



**MINUTES
CITY COMMISSION MEETING
CITY OF ST. AUGUSTINE BEACH
February 1, 2016 7:00 PM.**

City Hall
2200 A1A South
St. Augustine Beach, FL 32080

I. CALL TO ORDER

Mayor O'Brien called the meeting to order at 7:00 p.m.

II. PLEDGE OF ALLEGIANCE

Mayor O'Brien asked Commissioner Snodgrass to lead the Pledge of Allegiance.

III. ROLL CALL

Present: Mayor O'Brien, Vice Mayor George, Commissioner Samuels, Commissioner England, Commissioner Snodgrass

Also Present: City Manager Royle, Chief Financial Officer Burns, City Clerk Raddatz, Police Chief Hardwick, Building Official Larson and Public Works Director Howell.

City Attorney Burnett arrived at 7:09 p.m.

IV. APPROVAL OF MINUTES OF THE CITY COMMISSION MEETINGS OF
JANUARY 4, 2016 AND JANUARY 16, 2016

Mayor O'Brien asked for a motion to approve the minutes of January 4, 2016 and January 16, 2016.

Motion: to approve City Commission minutes of January 4, 2016 and January 16, 2016.
Moved by Commissioner Samuels, **Seconded by** Commissioner Snodgrass. Motion passed unanimously.

V. ADDITIONS OR DELETIONS OF THE AGENDA

Mayor O'Brien asked the Commission for any additions or deletions.

City Manager Royle requested to table the Police Chief and City Manager Evaluations and advised that at Commissioner Snodgrass request it would be scheduled midyear. He also requested to add to the agenda under Consent Agenda Item C, Budget Resolution 16-05 and an item to reschedule the date for the meeting with City Attorney candidates and architectural firms, since one of the attorneys and Commissioner England could not attend on the date previously scheduled.

It was the consensus of the Commission to accept City Manager Royle's requests.

VI. CHANGES TO ORDER OF TOPICS ON THE AGENDA

Mayor O'Brien asked the Commission if there were any changes to the order of the topics of the agenda.

Commissioner Samuels asked the Commission if they would agree to hear the three main issues on the agenda first, since there were so many residents waiting to speak on the issues.

The Commission agreed.

VII. PRESENTATIONS

A. Plaque to Police Officers for 10 Years of Employment with the City:

- 1) Officer Ed Martinez
- 2) Officer Todd Smith

Mayor O'Brien asked Officer Martinez and Officer Smith to the podium and then asked Police Chief Hardwick to present the plaques.

Police Chief Hardwick presented the plaques to Police Officers Ed Martinez and Todd Smith for their 10 years of continual service with the City of St. Augustine Beach. He also advised that both officers have served over an additional 10 years elsewhere.

B. Interview of Candidates for City Boards:

- 1) Ms. Hester Longstreet for Planning Board Alternate
- 2) Mr. Edward Pritchett for Code Enforcement Board Alternate

Mayor O'Brien introduced Item B and asked Ms. Longstreet to come to the podium.

Ms. Longstreet, 11 13th St., explained that she has lived in the City of St. Augustine Beach for 23 years, has raised children in the City, and was on the Tree Board / Beautification Advisory Committee and the Code Enforcement Board but would now like to be on the Planning and Zoning Board.

Commissioner Samuels thanked Ms. Longstreet for her dedication to the City and advised that she was glad to see Ms. Longstreet join the Planning and Zoning Board.

Motion: to approve Ms. Hester Longstreet to the Planning and Zoning Board as an alternate. **Moved by** Commissioner Snodgrass, **Seconded by** Vice Mayor George. Motion passed unanimously.

Mayor O'Brien requested Mr. Pritchett to come to the podium.

Mr. Pritchett advised that he moved to the City in 2012 and was a board member of the Homeowner Association for Sea Grove. He advised that he enjoys volunteering for things.

Motion: to approve Mr. Edward Pritchett to the Code Enforcement Board as an alternate. **Moved by** Commissioner Samuels, **Seconded by** Vice Mayor George. Motion passed unanimously.

C. Request for Special Event Permit for Betty Griffin House's 5K Run/Walk on Saturday, April 16, 2016

Mayor O'Brien introduced Item VII C and asked if there was a representative in the audience to speak regarding the special event for the Betty Griffin House.

Malinda Everson, representing the Betty Griffin House, advised that this special event was to spread awareness and a fundraiser for the shelter. She advised that the Betty Griffin House helps victims who have gone through domestic violence and sexual assault.

City Manager Royle showed the 5K route.

Commissioner Samuels asked Police Chief Hardwick if he supports this event.

Police Chief Hardwick remarked that he was very familiar with this run which takes place every year and is very supportive of this event.

Motion: to approve the Special Event Permit for Betty Griffin House's 5K Run/Walk with the Department Head's permission. **Moved by** Commissioner Snodgrass, **Seconded by** Commissioner Samuels. Motion passed unanimously.

D. Special Commission Meeting Date Change for City Attorney Applicants

City Manager Royle advised that Attorney McCabe could not come to the Special Meeting on February 8, 2016, due to a prior commitment and requested the Commission change the date.

After discussion, it was the consensus of the Commission to change the meeting date from Monday, February 8th to Wednesday, March 2nd at 5:00 p.m.

VIII. PUBLIC COMMENTS

Mayor O'Brien opened the Public Comments section. The following addressed the Commission:

CJ McCartney, 1740 Santiago St., advised that she was from Master Gardeners who worked on the garden at the pier. She thanked the Commission for their support by giving the Master Gardens a proclamation and attending several of their meetings and events. She advised that it was because of their support that they received the Seaside Wildlife Garden Award this year.

Ed Slavin, PO Box 3084, remarked that the political season had begun. He advised that the City's sign ordinance was unconstitutional. He requested that the sign ordinance not be enforced.

Tom Reynolds, 880 A1A Beach Blvd., commented that when the agenda has additions and deletions, the public would not be aware of it. He remarked that it was the second time the City manager and Police Chief's review has been cancelled which he wanted to speak on. He requested the Commission to follow the rules. He commented that the Commission should have asked the City Attorney why he was late to the meeting. He then commented that the City Attorney has committed fraud and more information would be coming.

Robert Kahler, 29 Sunfish Dr., commented that the Commission has brought the City to bankruptcy. He mentioned that there was a comment from Mr. Slavin that he received a democratic paper. He remarked that it was reported that Bernie Sanders traveled to the Soviet Union. He asked that the residents vote against the two Commissioners running next term.

Richard Backlund, 17 Lee Dr., advised that Mayor O'Brien was in the wrong seat because only the three Commissioners allow the Mayor and Vice Mayor seats to be filled. He asked when the City would address the flood problem he has had for the last 26 years. He advised that on January 27th he emailed the effects regarding the Diva Run and never got a response. He asked why the Commission approved another Diva Run next year. He explained that each year the residents are impacted from these events which affect their quality of life. He asked if the 5K Run from the Betty Griffin House would be the same route as the Diva Run. He requested to be on the agenda for the March Commission meeting.

Bruce Wright, 118 15 Street, advised that City Manager Royle and Police Chief Hardwick do not like individuals. He stated he believes in the buddy system. He advised that he does not believe in dealing with the County instead of the City. He remarked that he was happy with the new hotels. He advised that if the Commission wants to keep the parking, do it on the ocean side.

Mayor O'Brien closed the Public Comment section.

