

MEMORANDUM

TO: Mayor England
Vice Mayor Kostka
Commissioner George
Commissioner Samora
Commissioner Rumrell

FROM: Max Royle, City Manager 

DATE: June 25, 2020

SUBJECT: Accessing Private Property from Dead-End Streets: Review of Proposal

Pyrus Street, east of State Road A1A, is a short street that dead ends at the western boundary of a home at 240 Bluebird Lane in the Island Hammock subdivision. At your June 1st meeting, some Pyrus Street residents complained to you about the 240 Bluebird Lane residents using the end of Pyrus for access to their property. The outcome of the discussion was that Mayor England would meet with the residents and Commander Ashlock of the Police Department to work on a solution. The Mayor asked the City staff for a City policy on accessing private property from dead-end streets. The minutes of the discussion are attached as pages 1-4.

Attached as page 5 is a brief memo from the Building Official, in which he proposes that Section 6.02.03 (page 6 attached) of the Land Development Code be amended to provide for a fee and a permit approved by the Public Works Director to access private property from a public right-of-way.

ACTION REQUESTED

It's that you discuss Mr. Law's proposal with him. If you agree with it, then the City Attorney can draft an ordinance for first reading at your August 3rd meeting.

NEW BUSINESS

4. Access to City Street from Private Property: Consideration of Pyrus Street Barricade Proposal (Presenters: Christopher Cygul and Kristy Lee Wilson, 493 Pyrus Street)

Mayor England introduced Item 6 and then asked Christopher Cygul and Kristy Lee Wilson to the podium.

Christopher Cygul, 493 Pyrus Street, St. Augustine Beach, FL, thanked everyone for being here physically and through Zoom. He explained that on his street there is a construction problem, but not a dispute with the neighbors. An issue came up regarding the use of the right-of-way on Pyrus Street, which is a dead end. He requested the Commission consider the proposal to make a barricade on the right-of-way, which has been done on other streets facing the beach side within the City. He explained that Pyrus Street is not a major thoroughfare and wants to promote safety and not allow trucks, trailers, and heavy equipment to go through the barricade. He requested only pedestrian traffic. He said there is a lack of a fence bordering Bluebird Street. He explained that the owners removed the fence approximately in August 2019, which causes a lack of privacy for the homeowners on Bluebird Street. He advised that the Bluebird Street owners advised that the owners on Pyrus Street do not allow the owners of Bluebird Street privacy. The homeowners on Bluebird Street have four-wheel vehicles, a pickup truck, and a trailer. The Pyrus Street homeowners have noticed safety concerns that the Bluebird Street owners are doing on their property in regard to tree removal and had an arborist come to the property who said there were several widow-maker trees that could fall. He explained that since the fencing has been removed, cameras have been installed facing the Pyrus Street residents. He commented that the Pyrus Street homeowners want a peaceful solution. He requested the Commission to have the City install barricades to protect the people on Pyrus Street and other streets that face Island Hammock. He explained that the tree surgeon does not advise running over the roots of a very large magnolia tree with trucks. He advised that his goal is have a pedestrian entrance to the property and if the City cannot install barricades, how long will it take the owner on Bluebird Street to put her fence back up and explained that it has been down for nine months.

Mayor England asked what exactly Mr. Cygul wanted.

Mr. Cygul advised that he wants a barricade to be installed by the City with a gate for pedestrian walkway as other streets within the City have.

Mayor England asked if the City ever installed fences previously.

City Manager Royle advised that on streets the City has installed two posts with two crossbeams on dead end streets. He explained that if the homeowners want a gate, the homeowners will have to provide that.

Commissioner Rumrell spoke with Building Official Law regarding installing a horse fence that would be on the right-of-way and asked City Attorney Douglas if the City has a right to do that.

Building Official Law agreed with Commissioner Rumrell and advised by doing this it would show that the City did not take sides between the neighbors. He suggested a gate if the Commission wanted so people could access the public right-of-way; however, what is done

on one street must be done on all streets. He explained that each street would cost approximately \$100.

City Attorney Douglas advised that the Commission could install what they want on their right-of-way.

Commissioner Samora asked Building Official Law about 10th, 9th, 13th, 14th and 15th Streets that have the same type of dead-end streets.

Building Official Law advised that yes, they have two horizontal rails, but he would ask for a two by four cap to help steady the rails, especially if a gate is installed.

Mayor England recapped that what was requested is to construct fencing at all dead-end streets in the City's as the budget allows.

