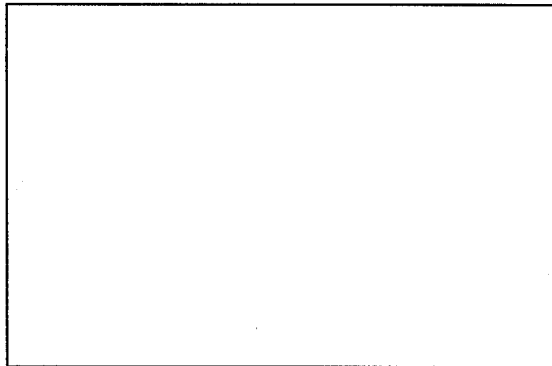
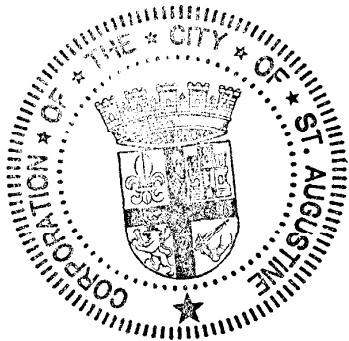


CITY OF ST. AUGUSTINE
COUNTY OF ST. JOHNS
STATE OF FLORIDA



I, Martha V. Porter, City Clerk, City of St. Augustine, Florida, do hereby certify that the attached copy of the St. Augustine City Commission minutes of October 25, 1999, wherein the Florida Department of Transportation Master Agreement (Item 8.H) was approved, contains a full, true and correct copy as the same appears of Record and on the files in my office, City of St. Augustine, 2nd Floor, S.E., Elevator B, City Hall, 85 King Street.

IN WITNESS WHEREOF, I have hereto set
my hand and affixed the corporate seal of
the City of St. Augustine, Florida, this 18th
day of November 1999.



Martha V. Porter
Martha V. Porter, City Clerk

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
October 25, 1999

The City Commission met in a formal session Monday, October 25, 1999, at 4:00 p.m. in the City Commission meeting room at City Hall. The meeting was called to order by Commissioner Alexander, and the following were present:

Mark Alexander, Vice Mayor/City Commissioner
Raymond Connor, City Commissioner
William Lennon, City Commissioner

Len Weeks, Mayor/City Commissioner (Excused)
Susan Burk, City Commissioner (Excused)

William B. Harriss, City Manager
James B. Wilson, City Attorney
Martha V. (Nell) Porter, City Clerk
Jack E. Cubbedge, Assistant City Manager
William Adams, Director, Historic Preservation & Heritage Tourism
Timothy A. Burchfield, Director, General Services
Mark Knight, Director, Planning and Building Department
Mark Litzinger, Director, Financial Services
James Owens, Fire Chief
Alan Flood, City Engineer, Utilities
Lt. David Shoar, Police Executive Officer
Timothy Shields, Director, Public Works
Karen Rogers, Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was presented by Reverend Mark Conrad, Calvary Baptist Church. Commissioner Alexander led the Pledge of Allegiance.

3. APPROVAL OF MINUTES

Minutes of the Special City Commission meeting of September 23, 1999, and the minutes of the Regular City Commission meeting of September 27, 1999, were approved as presented.

4. PRESENTATIONS AND STAFF REPORTS

(None)

5. RESOLUTIONS AND FIRST READING OF ORDINANCES (public hearing not required)

5.A/ Introduction and consideration of Ordinance 99-34, rezoning the "Home Depot" parcel to Planned Unit Development (PUD).

Geoff Dobson, Dobson & Brown PA, 66 Cuna Street, represented Home Depot and offered to respond to questions.

Commissioner Connor acknowledged that all the changes requested had been honored.

MOTION

Commissioner Connor moved that Ordinance 99-34, concerning rezoning the "Home Depot" parcel to PUD, be placed on first reading, read by title only and approved. Commissioner Lennon seconded the motion.

Mr. Wilson read the title as follows:

ORDINANCE NO. 99-34

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, ESTABLISHING THE HOME DEPOT PLANNED UNIT DEVELOPMENT PURSUANT TO SECTION 28-289 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR TERMS AND CONDITIONS OF THE PUD; PROVIDING FOR NON-AD VALOREM ASSESSMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

VOTE ON MOTION

AYES: Connor, Lennon, Alexander

NAYES: None

MOTION CARRIED UNANIMOUSLY

5.B/ Introduction and consideration of Ordinance 99-35, concerning the authority of the Planning and Building Department to issue Tree Removal Permits.