Mayor O'Brien asked City Manager Royle regarding the sign ordinance.

City Manager Royle advised that he would look into the sign ordinance, the flooding at the northeast corner of Lee Drive, and why Mr. Backlund did not get a response from his email regarding the Diva Run and whether the Diva Run was approved for next year.

Police Chief Hardwick advised that the Diva Run has posted on their webpage that they would have another 5K run next year; however, the sponsors of the Diva Run have not given an application to staff for next year as far as he knew.

City Manager Royle advised that the Diva Run have requested to put the item on the agenda in March or April.

Commissioner Samuels advised that the Commission received the recap of the Diva Run and asked it be forwarded to Mr. Backlund.

City Manager Royle advised that he would.

Mayor O'Brien asked if the Betty Griffin 5K Run was the same route as the Diva Run.

City Manager Royle advised no.

Mayor O'Brien advised that the discussion regarding the quality of life in the City was discussed under the leadership of then-Mayor Samuels.

Commissioner Samuels explained that the Commission set a limit of 4,000 participants at each event and that they had a meeting regarding it where Mr. Backlund was in attendance. She advised that she and Police Chief Hardwick gave Mr. Backlund their cards to call them if he had any problems during the Diva Run so he could be accommodated.

IX. PUBLIC HEARINGS

1. Conditional Use Permit: to Allow Outside Seating for the Consumption of Food / Beverages at The Kookaburra, 101 F Street (Block 60, Lot 1, Coquina Gables Subdivision, Mr. Frank O'Rourke, Applicant)

Mayor O'Brien opened the Public Hearings. He introduced Item IX 1 and explained that this Public Hearing was to consider outside seating for consumption of food / beverages at The Kookaburra. He then asked if anyone was here to legally represent a client regarding this conditional use permit.

Attorney Vladimir DuBouis advised that he was representing Mr. Otto Tittle, the neighbor of The Kookaburra (See Exhibit B which was given to the Commission before the meeting).

The Commission discussed the procedure and time limits for each representative with City Attorney Burnett.

It was the consensus of the Commission to allow the applicant Frank O'Rourke to present his case first for 10 minutes and then give Attorney DuBouis an equal amount of time after. The Commission also agreed to give a three minute time limit for public comments and to allow applicant O'Rourke a rebuttal statement at the end of the Public Comment section.

Mayor O'Brien asked the Commission for any ex parte communications.

Commissioner Samuels advised that she spoke with Leonard Lyons and did receive several emails, which she responded to.

Vice Mayor George advised that she had no ex parte communications. She explained that she was out of town for the week, but did get emails and did respond to them.

Commissioners Snodgrass and England advised they had no ex parte communications.

Mayor O'Brien advised that he had ex parte communications with his wife, members of his staff, and almost everyone east of A1A Beach Blvd on F Street who stopped him to chat but it would not affect his vote.

Vice Mayor George asked if the public would receive three minutes to speak.

At Mayor O'Brien's request for clarification on the process, City Attorney Burnett advised that the public would receive three minutes, Mr. O'Rourke would be able to present for 20 minutes, the opposing attorney would be allowed 10 minutes and then Mr. O'Rourke would be able to rebut at the end.

Commissioner England stated that she would like have a staff report as well.

Mr. O'Rourke advised that his ex parte communication was a report that he gave to the Commission on how he feels about this issue which was given a few days prior to the meeting (Exhibit A).

Applicant Frank O'Rourke stated that his tenants, The Kookaburra, was not classified as a restaurant but as a retail establishment because they do not manufacture any food on the premises. He advised that they currently sell coffee, muffins, and cookies. He explained that the parking qualifies under the City codes for the amount of parking at the property. He explained that the proposed deck would be on east side of the building facing A1A Beach Blvd and would be opened until 9 pm on weekdays and 10 pm on the weekends. He advised that Building Official Larson advised that the parking requirements do qualify under the City codes; however, he recommended tire stops in the parking lot to create a lane for the handicap customers, which he would do. He further commented that they are not selling any type of alcohol and would put a 30 inch walkway at the property. He advised that there was not a lot of noise from the business because most customers have their coffee and cookies and then leave. He explained that it was a commercially zoned property since it was built. He then asked if the owners of The Kookaburra could speak to the Commission.

The Commission agreed to allow the tenants to speak.

Owners Megan Vidal and Spence Hooker came to the podium.

Ms. Vidal, 101 F St., spoke to the Commission. She advised that she and Mr. Hooker were local entrepreneurs who started their business in 2012 and have grown to three locations and hired 30 employees from the local community. She explained that all their employees live close to the shop because they wanted to have local people. She commented that at the end of each day they donate their bake goods and coffee for local events. She commented that 90 percent of their business is coffee sales and take out. She remarked that walking A1A Beach Boulevard encourages people to come to their shop, but because it is Florida most people would like to sit outside. She commented that there is no live music and they don't want to disturb anyone.

Attorney Vladimir DuBouis, representing Otto Tittle, addressed the Commission. He explained that the edge of the paved parking area was only two and one half feet to Mr. Tittle's property line. He stated that Mr. Tittle would be the most affected. He advised what The Kookaburra was requesting was an intensification of the use. He advised that The Kookaburra is seeking an additional 26 seats and they only have nine paved parking spaces. He explained that The Kookaburra does not have a proper design for off-street parking. He commented that there was a technicality because there was no parking code under the category for a coffee shop, so it would fall under service category since it was not a restaurant; however, the code is specific when there is not a category in the code the Building Official is supposed to do a traffic study on patterns and similar uses. He advised that The Kookaburra was no different than a restaurant and if they have outdoor seating, the customers would not leave immediately, but stay for an extended period of time, which would cause a parking problem. He stated that there were major safety issues now with the parking but with an additional 26 seats, it would be a greater problem. He remarked that the only commercial entity in the area was this building and it was a non-conforming structure. He explained that it was a public safety issue and was dangerous. He stated that it has less than 70 percent of the required parking spaces at the location and because of liability reasons, the owners across the street have blocked off the parking from their private property.

Mr. Otto Tittle, 105 F St., advised that he was not against The Kookaburra but he felt it belongs in another area. He stated that it was a restaurant and not a retail establishment.

Mayor O'Brien opened the Public Comment section. The following addressed the Commission:

Richard Leatherman, 1457 Makarios Dr., gave examples of how noise carries a long ways in that area. He advised that the facility was too small for what The Kookaburra does and suggested they get a larger facility at a different location.

John Grode, 109 E St., commented that this was a beach community with big and small restaurants with outdoor seating because it's Florida and the weather was nice. He explained that people ride their bikes, walk their dogs and there are real estate

offices on every corner because people love this area. He stated that he believed that there were no parking problems at The Kookaburra because most customers walk or ride their bikes.

Earl Ward, 10 Lee Drive, remarked that he has been a resident for 30 years. He explained that he hears all events going on at the beach, which he likes, because it makes the community what it is. He advised that the customers who go to The Kookaburra are low key and calm. He explained that the parking lot was used before The Kookaburra was there. He explained that he couldn't see anything wrong with their business and he likes that they are hiring people who live within the community.

Michael English, 115 F St., explained that he went to the Planning and Zoning Board meeting when they discussed The Kookaburra. He advised that parking was a concern, but it was not put into the Conditional Use Permit. He explained that the expansion was affecting the residents on F Street.

