanes
- lantern or flashlight should be carried to enhance visibility
- includes an exclusion for licensed tour vehicles when using the right-of-way as part of their tour
- 

Mr. Wilson expressed that he had not heard any concern on the part of the commission that tour vehicles carrying more than 20 people caused a problem in the street. He stated that those generally dropped visitors at stops and then they walked short distances; therefore he had excluded tour vehicles from the ordinance. He stated that it was primarily for embarking and disembarking. He stated that the tour trains were only authorized to stop at the licensed stop, but they could park any where on private property.

Commissioner Boles questioned whether the tours had specific places that they could stop and pick up people and if the ordinance allowed the ghost tour trolley's to pick up and drop off people wherever they wanted.

Mr. Wilson responded that they could not and he added that the tours franchise approved routes.

Commissioner Jones stated that the Commissioner Boles was referring to the walking tours, as they were concerned about pedestrians being hit by vehicles. He stated that they had suggested a light in the front and in the rear of the walking tours as well, but the ordinance only mentioned a light in the front of the tour group.

Mr. Wilson responded that he heard the discussion about having a light in the back of the tour; however, that would mean that the tour guide would give a light to a random person that was on the tour. He expressed that to address that concern, the guide would

supervise the members of the tour group so they would stay on the sidewalk. He stated that he imposed this duty on the tour guide so if they do not perform under the ordinance, they could be sued for negligence and failing to obey the city ordinance. He commented that it would convince the tour group operator to make sure that their tour guides followed the ordinance.

Mayor Gardner questioned whether he saw a difficulty in excluding references to after sunset as it related to the number of persons in a group. He said that he received a note from Karen Harvey who planed to start day-time tours and did not plan to have more than 15 people but they could become popular. He stated that he was not sure if it could be changed slightly.

Mr. Wilson responded that it could be done, but most of the concerns he had heard were concerning the night-time tours. He stated that he heard that they should not get involved in regulating school tours, which were usually during the day and consisted of more people.

There was a brief discussion about school tours and it was determined that they were usually well supervised.

Commissioner Boles questioned when the walking tours became a problem and how many people were supposed to be in tour groups.

Mr. Wilson replied that there had not been any limits. He stated that Commissioner Burk raised the issue a few years ago and they sent the night-time tours voluntary guidelines to follow however, they had not worked. He suggested adding that ordinance violations were punishable, and the standard penalty provision applied.

## MOTION

**Commissioner Jones MOVED to amend Ordinance 2006-15, as stated. The motion was SECONDED by Mayor Gardner and approved by UNANIMOUS VOICE VOTE.**



**Commissioner Jones MOVED to place Ordinance 2006-15, on first reading, read by title only and passed as amended. The motion was SECONDED by Commissioner Crichlow and approved by UNANIMOUS VOICE VOTE.**

Mr. Wilson read the title as follows:

**ORDINANCE NO. 2006-15**

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, CREATING SECTION 22-11 OF THE CODE OF THE CITY OF ST. AUGUSTINE TO REGULATE THE SIZE OF WALKING TOURS UTILIZING PUBLIC RIGHTS-OF-WAY AFTER SUNSET; REQUIRING USE OF A LANTERN OR LIGHT FOR SUCH TOURS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

**VOTE ON MOTION**

**AYES: Jones, Crichlow, Boles, Gardner**

**NAYES: NONE**

**MOTION CARRIED: UNANIMOUSLY**

**11.D/ Ordinances – Second Reading - Public Hearing**

**None scheduled for this meeting**

**12.A/ General Public Comments (5 minutes per individual).**

Ed Slavin, P. O. Box 3084 - stated that on April 13<sup>th</sup>, The St. Augustine Record reported that the state was investigating the city for illegal dumping. He said that on February 27<sup>th</sup> Mayor Gardner stated that he would have answers. He questioned the Mayor when they would get the answers.

Mayor Gardner questioned whether he received the DEP reports to the city.

Mr. Slavin responded affirmatively. After a brief discussion Mr. Slavin stated that he

wanted to know Mr. Harris's involvement in approving the dumping of twenty thousand cubic yards of contaminates. He stated that he wanted to know if Mr. Harris signed checks that paid the contractors for the removal and had he talked to the commission about it. He stated that Mayor Gardner had informed him that it was all clean fill, and he saw the photographs and he had been lied to. He stated that he was told it was clean fill, and he saw the pictures, but he knew that he was not told the truth. He also asked why Mayor Gardner voted to renew the cable franchise.

Mayor Gardner responded that after the discussion he changed his vote, because he was satisfied with the agreement.

David Thundershield Queen, P.O. Box 270- stated that he wanted to save the locally found Timucua sites and include them in the Timucua preserve that already existed in Duval County. He stated that he also wanted to address police brutality as reported in the May issue of the Collective Press that claimed that Officer Whitehead beat a woman in the gazebo. He recommended due hearing for Officer Whitehead.

Commissioner Jones questioned Mr. Wilson whether he was aware of any instances of police brutality with Officer Whitehead.

Mr. Wilson replied that there were allegations but no complaints had been filed.

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

**13. Adjournment**

There being no further business, the meeting was adjourned at 10:06 pm.

---

MAYOR

---

CITY CLERK

4

---

<sup>4</sup> Recorded by Susan Goins