Mr. Harriss explained that after Hurricane Floyd numerous trees had demanded immediate removal; however, they fit the criteria that required a permit from the Board of Adjustments and Appeals. He said the Ordinance gave staff, in certain instances of defined emergency, the authority to remove trees

that posed a potential threat to people or structures.

MOTION

Commissioner Lennon moved that Ordinance 99-35, be placed on first reading, read by title only and approved. The motion was seconded by Commissioner Connor.

Mr. Wilson read the title as follows:

ORDINANCE NO. 99-35

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTIONS 11-28 AND 25-56© OF THE CODE OF THE CITY OF ST. AUGUSTINE TO FURTHER THE AUTHORITY OF THE PLANNING AND BUILDING DEPARTMENT RELATING TO THE ISSUANCE OF TREE REMOVAL PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

VOTE ON MOTION

AYES: Lennon, Connor, Alexander

NAYES: None

MOTION CARRIED UNANIMOUSLY

5.C/ Introduction and consideration of Ordinance 99-36, rezoning property located at 142/146 Avenida Menendez (Westcotte House/Villas de Marin) from Historic Preservation-One (HP-1) to Planned Unit Development (PUD).

Amy McClure Skinner, Ivey, Harris & Walls, Inc., 81 King Street, Suite #A, respectfully requested, on behalf of the applicant, a postponement until November 8, 1999. She said the applicant was unable to attend the meeting.

Mr. Wilson said the Commission could table the item or pass it on first reading and move on to the public hearing on November 8, 1999. He said if the applicant was not available and had a presentation for the Commission it would be at their discretion to continue.

Mr. Harriss indicated that the item was a sensitive issue and suggested postponing until the next meeting to be sure due process would not be a concern.

Mr. Wilson pointed out that the item was not scheduled for a public hearing and he concurred with the City Manager.

A discussion followed concerning the public hearing, advertising, and tabling the issue.

MOTION

Commissioner Lennon moved that Ordinance 99-36 be tabled until the November 8, 1999, City Commission meeting. Commissioner Connor seconded the motion

VOTE ON MOTION

AYES: Lennon, Connor, Alexander

NAYES: None

MOTION CARRIED UNANIMOUSLY¹

6. ITEMS BY CITY ATTORNEY

(None)

7. ITEMS BY CITY CLERK

(None)

8. ITEMS BY CITY MANAGER

Consent Agenda

¹ A Brief Recess

8.A. Reminder of City Commission meeting schedule.

8.B. Notification of upcoming term expiration on the Civil Service Board.

8.C. Notification of a vacancy on the Historic Architectural Review Board (HARB).

8.D. Consideration of a Residential Dock Easement for property located at 911 Lew Boulevard.

8.E. Consideration of a Residential Dock Easement for property located at 935 Lew Boulevard.

8.F. Consideration of a deed transferring property located on SR 312 to Zane Ryman and Howard Mizell.

8.G. Consideration of Utility agreement for Plantation Island Drive North.

8.H. Consideration of Florida Department of Transportation Utility Master Agreement.

8.I. Authorization for submittal of an application for Fast Track Economic Growth Transportation Initiative Funding.

8.J. Consideration of a petition for voluntary annexation of property located at 1650 U.S. 1 South.

8.K. Approval of final site plan for the development of the mini-warehouse at the Northwest Corner of State Road 312 and A1A.

8.L. Preview of the November 8, 1999 Commission meeting.

MOTION

Commissioner Lennon moved that items 8.A. through 8.L. on the Consent Agenda be approved. The motion was seconded by Commissioner Connor and approved by unanimous voice vote.

Non-Agenda Item – Carry Over List

Mr. Harris reported that the Carry Over List contained the items that had been contracted for the prior year but not purchased. He clarified that it was customary to receive approval to carry the money over.

MOTION

Commissioner Lennon moved to approve the Carry Over Items for the Fiscal Year 1998-99 as shown. The motion was seconded by Commissioner Connor and approved by unanimous voice vote.

9. ITEMS BY MAYOR AND COMMISSIONERS

Commissioner Lennon – Sign Violations in the HP areas.

Commissioner Lennon reported that there was a major problem with signs in the HP areas. He said business people were hanging things in their windows and outside on their doors. He questioned why the offenders were not being served with summons. He requested acknowledging the guidelines for the sake of the business owners who obeyed the law.