Michael Hinson, 111 F St., commented that The Kookaburra advertises themselves as a restaurant online (See Exhibit 1). He showed three maps which were from 2009 (See Exhibit 2), 2011 (See Exhibit 3), and 2016 (See Exhibit 4). He advised that the neighbors were told not to complain, because they knew when they moved in that it was a commercial area. He explained that the building was a house in 1982 and then in 1984 it was taken over by a bank and became a hair salon. He stated that originally it was a home and zoned residential but must have received a variance to change the zoning. He commented that if people consume food at The Kookaburra then it would be a restaurant not a food service.

Paula English, 115 F St., explained that the traffic was bad on F Street. She advised that customers are parking along the side of the property, in front of the fire hydrant, blocking driveways, or parking in residents' driveways (See Exhibit 5). She explained that the lot across the street is a private lot where people used to park, but are no longer allowed. She commented that the handicap spot should be wider which eliminates one parking spot and brings the total number of parking spaces to eight. She commented that it is dangerous to have this business there due to the parking issues.

Adrienne Tittle, 105 F Street, advised that she supports local businesses, but The Kookaburra is opened from 7 am to 10 pm seven days a week and customers gather outside her home during those hours of business. She explained that there is no visual buffering or screen between The Kookaburra and her home. She quoted sections out of the Land Development Regulations and showed pictures of how The Kookaburra affects their quality of life (See Exhibit 5).

Kathi Avery, 108 F Street, commented that she purchased her home eight years ago and since then she has seen the growth and congestion in the neighborhood. She advised that there are a lot of children on F Street and it is dangerous for the children when they are going to school. She explained the problems with people backing out of the parking spots and parking being on both sides of the street. She remarked that

The Kookaburra was not a takeout business or a food service establishment. She suggested the owners get another location with a larger parking area. She commented that she didn't like the growth in the area and that someone was going to get hurt with the amount of traffic coming through there, especially in the summer.

Leonard Lyons, 10 E St., advised that the key issue was parking and the amount of people who utilize it. He commented that he liked the coffee shop but it was unsafe for pedestrians and bikes. He explained that he didn't understand how The Kookaburra was meeting the codes for parking with the number of seats they currently have. He advised that the Planning and Zoning Board stated that Mr. O'Rourke was willing to put a barrier and not serve alcohol; however, he didn't see any of his commitments being done. He stated that they cannot change the parking regulations. He suggested that the tenants find a better more suited location for their business.

Ted McLemore, 5 2nd St, stated that he lived in the area for 30 years and has seen changes. He suggested balance between residential and commercial zoning. He advised that the property has a unique zoning and they have asked for a very modest request. He gave several examples of other businesses that have been granted conditional use permits which were similar to The Kookaburra. He advised that property was properly zoned and parking was consistent with the zoning. He explained that The Kookaburra was not preparing food at the establishment, so they would not be considered a restaurant.

Tom Reynolds, 880 Beach Blvd., asked the Commission to vote no due to the safety concerns. He advised that F Street is the first left off of A1A Beach Boulevard and is heavily used. He explained that the street is narrow which causes safety concerns. He said that traffic studies should be done on how many cars travel there per hour. He stated that The Kookaburra's driveway is not on the main drag. He explained that The Kookaburra chose to open a business there and should have researched the property before they considered renting it. He also commented that F Street is a heavy bike route.

Robert Kahler, 29 Sunfish Dr., stated that there is a battle between the neighbors and the business owners who don't live there. He asked the Commission to side with the neighbors.

Harriett Henson, 111 F St, commented that she loved to walk to the beach, the surfers ride their bikes and dog owners walk to the beach. She advised that during the summer time the street will be busy with surfers who have no place to park. She advised that the traffic from a beauty parlor is not the same as a coffee shop because customers stay two hours at a beauty parlor where customers only stay five minutes to get coffee.

Ed Slavin, PO Box 3084, remarked that it was nice to see the community here being so passionate. He advised that he liked small businesses, but the Commission should look at the safety issues and other alternative parking. He suggested to send this application back to staff for them to work with the applicant on how to fix the issues.

He suggested to not decide this issue tonight and to come up with a compromise, once staff has looked into it.

Lee Steelman, 285 F St., advised that he loves it here and was pleased with the success with The Kookaburra; however, he noticed the impact on F Street. He asked when the property changed from residential to commercial because that would be important to answer. He was glad for the success of the business, but doesn't want the impact on F Street.

Discussion ensued regarding whether to allow Mr. Tittle to speak again since he was given the opportunity to speak with his attorney.

The Commission agreed to allow him to speak.

Otto Tittle, 105 F St., remarked that The Kookaburra was a restaurant, not a retail establishment. He advised that every 250 feet of office area requires one parking space and the property has 890 square feet which calculates to 3.6 parking spaces plus two extra parking spaces for employees. He stated that there should be a total of 18 parking spaces according to the zoning requirements. He said that the owner was in violation. He advised that currently they need 18 parking spaces with two handicap spaces and they only have nine.

Mayor O'Brien closed the Public Comment section asked City Manager Royle what the Commission needs to decide on.

City Manager Royle advised that the only item that the Commission should be voting on tonight was whether Mr. O'Rourke should be allowed a deck on the property. He advised that Building Official Larson could address the parking matters.

Commissioner England advised that she would like to hear Building Official Larson's report and advised that the Commission should have the same presentation as the Planning and Zoning Board.

Building Official Larson advised that Mr. Hinson was in his office a few days ago and found that there was an error in the Land Use Maps that didn't show a segment on F Street on the south side as commercial. He advised that he showed City Manager Royle the original zoning map since 1964. He explained that the process has always been 300 foot from the center line of A1A Beach Boulevard. He explained that the west was zoned commercial, which used to be referred to as BU1 and then was changed to commercial zoning. He advised that the three houses in questioned were zoned residential in a commercial district, which was probably done by a conditional use.

Building Official Larson then explained the parking issue. He advised that the square footage of the building warrants 5.7 parking spaces for the complete building, which rounds off to six parking spaces. He explained that The Kookaburra is not a restaurant but a food service establishment. He advised that if there is a question in their classification of their business it should be taken to the state. He explained that

The Kookaburra has a license from the state as a food service establishment. He further advised that their use conforms to the parking regulations and the Commission has granted these types of conditional uses previously to other similar types of businesses.

Discussion ensued regarding calculating the parking spaces.

Commissioner England advised that the building faces on F Street and that the Vision Plan has promoted buildings that face A1A Beach Boulevard to have outdoor seating to encourage pedestrian walking. She asked Building Official Larson how this situation differs from other outdoor seating establishments.

Building Official Larson explained how the local establishments with outdoor seating parking were situated to A1A Beach Boulevard. He advised that several locations have back-out parking.

Commissioner England asked Building Official Larson if the other establishments with outside decking front on A1A Beach Boulevard.

Building Official Larson advised yes.

City Manager Royle explained that this property is unique in its shape. He advised that the decking would be on A1A Beach Boulevard.

Commissioner England remarked the decking would be on A1A Beach Boulevard, but the entrance was in the back of the building. She advised that there was a disconnection between the outdoor seating and the establishment itself.

City Manager Royle advised that the property was peculiar in the way it was platted years ago.

Commissioner Snodgrass asked how long the property was zoned commercial.

Building Official Larson advised that it has been zoned commercially since 1964.

Vice Mayor George asked City Attorney Burnett if the error in the land use map would create any liability to the City.

City Attorney Burnett advised that the official record in the City's original document records would control anything that would be put on the internet.