Mayor England opened the Public Comments section. The following addressed the Commission:

Fiona Godfrey, 240 Bluebird Lane, St. Augustine Beach, FL, read a statement into the record (Exhibit 5).

City Attorney Douglas advised that the Commission does not have to vote tonight on the recommendation staff made. He encouraged the Commission to strive for consistency throughout the City.

Mayor England asked for more research and to get the information to the Commission.

Commissioner Rumrell spoke with Commander Ashlock and Assistant City Attorney Taylor. He advised that the City does not want to get involved in a civil dispute and explained that the City could install a barricade on the City's right-of-way. He also advised that if the homeowners want in the future to get a special use permit for a pool, they could apply for it and the City could take the barricade down and then reinstall it.

Commissioner George has seen similar disputes to remove barricades from the private right-of-way when a neighbor did not want access. There is a section in the code that requires a permit to put anything in a right-of-way that could block access. She explained that she is withholding on voting on this issue because she has a perceived conflict of interest with regard to one of the property owners involved so she recused herself on voting.

Vice Mayor Kostka asked when the fencing on Bluebird Lane would be completed.

Mr. Godfrey, 240 Bluebird Lane, St. Augustine Beach, FL, disputed the comments by Mr. Cygul. He explained that he has been following the law by using his truck and trailer, but Pyrus residents barricaded them for using the right-of-way by putting wood, tables, etc. in their way and he could not get his truck and trailer out. The police have been called several times by Pyrus residents. He wants to clean up the backyard and put up the fencing. He explained that there is no need for a barricade and advised that he has a construction fence there in the meantime.

Vice Mayor Kostka asked when it will be done.

Mr. Godfrey advised it would take one month for the trees and another month for the fence. He advised about 2 ½ months. He has been stopped for 1 ½ months due to altercations.

Mayor England asked City Attorney Douglas what the City should do without getting involved in the neighborhood dispute.

City Attorney Douglas recommended that the City does not get involved in civil disputes between neighbors. Staff has come up with a recommendation that has been given to the Commission for a barricade and he does not see any legal obstacle in doing that if the Commission agrees. The Commission is not required to vote on it tonight.

Mayor England asked if it is a City's decision on when the City or if the City should put up a barricade. She asked if it would be a Commission decision.

City Attorney Douglas advised that he would have to research that and feels it would be more of a staff level decision.

Mayor England suggested that staff bring back a policy to the Commission regarding this issue at a future date.

Vice Mayor Kostka advised that the City does not need a policy on what to do with the City's rights-of-way. It is the City's decision but wants more information on this before voting.

Carol Freudenberger, 244 Bluebird Lane, St. Augustine Beach, FL, explained that Pyrus Street is directly behind her and she has a fence and a pool on her property, which has a gate on Pyrus Street. She explained that her gate has been boarded and nailed shut without her permission and she cannot go out the back gate if she chooses to. She explained that the gate was used for gas for the pool heater. She asked if a barricade were erected, would the gate remain open. She advised that the street seems to be a public party place also.

Police Chief Hardwick advised that he reached out to the experts in the City, Building Official Law and Public Works Director Tredik. Law enforcement does not get involved in civil disputes; however, he wanted to not let it escalate. Commander Ashlock reached out to the neighbors and educated them on the laws that the police enforce on the street. No criminal actions have been taken by the neighbors. The problem is that the streets are not consistent throughout the City and this issue will be coming up again with other streets.

Mayor England asked the staff to inform the Commission on what the City does on dead-end streets and whether vehicle access is allowed. She also requested to find out if special permits are needed for construction. She advised that she did not have enough information to make solid decisions on this street.

Kristy Wilson, 493 Pyrus Street, St. Augustine Beach, FL, wanted a dead-end street for safety reasons for their four-year-old girl. Police have been called by Mr. and Mrs. Godfrey. Mrs. Godfrey has filmed her child. She wants them to access the front of their property like everyone else. She also runs over the roots of trees in other neighbors' yards.

Jennifer Pessina, 91 Pyrus Street, St. Augustine Beach, FL, objected to cameras pointed to her house with her small child.

Kevin Pessina, 491 Pyrus Street, St. Augustine Beach, FL, explained that there are unprofessionally cut trees that pose a danger to his house; fence panel that they took down because the improperly moved their fence; not allowing filming of children; he would be willing to place a fence on his property to stop this; and can use the gate at the end of the street for non-vehicular access only.

Ed Swift, 2591 Hydrangea Street, (owner of duplex 490 & 492 Pyrus Street), St. Augustine, FL, he talked with the neighbors on Pyrus Street who seemed to be united and Bluebird neighbors seem to have angered everyone. The trees and fencing have been down for months and the staging area for the vehicles is on Pyrus Street. He advised that they live in a PUD in Island Hammock and should use their street to remove trees and do construction.