Mr. Harriss explained that sign violations happened spontaneously as one business owner copied another's violation. He said with the Commissions request the City would direct its effort toward siting the violations; however, he

noted that when business owners were asked to comply there would be complaints.

10. MATTERS NOT ON THE AGENDA (Items not addressed elsewhere on the agenda - three minute time limit).

Commissioner Alexander opened the public hearing.

Gina Burrell, 27 Seminole Drive, questioned whether the PZB would be monitoring traffic in regard to the new Home Depot.

Mr. Harriss explained that part of the approval process was for Home Depot to demonstrate to the PZB that concurrency issues were satisfied.

11. APPEALS AND PUBLIC HEARINGS (Not pertaining to ordinances and resolutions)

Exparte Communications

There were no Exparte Communications reported.

11.A/ Public hearing and appeal of a Planning and Zoning Board's decision relative to property located at 205 S. Matanzas Boulevard.

Mark Knight, Director, Planning and Building Department, was sworn and reported that the appeal was for a variance that had been sought to exceed the maximum lot coverage, and reduce the required setback for a residential addition. He distributed minutes from the PZB meeting of September 7, 1999, and explained that the PZB had denied the application for a variance because they considered it a self-created hardship (not resulting from the land).

He said the issue for the Commission to decide was whether or not the PZB had erred in their determination.

DeAnna Ray, 205 South Matanzas Blvd., was sworn and said she had initially applied for a 5% lot coverage increase, but by the end of the PZB meeting she had asked for only the rear section of the house. She said setbacks were no longer a consideration. She distributed a copy of the new site plan indicating that her request was for a 2% increase in lot coverage only.

Commissioner Lennon stated that the increase would still need a variance because it was over the lot size and he questioned whether the issue must go back to the PZB.

Mr. Wilson explained that if the request was for less than originally requested the Commission could consider it. He advised the Commission that they had the authority to modify, affirm, or grant the appeal.

Ms. Ray pointed out that the board had denied her request for a 5% increase in a tied vote of 3/3. She said she could not understand their decision based on the other approvals awarded at the September 7, 1999 meeting. She stated that she could not reasonably use her house without more living space. She said her neighborhood had a normal minimum lot width of 75 feet while hers was 67% feet, and the minimum lot area was 10,890 square feet while hers was 8,376 square feet. She said 25% coverage of a normal lot was 2,722 square feet, and 25% of her lot was 2,094 square feet, 628 square feet less than a normal conforming lot. She summarized that she wanted to bring

her non-conforming lot coverage from 25% to 27% or 168 square feet.

Ms. Ray distributed pictures as a visual aid and clarified that she wanted to square off the bottom rear of the house.

Commissioner Connor asked Mr. Wilson if it would not be correct to go back before the PZB.

Mr. Wilson reiterated that the Commission had the authority to remand the issue to the PZB for consideration or make the decision.

George Gardner, 57 Fullerwood, PZB member, stated that the board tried to discourage lot coverage and in that particular case it was not a fault of the property or the code. He explained that the applicant had purchased the property knowing she required more room. He said the original design had a modification that interfered with the streetscape.

Commissioner Alexander opened the public hearing, but there was no response.

MOTION

Commissioner Lennon moved to accept the 2% increase in lot coverage, in the back only, as long as the numbers were correct. Commissioner Connor seconded the motion

VOTE ON MOTION

AYES: Lennon, Connor, Alexander

NAYES: None

MOTION CARRIED UNANIMOUSLY

11.B/ Public hearing and appeal of a Historic Architectural Review Board's

decision relative to property located at 26 Cordova Street.

Mr. Knight summarized that the applicant had gone to PZB after applying for a Historic Property Tax Exemption and Certificate of Appropriateness from HARB. He said the applicant had been approved for the Certificate of Appropriateness but was denied for the Historic Property Tax Exemption. He explained that the applicant had then completed the improvements and contacted the Department of State to find out if what had been done with the property was appropriate for the property tax exemption. He said the applicant returned to PZB to obtain the tax exemption, which required going back before HARB. He said the project had been completed before requesting the exemption, and the ordinance required approval for the exemption before completion of the improvements. He said HARB had then denied for procedure inappropriateness (seeking exemption after the fact).