Commissioner Snodgrass asked Police Chief Hardwick what complaints if any they had on the parking at this location.

Police Chief Hardwick advised that the Police Department has had a few calls from residents regarding the blocked fire hydrant, which most people could not see because it was behind the bush. He advised that the "Tow Away, No Trespassing" signs were placed by the private owner on F Street. He explained that when they

pulled the ordinance, they found that vehicles could park off the right-of-way on the side of the road in the direction of traffic. He advised that there have been some parking citations written at the location; however, he was waiting for this hearing to see what was consistent with the law.

Commander Parker explained that he and Public Works Director Howell got a measurement from the street to establish where the legal easement was.

Mayor O'Brien asked Public Works Director Howell for any of his observations.

Public Works Director Howell advised that the payment was narrow but the right-of-way is 40 feet and what he did was measured approximately 20 feet from the centerline and removed the "Tow Away, No Trespassing" signs to the correct edge of the property line.

Commissioner Snodgrass asked Mr. O'Rourke what additional accommodations he might be willing to make for the neighbors after listening to the issues at this meeting.

Applicant Mr. O'Rourke explained that when he applied for this permit, he didn't consider doing a landscape buffer between his business and 105 F Street, but as a condition he did agree to do it. He explained that the hours of operation, especially in the summer time, was a reasonable time. He commented that he did own the Beachcomber and worked it out with the neighbors before, and now the Beachcomber has thrived because they were part of the neighborhood. He explained that he has done business in the City since the 1980, with a good track record and would hope that this would benefit everyone. He advised that this would not be a loud establishment.

Commissioner Snodgrass advised that even though technically the parking is allowed, he believed it would not be sufficient and asked whether the business could change the location of the door.

Mr. O'Rourke explained that the building always has been a commercial property for over 30 years and never has been a residence. He advised that the doors have always been used there, which Mr. Tittle knew when he bought his property. He explained that Mr. Tittle asked for a variance in the setbacks, which exposes him to more noise. He commented that the lot sizes in the City are 50 x 90, which are small, and when buying in a commercial zoned area the owner should know that there could be noise. He explained that this is the way of the City of St. Augustine Beach. He showed the Commission the St. Johns County's Local Roads Traffic Study (See Exhibit 6) which shows that there would be more traffic in the future because of A1A Beach Boulevard. He explained that A Street has a 40 foot right-of-way, just like F Street, and the traffic has more than doubled on A Street. He explained that there were only five thoroughfares to A1A Beach Boulevard which were F, A, 11th, and 16th Streets and Pope Road. He advised that as the population increases there will be more traffic up and down those roads. He commented that we hoped to have more of a neighborhood business where customers would come by bicycles. He showed a

picture of an event by the Beachcomber (See Exhibit 7) to which most people came by bicycle because there was no parking. He explained that the City has granted twenty Conditional Use Permits and none of them had to qualify for parking. He further explained that F Street is safe because it is at an entrance to a crosswalk and two sidewalks. He then showed a picture of where they would like to place the deck (See Exhibit 8). He advised that the business is trying to put enough tables to accommodate people, which could be done with three tables, but putting a deck would look nicer and would be more aesthetically pleasing. He advised that he addressed all the points for the City's Conditional Use Permit and followed it up with the Vision Plan. He advised that he was trying to be a good neighbor.

Commissioner Snodgrass asked Mr. O'Rourke what he would do in response to what was heard at the meeting.

Applicant O'Rourke advised that he would do a landscape buffer as stated.

Commissioner Samuels asked about the appropriate lighting issue in regards to the neighbor's home.

After discussion, Mr. O'Rourke advised that he would use amber lighting. He explained that the majority of the Conditional Use Permits granted were for three to five years and he would like to have the same or make the permit non-transferrable. He advised that it would not be economically feasible for the investment if it was granted only for one year.

Commissioner Samuels advised that this permit could be removed for non-compliance at any time, so that argument would be mute. She advised that the hearings for the permits are issued so that the residents can have a quality of life. She advised that the Planning and Zoning Board was not incorrect for allowing the permit for one year.

Mayor O'Brien asked whether Attorney DuBouis should have a chance to rebuttal.

City Attorney Burnett advised no, that the purpose of a rebuttal was in order to have the applicant have the last comments.

Mayor O'Brien advised that the Commission did not meet for this hearing to discuss The Kookaburra business as it stands right now, but only to discuss whether to allow a deck to be built east of their building for outdoor seating.

Vice Mayor George asked Building Official Larson whether there was anything stopping the current property owner from installing the picnic tables on the grass at this location.

Building Official Larson advised that that topic was brought up at the Planning and Zoning Board, but there was nothing in the codes to prohibit it and if they did it, it would be considered an incidental use.

Vice Mayor George asked Building Official Larson if there was any code that would stop the property owner from building a deck as long as it was 12 inches off the ground.

Building Official Larson said no.

Mayor O'Brien advised that he watched the Planning and Zoning Board meeting and they addressed that issue. He explained that Attorney Whitehouse advised that if the applicant was doing something for a certain reason that looks like they are doing it for another reason, then you need to comply with the uses.

City Attorney Burnett agreed with Mayor O'Brien's comment.

Mayor O'Brien asked for Commission comments.

Commissioner Samuels explained that she was aware of the parking situation and looked at F Street and talked to Mr. Lyons. She advised that it was an odd building because it faces into the neighborhood, not A1A Beach Boulevard, which is the issue. She advised that the Commission can only discuss whether to allow a deck, not whether to stop the business. She commented that she has never been happy with the parking regulations and she feels that this is an issue at this location. She advised that she did not understand the reason why there was a different parking calculation for every type of business. She explained that that was why the Commission wants to hire a Land Planner in order to have this addressed. She suggested to the neighbors to contact the Police Department if there is an issue, but in regards to the fire hydrant, she stated she didn't know it was there. She advised that she believes small businesses are the life-blood of the City but she does have issues with the parking at the location.

Vice Mayor George advised that she lived on F Street for 11 or 12 years, so she was very familiar with the area, along with the narrow street and traffic; however, based on the representation from the staff, she didn't see how this request could be rejected with the recommendations from the Planning and Zoning Board. She commented that she appreciated that the owners came to the Commission before they installed more tables and decks. She advised that she didn't see the grounds for denying it based on what has been submitted. She explained that staff was telling the Commission that the parking does comply with the use which is the predominate concern. She stated that the permit does require that the buffer be installed and there is a one year limitation on the permit. She explained that the deck would be on the other side of the property, which would limit the noise aspect somewhat and if not, there is a noise ordinance that could be enforced. She advised that she would approve the permit.

Commissioner Snodgrass advised that he was very sensitive to the business owners who take the risks to improve their business, but does have concerns about safety and parking. He commented that even though the parking spaces conform to the code, it really shouldn't be. He advised that there would be more than six cars there at any given time. He explained that the property has been zoned for commercial purposes

for years and the Commission has granted Conditional Use Permits to others so he advised that he is compelled to probably approve the permit based on the recommendations of staff and that it conforms to the City's code with the conditions that were cited, but urged Mr. O'Rourke to be the best of neighbors.