Nick Ortiz, 492 Pyrus Street, St. Augustine Beach, FL, agreed with Mr. Swift and over the last five to six months this has been a problem and there seems to be no end in sight. The access point being used was never accessed before after 40 years of trimming. He is in support of the barricade.

Ed Slavin, P.O. Box 3084, St. Augustine, FL, advised that city staff presented this item in a disorganize way and requested mediation and requested to table this matter.

Mayor England closed the Public Comments section and advised that she would sit down with the residents with Commander Ashlock to get a reasonable resolution. She asked staff for a policy on dead-end streets regarding vehicle access or not. She suggested not taking any action tonight but to come up with a City policy on dead-end streets.

Commissioner Samora agreed because he said this will not be the last time this issue comes up. He suggested a policy with procedures and time constraints.

Mayor England advised that the two issues are vehicle access and pedestrian access and, in the meantime, to work with the neighbors to get their construction done.

Commissioner George advised that it is great to work with a policy; however, the universal policy needs to be very clear because lot access is a complicated issue, especially on the ocean side and the side of the property. She said that a consistent policy might not be obtainable.



City of St. Augustine Beach Building and Zoning Department

TO: Max Royle
FROM: Brian Law
SUBJECT: Right of ways access and permitting
DATE: 6-19-2020

Max

As a result of the ongoing neighboring disputes between residents at Pyrus street and Bluebird Ln, I am proposing a code change to section 6.02.03 Rights-of-way of the City of St. Augustine Beach Land Development Regulations as directed by the City Commission. This proposed modification should provide another mechanism for the City to regulate its Rights-of-way. This permitting process will be approved by the Public Works Director and the fee shall be placed in the appropriate account as determined by the Finance Director. The current software, MCSJ, used by City Staff will have no problem handling this new transaction.

Brian W Law CBO, CFM, MCP
City of St. Augustine Beach
Director of Building and Zoning
2200 A1A South
St. Augustine Beach, FL 32080
(904) 471-8758
blaw@cityofsab.org

Sec. 6.02.03. - Rights-of-way.

- A. *Right-of-way widths.* Right-of-way requirements for road construction shall be as specified in Table 6.02.02A of this Code. The right-of-way shall be measured from lot line to lot line.
- B. *Protection and use of rights-of-way.*
1. No encroachment shall be permitted into existing rights-of-way, except for temporary use authorized by the St. Augustine Beach City Commission.
 2. Use of the right-of-way for public or private utilities, including, but not limited to, sanitary sewer, potable water, telephone wires, cable television wires, gas lines, or electricity transmission, shall be allowed subject to the placement specifications in any applicable St. Augustine Beach regulations.
 3. Sidewalks and bikeways shall be placed within the right-of-way.
- C. *Vacation of rights-of-ways.* Applications to vacate a right-of-way shall be approved by ordinance upon a finding that all of the following requirements are met:
1. The requested vacation is consistent with the Transportation Circulation Element of the St. Augustine Beach Comprehensive Plan.
 2. The right-of-way does not provide the sole access to any property. Remaining access shall not be by easement.
 3. The vacation would not jeopardize the current or future location of any utility.
 4. The proposed vacation is not detrimental to the public interest, and provides a positive benefit to St. Augustine Beach.
 5. The proposed vacation was not acquired or dedicated for state, county or federal highway purposes.
 6. The proposed vacation was not acquired or dedicated for utility purposes;
 7. The proposed vacation does not provide access to the ocean and/or beach, or other recreational resource;
 8. The proposed vacation does not provide access to public drainage facilities.
 9. No portion of a street or alley lying between two (2) intersecting streets shall be vacated unless the entire portion of the street or alley between such intersecting streets is vacated.
- D. Residential driveways in the city rights-of-way shall be limited to a maximum of eighteen (18) feet in width with a maximum five (5) by five (5) foot apron flair on either side. The city shall not be responsible for the repair and maintenance of residential driveways in city rights-of-way.
- E. Vehicular traffic through City Rights-of-Ways at the end of dead end no access streets shall be prohibited except by :
1. All governmental vehicles
 2. With a Rights-of-way permit as authorized by the Public Works Director, not to exceed 30days for a fee of \$250.00 dollars

(Ord. No. 18-08, § 1(Exh. 1), 7-2-18; Ord. No. 18-18, § 1, 1-7-19)

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