Mr. Knight noted that the applicant had a right to appeal the decision on the first denial and had not; however, the applicant was appealing after the second denial. He concluded that the issue before the Commission was whether HARB had erred in their determination.

Henry Whetstone, HARB member, 282 St. George Street, stated that proper procedure had not been followed. He said HARB normally looked over site plans and monitored the construction process. He stated that the house had also been expanded extensively.

Michael Traynor, 28 Cordova Street, attorney for the applicant, said he would like to present a context for the board to

consider that would allow them to go before HARB with the directive that they consider an amended application. He distributed five pages of information to assist the Commission. He referred to the exhibits.

Exhibit One:

- A letter from the City, dated March 23, 1999, that specified HARB's approval for the Certificate of Appropriateness, denial for the Historic Preservation Property Tax Exemption, and notice to appeal within thirty days.

Exhibit two:

- A letter from Mr. Griffin, dated March 25, 1999, that stated significantly, *Although approval has not yet been obtained and HARB has determined that the proposed renovation does not fully comply with the Secretary of Interiors guidelines, the building permit may be issued and the improvements may commence without affecting the application. However, in order to qualify for the tax credits, HARB must approve the application and the work must be completed in conformance with the approved application. It appears the applicant takes the risk of doing work prior to approval of the application by HARB.*

Exhibit three:

- A letter from the City, dated September 17, 1999, denying approval because of *improper procedures for qualification.*

Exhibit Four:

- A letter from Florida Department of State that said the City application

process allowed for amended applications, basically at anytime during the process.

Mr. Traynor stated that extensive research, conducted by the City of Jacksonville, revealed there was nothing in the State Statute that prevented applications from being considered before, during, or after the construction process. He referenced exhibit two and questioned why there was a provision to amend the application at anytime during the process if one could only get approval before beginning construction. He said his client had taken the risk of construction and asked to address HARB to consider the property under an amended application in it's present condition. He said he did not predict the outcome of the meeting he simply wanted the opportunity. He further stated that the request was appropriate because:

- No specific conditions for approval had been given to Mr. Bruyn at the time of his first hearing before HARB, and no instruction had been given that a failure to appeal the initial denial would preclude qualification by amendment later.
- The application had been filed prior to commencement of construction as the ordinance required, and part two of the application would be filed, a request for review of completed work, as outlined in the ordinance.

Mr. Traynor voiced that they wanted to go before HARB because of the information they had received from the Secretary of State's Office, and give the board valuable information regarding the age and condition of the porch structure.

- Mr. Griffin had advised Mr. Bruyn in writing that he could commence construction, but the application would be at risk for approval. It had not been stated that Mr. Bruyn could not go back to HARB.
- The issue would not be over until part two of the application had been submitted to HARB, submitted to the Commission for approval or denial, and in the case of a denial an appeal process initiated.

Mr. Traynor said that Mr. Bruyn had been at the HARB hearing to discuss his amended application when it was determined he could not go forward. He requested that the Commission set aside the denial and allow them to go back to HARB to review the amended application.

Paul Weaver, Historic Properties Associates, Milton Street, was sworn and offered to answer any questions regarding the procedural denial posed by the Board. He indicated that the historic issues needed to be presented to HARB.

Commissioner Lennon stated that HARB generally knew what they were doing with forms and applications, and he expressed doubt that HARB had been unable to follow the structure from the beginning. He questioned the right of the applicant to reapply for tax exempt property in spite of having built beyond what the tax exemption would allow.

Mr. Traynor reiterated his prior points concerning the application process and the Federal Code, which allowed risk taking by the property owner. He stated that the final decision should be with the City Commission and not with HARB.

Commissioner Lennon remarked that judging from what Mr. Whetstone had said the building had been completed when it went to HARB.

Mr. Traynor said the second time it went to HARB the case was denied on improper procedure before it had been presented.

Commissioner Lennon said it appeared to him that Mr. Bruyn had taken his risk and been denied.

Mr. Traynor said that his client should have the opportunity for review.

A discussion ensued regarding the order of events the process had taken in the case.

Mr. Weaver stated that it had been his understanding that the process was open ended and they would be allowed to go before HARB to present additional information after construction began. He said he believed it was important to inform HARB that the building had gone through application for Federal Investment Tax Credit, and the State and Federal officials had determined that the porch should be retained as it was; moreover, it had been approved. He said they had wanted to submit the information, through the amendment process, to HARB because it could influence their decision.