Commissioner England explained that the way the building is acclimated it does not lend itself to outdoor seating the way other conditional use permits do. She advised that the business faces F Street, not A1A Beach Boulevard, which encourages outdoor seating for pedestrian walking and bicyclers. She commented that she does not agree totally with the business use designation as a food service versus a restaurant and would like a more formal presentation on that aspect. She explained that she understands the parking issues regarding what staff was saying, but could see what was happening at the location. She explained that adding 26 additional seats, whether some of that would be pedestrian walking or bicycles, would still intensify the parking issues, especially since the private lot parking was not permitted any longer. She explained that F Street has not been improved and parking / traffic studies have not been done. She commented that the owners have not testified that they made any outreach to accommodate additional parking. She acknowledged that the location is zoned commercial, but is not ready to approve the permit.

Mayor O'Brien commented that he spent his whole adult life owning a small business and understands the dreams and risks involved in a business. He advised that small businesses makes the City unique in its overall character. He explained that he believed that the business owners underestimated their popularity of their business at the location, which is a good problem, but it still is a problem. He explained that many customers do drive to the location and with only nine parking spaces it causes undue burden for parking in the neighborhood. He commented that he appreciates emails from everyone, but he weighs the emails and the comments of the people from the direct neighborhood more because the customers don't live there but the residents do. He explained that the additional seating would add to the parking demand. He advised that he saw a school bus dropping off children at the corner of F Street and A1A Beach Boulevard and because there were cars parked parallel to the street, the children had to walk in the street which makes them vulnerable to people backing out of their parking spaces to get home, which is a great safety concern. He remarked that safety in this community is number one. He advised that the fire hydrant is more visible now and there have been some violations for that. He remarked that this Commission has shown that neighborhoods matter in this community by not allowing the rezoning of lots to commercial for Holiday Inn Express and gave other examples. He explained that at the Commission meetings, the Commission discusses parking issues on a lot of properties and the residents' quality of life when having events. He remarked that we must maintain the Commission's commitment on these issues. He advised that the Commission must deny this request for outside seating because it would conflict with the Public Interest Section in 10.03.01, Paragraph E, due to lack of parking and safety issues.

Motion: to deny the request based on safety and a lack of parking. **Moved by** Mayor O'Brien, **Seconded by** Commissioner Samuels.

Mayor O'Brien asked for a roll call vote.

Vice Mayor George	No
Commissioner Samuels	Yes
Mayor O'Brien	Yes
Commissioner England	Yes
Commission Snodgrass	Yes

Motion carries 4 to 1.

Mayor O'Brien recessed the meeting at 9:17 p.m. and reconvene the meeting at 9:24 p.m.

2. Remand to the Commission by Circuit Court of Commission's Decision: to Deny Driveways to the Commercial Properties North and South of Versaggi Drive

Mayor O'Brien introduced Item 2. He advised that he wanted to disclose that he and his wife are under contract for a piece of property on Versaggi Drive. He then requested a recap from City Attorney Burnett.

City Attorney Burnett reported that the City Commission denied the request that came before them and Mr. Edmonds appealed the case to the Circuit Court. He explained that at the appeal, the City raised the issue of "Essential Requirements of Law" in Section 6.02.02.B, but the Circuit Court judge explained that since it was not raised at the City level that it would not be considered by the Circuit Court. He further explained that Judge Maltz has remanded it back to the Commission to make a decision consistent with his ruling and to follow the central requirements of the law with substantial evidence to support that decision. He commented that Judge Maltz advised that this was insufficient, so it puts the Commission in a position to have to reconsider the application. He explained that the applicant during that process voluntarily amended their application to have two entrances only off of Versaggi Drive which would alleviate the residents going out of Versaggi Drive from lining up to exit their neighborhood.

Commissioner Samuels asked City Attorney Burnett that since Section 6.02.02B was not discuss, does that leave room for an appeal of the judge's decision.

City Attorney Burnett advised that it does not leave room for an appeal of the judge's decision based on the fact that the City argued it and the judge said it was not raised at the City's level.

Commissioner England advised that the Commission could not discuss Section 6.02.02B tonight because the judge advised that it was not raised at the City's level.

City Attorney Burnett advised yes.

Mayor O'Brien asked whether the Commission could introduce any new information and whether the Commission could look at the code to see what could be put into the argument. He asked if there was something in the code that fits in that they could discuss.

City Attorney Burnett said yes.

Commissioner England advised that Judge Maltz said that the order was not sent and so we didn't have any findings the fact from the Commission's decision. She advised that she believed the Judge Maltz thought the Commission formed a decision without any findings of fact. She advised that she felt the Commission needs to go back and give a findings of fact to support the Commission's decision.

City Attorney Burnett advised that the Court's decision was that the Commission departed from the central requirements of law by denying the applicant, so it never reached the issue of other evidence. He explained that it sided with the argument that Mr. Ansbacher made in his presentation to the Commission and then went on with his brief during the appeal.

Vice Mayor George advised that part of the decision was the failure to send a written order out.

City Attorney Burnett advised that was true that the order was not sent out, but it didn't change the fundamental underline issues.

Vice Mayor George asked that the reference to Section 6.02.06D (1) was only one subsection of Section 6.02.06, and asked how much weight was there to other sections of the code. She asked how much relevancy would there be for the entirety of Section 6.06.06 and the entirety of the Land Development Regulations.

City Attorney Burnett advised that typically on a remand, the Commission is limited to what went on procedurally previously. He advised that there was some case law on whether the Commission could open it up beyond that. He suggested at this time it would be best to hear from the applicant and go through that process and then come back to the condition level.

Mayor O'Brien asked for any ex parte communication from the Commission. He advised that he spoke with his wife and two people on his staff.

Vice Mayor George, Commissioner Samuels, Commissioner Snodgrass and Commissioner England advised they had no ex parte communications.

Mr. Sid Ansbacher, representing Mr. Edmonds, advised that the record that Judge Maltz ruled upon and the Commission had before, contained your staff report and the Commission's unanimous recommendation from the Commission based solely upon Section 6.02.06D (1) which he stated. He reminded the Commission that the transcript in Volume 2 of the hearing, before the Commission, included statements from him that this was the only ordinance and that he knew of no other ordinance.

He advised that it was his position that no other opportunity was presented clearly and squarely, which Judge Maltz effectively ruled. He noted that under Tamiami Trails, Parker Family Trust, Palmer Trinity and numerous other cases of the state, Judge Maltz's decision constitutes a mandate back to the Commission. He explained that it was his position that the vote the Commission made was not voted on at all. He advised that he would oppose the Commission if they sent it back to Judge Maltz. He advised that modifying the curb cut to allow for the unidirectional driveway cuts in from A1A South and not allowing the exits back into the residential area, have allowed them to comply. He further stated that Walgreens was given the exact same authorization, even with full curb cut. He explained that his prospective was that there were two full hearings and a community meeting and they did respond by trying to prevent any access to or from the residential neighborhood. He concluded by saying that Judge Maltz's order advises that the Commission has it back for this proceeding to be consistent with his order. He advised that the subsection that Vice Mayor George mentioned was not raised at the previous hearing and he believes that it is too late to bring another section into the proceedings. He asked to rule consistent with the code and the appellant decision.

Vice Mayor George clarified that the subsection she cited was the one Mr. Ansbacher cited previously.

Mayor O'Brien opened the Public Comment section. The following addressed the Commission:

Ellen Jesvis, 30 Versaggi Dr., advised that the Commission could address Code Section 6.02.06D. She advised that the appellant is interpreting this narrowly. She advised that in the code section that the word "through" was not being looked at because Versaggi Drive is not at the end of a street. She explained that Versaggi Drive only has one entry and exit in a residential area and is a dead end road which does not have condos. She advised that Versaggi Drive is a single-family home with children and buses and should not be compared to the Walgreens situation that has a four way traffic light. She explained that Versaggi Drive has a stop sign. She commented that in June the County opened a beach walkover which is bringing bicyclers, children, and walkers to Versaggi Drive, which would be a safety concern.

Ginger Ackerman, 24 Linda Mar Dr., commented that Linda Mar is a spur off Versaggi Drive which is only one way in and out onto A1A South. She advised that the neighbors have tried to work with the Commission and owners to modify the existing driveways and to consider other possibilities. She advised that the residents have to meet annually to discuss this issue and are very discouraged because they know it is a safety issue. She remarked that this makes the neighborhood seem unsafe and uninviting at the entrance. She asked the Commission to help to resolve this long standing issue.

Ed Slavin, P.O. Box 3084, thanked the Commission for the last vote on Item 1. He advised that since Versaggi Drive has a beach walkover, the Commission has a right to consider the safety issue. He commented that in the future at public hearings participants should be sworn in. He explained that the Commission should do what

the County does and have staff prepare a memo with motions of the pros and cons for any zoning matters. He advised that the Commission should consider the safety and traffic issues on Versaggi Drive. He remarked that the Commission should stand their ground against it and have it go back to Judge Maltz with findings of fact.

Ann Palmquist, 213 10 St., advised that this issue came in front of the Tree Board / Beautification Advisory Committee. She remarked that the neighbors on Versaggi Drive are very close and are involved in the neighborhood. She advised that she asked Police Chief Hardwick about parking at the beach walkover and he said that people could park there as long as they were off the street. She commented that the point she was making was that the neighbors have been heard and are strongly against this issue.

Meg O'Connell, 10 Versaggi Dr., read a statement from Patricia Laurencelle who could not attend the meeting and who lives at 23 Versaggi Drive (See Exhibit 9).

James Collie, 10 Versaggi Dr., advised that the Commission made the right decision last time and listened to all the concerns of the neighbors. He advised that he thought the reading of the section was correct and thought that the Commission went through a lot of due process. He encouraged the Commission to stand by the decision because of the increased traffic and safety concerns.

Jerry Turnage, 21 Versaggi Dr., advised that the Commission did the right thing last time and he doesn't want this to go on every year. He asked if the Commission still had the pictures of the tractor trailers coming in and out of the property from the last public hearing.

Mayor O'Brien asked City Manager Royle if the City still have the pictures.

City Manager Royle advised yes, if they were in the record.

Brendan J. O'Connell, 10 Oceanside Dr., advised that Mr. Ansbacher mentioned that we are restricted from anything that is not already in the record and he is placing his reliance on Section 6.02.06D (1). He explained that the only exception to that statute was if the plaintiff's request does not meet the standards and are adverse to the public interest. He stated that the Commission needs to go to the record to see what was said by all parties involved. He explained that on January 5, 2015, Mayor Samuels said that they would propose the access, if there was a need. He further explained that on March 2, 2015, Commissioner England said that for years there was no compelling reason for change. He advised that on page 27 of the public hearing transcript of January 5 2015, it was mentioned that Walgreen had a traffic light where Versaggi Drive didn't. Continuing on page 45, he said that Mayor O'Brien said that Walgreens was absolutely dissimilar and on page 50, Commissioner England said to go to the Federal Department of Transportation to widen A1A South. He advised that this was never done. He advised that Commissioner George said that there would be no opposition from the residents if they went to A1A South. He advised that on page 45, the comment was made that it would increase the potential overflow. He advised that the residents' comments

were sustainable and compelling regarding the safety of this intersection because there were more accidents and traffic in the area.

Mayor O'Brien closed the Public Comment section and then asked Mr. Ansbacher that he could give a rebuttal.

Mr. Ansbacher said that the GBB case in the Florida Supreme Court advised the principal for a site plan approval was that one must demonstrate that they meet the code criteria and then it would go to the opponents to show that the principal does not meet the code criteria. He respectfully noted that the objections regarding Walgreens being dissimilar are the same objections that were raised before. He explained that the code criteria does not say that it is different if it is a red light or a controlled intersection. He further explained that the code criteria is limited to whether access goes through an area that is designed, instructed, or developed for a residential area. He remarked that they would say that it clearly meets those criteria. He also advised that the beach walkover is not within the code criteria and does not change the circumstance. He cited the Central Plaza case which had a similar safety argument made and what was decided was no matter how compelling the argument is, if it is not in the code it cannot be considered in a quasi-judicial decision. He asked the Commission to be consistent with Judge Maltz's order.

Commissioner Snodgrass asked Mr. Ansbacher to what extent has Mr. Edmonds has tried to accommodate the neighbor's concerns and comments.

Mr. Ansbacher advised that since they last met they went to court; however, in the first hearing Mr. Edmonds went from a curb cut to a unidirectional cut and changing the access to entrance only.

Commissioner Snodgrass asked if was any suggestions given to Mr. Edmonds that were considered and then dismissed.

Mr. Ansbacher advised that the residents asked Mr. Edmonds to go away or make changes to the A1A South right-of-way, which Mr. Edmonds did do within the Department of Transportation area. He advised that in theory Mr. Edmonds did try to accommodate them, but pointed out that then-Mayor Samuels and Commissioner George asked if they had jurisdiction on the A1A South's right-of-way and were told no. He advised that he felt they made safety changes both on A1A South and Versaggi Drive.

Mayor O'Brien asked City Attorney Burnett for comments.

City Attorney Burnett advised the Commission regarding case law and cited Parker vs. Jacksonville which he explained is on point for this issue. He explained that there it had a lot of citizen testimony and it was reversed on appeal and went back to the City Commission for remand. He advised that on the remand the citizens did a better job to explain their position; however, the court decided that the law of the case was established at the first hearing and the facts that were presented was binding on the remand. He commented that when you read Judge Maltz's order and

read the language of Parker vs. Jacksonville legal case and other legal cases, it says the Commission is remanded to take action consistent with the order. He commented that no matter how the residents or the Commission read the Code, Judge Maltz's decision interprets the facts that were given.

Vice Mayor George asked if that meant that Judge Maltz interpreted the code. She advised that she read it as Judge Maltz's ruling was that the Commission didn't properly identify the reason for the denial and because of that he remanded the decision back to the Commission.

City Attorney Burnett advised that he was going to further state that the second part of the analysis was the Doren V. Davis case that deals with material changes. He advised that the new beach walkway is a material change, but that doesn't change the decision on what the Commission can do. He advised that the Commission could change it. He suggested looking at Judge Maltz's order where it said that the Commission didn't make a determination of whether Edmonds request was in compliance with any provision of the code. He explained that it does open the dialog back up to whether the Commission could go back to one step and now look at not only Section 6.02.06D (1) but also 06.02.02B that we raised on the appeal.

Vice Mayor George advised that there was nothing in the code that says the property owners are entitled to as many points of access that they want. The main Section 6.02.06D (1), which was referenced at the first hearing, only says that access needs to be provided. She advised that it does not say that there could be more access. She explained that there doesn't have to be two access points. She advised that these lots already had access.

Commissioner England stated that they had two on each property.

Vice Mayor George said there was nothing anywhere in the code where they said that the applicant had an entitlement. She advised that the applicant is looking for additional access points which they are not entitled to and advised that she didn't see compelling evidence for them to be granted the access point. She explained that the section of the code that was referenced was inherent.