Mr. Whetstone said HARB was more lenient with construction outside of the HP zones, and although the porch had been discussed the main issue had been the enlargement of the structure. He explained that the enlargement was to accommodate a Bed & Breakfast, which did not meet the guidelines or warrant a tax credit for restoration.

Mr. Harriss commented that there seemed to be a legal issue concerning the ordinance. He said he thought the appeal had been for the tax exemption when, in fact, it was a request to go back to HARB.

Commissioner Alexander questioned whether they were to decide if HARB had erred, or send it back to HARB.

Mr. Wilson responded that the Commission needed to decide if HARB had erred by not allowing Mr. Bruyn to proceed any further. He said the City Code required approval prior, not after, the completion of a project. He said the applicant was at fault for not appealing the HARB decision as the ordinance provided. He said it might be possible to address the issue otherwise, but it required more review. He said he could do more research and discuss it with them, but he did not believe the City ordinance allowed for deviation from procedure.

A discussion followed concerning the ordinance, and proper procedure, and it was determined that the Commission must decide if HARB had erred.

Commissioner Lennon said he perceived no error on the part of HARB, and he wanted to make that motion.

Mr. Traynor said, for the record, that the appeal process in the ordinance dealt with the Certificate of Appropriateness and left the avenue for the tax exemption status open, which was a separate issue. He asked the Commission to reconsider their thinking and not violate the ordinance. He said he was asking the Commission to honor the forms provided the citizens that were incorporated into the ordinance. He stated that he

respectfully disagreed with Mr. Wilson and suggested the Commission table the issue until the next meeting to allow them to evaluate the issue, or allow them to go back to HARB.

Commissioner Connor suggested that if the HARB guidelines had been followed the applicant would not have been in such a position.

Mr. Wilson said the State created the guidelines, and they had nothing to do with the HARB approval process. He said amendments to the application should have been made before the pre-construction agreement. He said he did not believe the ordinance had provision to amend the process after the completion of the improvements. He noted that there was a possibility there had been a procedural mistake, in the manner of the denial, made by HARB early in the process.

Commissioner Alexander opened the public hearing, but there was no response.

Mr. Whetstone stated that Mr. Bruyn's first application had not come close to qualifying, and if he went back to HARB he would probably suffer the same problem unless he was willing to tear down and rebuild.

MOTION

Commissioner Lennon moved to deny the appeal because HARB had not erred in their decision. Commissioner Connor seconded the motion.

VOTE ON MOTION

AYES: Lennon, Connor, Alexander
NAYES: None

MOTION CARRIED UNANIMOUSLY

12. ORDINANCES - PUBLIC HEARINGS

12.A Ordinances - Second Reading Required.

12.A.1/ Public Hearing - Ordinance 99-30, concerning the St. Augustine Police Officers' Retirement System.

Mr. Harriss explained that the ordinance constituted an administrative change necessitated by a change in State law.

Commissioner Alexander opened the public hearing, but there was no response.

MOTION

Commissioner Lennon moved that Ordinance 99-30 concerning the St. Augustine Police Officers' Retirement System be approved. The motion was seconded by Commissioner Connor.

Mr. Wilson read the title as follows:

ORDINANCE NO. 99-30

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE X OF THE CHARTER LAWS OF THE CITY OF ST. AUGUSTINE RELATING TO THE POLICE OFFICERS RETIREMENT SYSTEM; PROVIDING FOR AMENDMENT TO DEFINITIONS; PROVIDING FOR AMENDMENTS RELATING TO CREATION AND MAINTENANCE OF THE FUND, PARTICIPATION IN THE SYSTEM, SERVICE RETIREMENT, DISABILITY RETIREMENT, AND MISCELLANEOUS PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING AN EFFECTIVE DATE

VOTE ON MOTION

AYES: Lennon, Connor, Alexander

NAYES: None

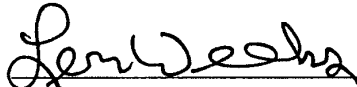
MOTION CARRIED UNANIMOUSLY

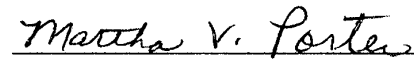
12.B Ordinances - First Reading

13. GENERAL PUBLIC PRESENTATIONS AND COMMENTS (15 minutes per presentations)

14. Adjournment

There being no further business, the meeting was adjourned at 5:30 p.m.


MAYOR


CITY CLERK