Commissioner England agreed and asked City Attorney Burnett that if the Commission built on the code and made a more formal findings of fact would that survive an appeal?

City Attorney Burnett advised potentially, because as the order says that the Commission made no determination, but whether the applicant was in compliance with the provision of the code. He explained that if the Commission was going to pinpoint the evidence that was heard either previously or tonight that supports that position, then that could be articulated in an order. He commented that the applicant could take another appeal and the only added thing the Commission could receive is a motion to enforce the remand.

Commissioner Snodgrass asked how the Commission could be compelling regarding the changes of facts and circumstances.

City Attorney Burnett advised that he thought the Commission had substantial fact based evidence in the first hearing as well as this hearing. He explained that the difference between facts based evidence and insufficient evidence and advised that because there was no finding of facts case law, Judge Maltz did not get to the fact based evidence.

Commissioner Snodgrass asked if additional traffic studies would be helpful.

City Attorney Burnett commented that if the Commission was concerned for public health, safety and welfare regarding the intersection on Versaggi Drive, then the Commission could ask the applicant for a traffic study to be made. He advised that he would steer the Commission towards the language of the case law to avoid manifesting injustice.

Commissioner Samuels asked if the Commission cites specific code law and say that this meets the code, would the Commission be protected from a negative impact.

City Attorney Burnett advised that the applicant would file another appeal if the Commission doesn't approve the request and as part of the appeal they would file a motion to enforce. He advised that he doesn't know if they would prevail on that or not.

Commissioner Samuels advised that the Commission cannot look at Section 6.02.02B, but if the applicant is looking at access points and the Commission cites the code other than what is required by law, wouldn't that be enough to protect the neighborhood?

City Attorney Burnett asked if Commissioner Samuels was referring to 6.02.06D regarding separation of access points.

Commissioner Samuels advised that three Commissioners focused on that issue.

Vice Mayor George advised that it would be extreme to take one subsection and one sentence out of context of the surrounding section. She stated that she didn't believe that that was what the judge was telling the Commission to do. She further stated that she didn't believe that that was what the applicant was asking of the Commission either during the initial hearing.

City Attorney Burnett asked if the Commission was looking at the separation of access point in reference to the one down the street.

Vice Mayor George advised correct, plus subsection A (1). She then read Subsection A (1).

City Attorney Burnett asked Vice Mayor George's point that there is already access points under subsection 6.02.06D which satisfies the 6.02.06A (1), so therefore the applicants request violates 6.02.06B (1) because that requires a separation between the access points.

Vice Mayor George advised that the applicants never met their burden.

Commissioner England advised that there was no compelling evidence needed for access and a third access point could be a safety issue as well with a narrow parking lot.

Mayor O'Brien advised that he pointed that out at the last meeting and gave an example. He advised that safety is the best reason to not approve.

Commissioner Samuels advised that all the Commission seems to support denying the applicant's request and they are supporting the neighborhood and the code.

City Attorney Burnett explained the Doren V. Davis case law and Parker Trust case law as it related to the Edmonds case. He then explained Judge Maltz's opinion to the Commission.

Commissioner England advised that the Commission needs findings of fact and after review of the record and considered the applicant's petition again, the Commission has determined that we have sufficient number of access points already exiting to the property which are two to the north and two to the south and that although not prohibited by Section 6.02.06D (1), that additional access points would create a safety hazard within the residential street and within the parking lot.

City Attorney Burnett added to Commissioner England's statement that under 6.02.06B, there are separation of access points and the applicant's request doesn't meet those requirements.

Commissioner England advised that she didn't add that language because the judge said the Commission couldn't.

City Attorney Burnett advised that he would say that alternatively the Commission finds 6.02.02B (1) is not met by the applicant. He advised that the support for that would be the Doren V. Davis legal case, where on remand the County considered additional information on different grounds.

Commissioner Samuels advised that the Commission has done what Judge Maltz's has requested.

City Attorney Burnett advised that the next step would be to complete an order to submit to Judge Maltz's which Mayor O'Brien would sign. He recommended to continue this hearing to next month for the purpose of reviewing the order.

Discussion ensued regarding the language of the order stating the finding of facts, and sending the order to Judge Maltz.

Motion: to continue the public hearing to the next Commission meeting for the purpose of reviewing a draft order that is consistent with the information that the Commission has given at this public hearing. **Moved by** Commissioner Samuels, **Seconded by** Commissioner Snodgrass. Motion passed unanimously.

Mayor O'Brien advised that the meeting needs to be extended due to the time.

Motion: to extend the meeting until 11:00 p.m. **Moved by** Commissioner Samuels, **Seconded by** Mayor O'Brien. Motion passed unanimously.

X. CONSENT

3. Budget Resolutions:

- A. 16-02, to Amend FY 16 General Fund Budget to Transfer \$3,000 from the Forfeiture and Seizure Fund to the Police Department's Other Operating Supplies/ Expenses Account
- B. 16-03, to Amend the FY 16 Roads / Streets Budget to Provide Money for Expenses Related to Project to Open 8th Street between Boulevard and 2nd Avenue
- C. 16-05, to Amend the FY 2016 General Fund Budget for the Protective Inspections Department

Motion: to approve Budget Resolutions 16-02, 16-03, and 16-05. **Moved by** Commissioner Samuels, **Seconded by** Vice Mayor George. Motion passed unanimously.

XI. OLD BUSINESS

4. 15th Street West of the Boulevard: Consideration of Removing No Parking Signs

Mayor O'Brien introduced Item 4. He then asked for a report from Mr. Howell.

Public Works Director Howell reported that he didn't have anything to add that wasn't in his memo. He advised that they did have a meeting with the 15th Street residents and seven of the nine residents that came to the meeting would like to leave the "No Parking" signs up. He then explained options for the Commission.

Commissioner Snodgrass asked what the consensus of the residents were.

Public Works Director Howell advised the majority of the residents wanted to leave the signs alone, but he pointed out that seven of the nine people live east of the line he was showing on 15th Street.

Vice Mayor George asked if all the residents west of the line were notified.

Public Works Director Howell advised that yes, he notified all the tenants and property owners on 15th Street.

Discussion ensued regarding whether to poll the residents regarding the signs.

Commissioner Snodgrass asked why not leave it as it is.

Public Works Director Howell advised that there is one property owner who wants to park next to his property.

Commissioner Samuels suggested to let the one property owner park there by taking down the sign by his property only.

Vice Mayor George asked for clarification that the resident who wants to park there is at the end of 15th Street.

Public Works Director Howell advised yes.

Commission agreed with Commissioner Samuels' suggestion.

Discussion ensued regarding whether there was another street that have "No Parking" signs all the way down the street.

Public Works Director Howell advised yes.

Mayor O'Brien opened the Public Comment section. The following addressed the Commission:

Bruce Wright, 118 15 St., remarked that Public Works Director Howell was incorrect. He explained that 13 people wanted to keep the signs up. He asked the Commission to read the petitions. He explained that the person who wants the sign taken down parks all different ways and that was what his problem was. He explained that he has been a resident for 20 years and has been stifled. He requested the Commission to postpone the item until a later date.

Commissioner Snodgrass explained to Mr. Wright that he thought the Commission resolved the issue the way he wanted it.

Mayor O'Brien closed the Public Comment section.

Vice Mayor George stated for the record that in this situation it was unique because it is at the end of the street; however, if there are any complaints from the neighbor

directly across the street that if they are unable to access their property, then it would be up to them to bring it back to the Commission for reconsideration. She further stated that this does not give anyone the right to block a fire hydrant.

City Attorney Burnett advised that the Commission could agree with consensus since there was no location on the resolution and the resolution would not have to be amended.

It was the consensus of the Commission to remove one sign from the location and leave the rest.

5. Land Planning Consultants:

A. Review of Proposals and Fees from Three Firms

B. Approval of Agreement with Firm Selected

Mayor O'Brien introduced Item 5 A and B. He then asked for a report from City Manager Royle.

City Manager Royle advised that the Commission has the Request for Proposals in their books and staff has reviewed the fees of the planners who submitted. He stated the following proposals from planners: TMH Consulting Inc. \$49,000, NE Regional Council \$43,325.54 and Andersen Shell Consulting, LLC at \$94,170. He advised that there was a fourth firm, but they decided not to give a proposal after meeting with the Commission on January 16, 2016.

Commissioner Samuels asked if there was a representative from the NE Regional Council.

Mr. Teeple, Executive Director of NE Regional Council, came to the podium.

Commissioner Samuels advised that the NE Regional Council's timeframe was 18 months and asked Mr. Teeple to reduce the timeframe.

Mr. Teeple advised that they were committed to get the scope of work that the Commission requested within a six month timeframe; however, he explained that when you have to advertise and have public workshops to amend the City's code that could be a year process. He advised that it could go as quickly as the Commission allows it to go. He explained that after six months they would be able to take the draft ordinance if the Commission approves it, then it would be forwarded for the public process, which can take more time.

Commissioner Samuels asked if it could be done in nine months. She explained that 18 months is a long time and the City has very pressing issues.

Mr. Teeple advised that the heavy lifting would be the first six months and he would move as quickly as the Commission could move after that first six months.

Mayor O'Brien asked if the City procedures were followed regarding the bidding process.

City Manager Royle advised yes and then explained the process.

Vice Mayor George asked if there were any other applicants in the audience. Being none, Mayor O'Brien opened the Public Comment section.

Craig Thomson, 6A D St., advised that he liked the proposals and liked NE Regional Council. He commented that he did agree with Commissioner Samuels that it is too long of a timeframe and would like to speed the process up. He advised that the Planning and Zoning Board has looked at this and advised the changes that were made for Ordinance 13-14 regarding setbacks have been a conflict for over a year. He commented on the large homes are being built on small lots and how disconcerting it has been. He asked the Commission to fast-track the review of Ordinance 13-14 changes that were made a year ago and to look at the tree ordinance that has been submitted. He explained that the new language has been submitted almost in code form to review and requested the Commission to move ahead quickly.

Mayor O'Brien closed the Public Comment section and asked for Commission discussion.

Commissioner England advised that the bid did not include architectural design features and was concerned about A1A Beach Boulevard's Commercial District because of the small lots and the vary sizes of buildings. She advised that she would like to come up with a way to address any kind of rehabilitation to buildings.

Mayor O'Brien asked if she was concerned what their fee would be to include that.

Commissioner England advised that they did say that they would contract it out and it would be approximately \$4,000. She advised that maybe if the Commission dives into this and sees what is available we could accomplish it with some expert help.

Mayor O'Brien advised that the subcontractor could help.

Commissioner England explained that she would like to include that as part of this agreement.

Commissioners Samuels advise that City Attorney Burnett gave a template of architectural designs previously and the City already has a color plate in place.

She remarked that if we use that information and include the subcontractor we should be able to accomplish it.

Mayor O'Brien asked if that would be satisfactory.

Commissioner England explained she could dive into this to get the setbacks, the tree ordinance, etc. but there are a lot of elements that go into architectural design.

Commissioner Samuels stated that Commissioner England was talking about an architectural coherence.

Commissioner England advised yes.

Discussion ensued regarding whether to include the subcontractor for architectural design.

Mayor O'Brien advised that NE Regional Council was number one to him.

Commissioner Samuels advised that NE Regional Council help design the St. Johns County codes.

Motion: to proceed with the NE Regional Council's proposal. **Moved by** Vice Mayor George, **Seconded by** Commissioner Samuels with the understanding that six to nine months is primary for the City's major topics. Motion passed unanimously.

City Attorney Burnett advised that he has drafted a contract for planning services with blanks until he knew what candidate was selected. He explained that his intention was to include in the contract as the scope of work what the in the Commission books as Exhibit "A" which would outline Mr. Teeple's letter of January 16, 2016, on pages 14-16 of the Commission's packet and for compensation he would add Exhibit "B" which would have their City of St. Augustine Beach Planner Services Cost Estimate by Element and Tasks. He advised that there would be two attachments to the contract which was explained.

Commissioner Samuels asked if a motion was necessary.

City Attorney Burnett asked if the intent of the Commission is to have it signed immediately.

Commission agreed yes.

City Attorney Burnett asked for a motion.

Mayor O'Brien asked for a motion.

Motion: to approve the contract as prepared and presented by City Attorney Burnett and including the attachments identified. **Moved by** Vice Mayor George, **Seconded by** Mayor O'Brien. Motion passed unanimously.

C. Budget Resolution 16-04, to Appropriate Money for Planning Services

At Mayor O'Brien's request, City Manager Royle advised that he needed a motion to approve Budget Resolution 16-04 in order to pay for planning services.

Mayor O'Brien asked for a motion.

Motion: to approve Budget Resolution 16-04. **Moved by** Commissioner Samuels, **Seconded by** Commissioner Snodgrass. Motion passed unanimously.

6. Building Height: Review of Proposed Ordinance Concerning Matters Related to Starting Point for Measuring Building Height

This item was tabled for a future agenda.

7. Joint Meeting with County Commission:

A. Request by County Staff to Set Time for the Meeting

B. Determination of Topics for Meeting

Mayor O'Brien introduced Item 7A and B. He then asked for a report from City Manager Royle.

City Manager Royle advised the dates available.

Discussion ensued regarding when the Commission was available.

It was the consensus of the Commission to have City Manager Royle schedule the meeting with the County Commission on Monday, March 28, 2016 at 9:00 a.m. at City hall.

The Commission agreed to inform City Manager Royle on the topics they would like to discuss at the next meeting.

8. Police Chief and City Manager: Review of Annual Performance Evaluations

This item has been tabled until a future meeting.

XII. NEW BUSINESS

9. Location of Streetlights: Consideration of Changing Current Policy and Approving Location of New Lights on Certain Streets

This item was tabled until a future meeting.

XIII. COMMISSIONER COMMENTS

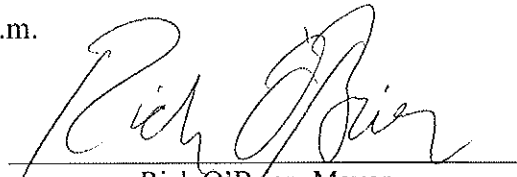
No comments were given.

XIV. ADJOURNMENT

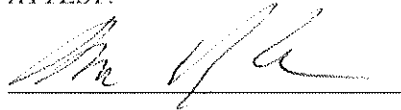
Mayor O'Brien asked for a motion to adjourn.

Motion: to adjourn. **Moved by** Commissioner Snodgrass, **Seconded by** Commissioner Samuels. Motion passed unanimously.

Mayor O'Brien adjourned the meeting at 10:58 p.m.


Rich O'Brien, Mayor

ATTEST:



City Clerk