



MINUTES

REGULAR CITY COMMISSION MEETING
MONDAY, DECEMBER 5, 2022, AT 6:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A South, St. Augustine Beach, FL 32080

I. CALL TO ORDER

Mayor Samora called the meeting to order at 6:00 p.m.

II. PLEDGE OF ALLEGIANCE

The Commission recited the Pledge of Allegiance.

III. ROLL CALL

Present: Mayor Donald Samora, Vice Mayor Rumrell, and Commissioners Margaret England, Undine C. George, and Beth Sweeny.

Also present were City Manager Max Royle, City Attorney Jeremiah Blocker, Police Chief Daniel Carswell, Police Commander T.G. Harrell, City Clerk Dariana Fitzgerald, Finance Director Patty Douylliez, Building Official Brian Law, and Public Works Director Bill Tredik.

IV. APPROVAL OF MINUTES OF THE REGULAR COMMISSION MEETING ON NOVEMBER 14, 2022

Motion: To approve the minutes of regular Commission meeting on November 14, 2022. **Moved by** Vice Mayor Rumrell, **Seconded by** Commissioner England. Motion passed unanimously.

V. ADDITIONS OR DELETIONS OF THE AGENDA

There were none.

VI. CHANGES TO THE ORDER OF TOPICS ON THE AGENDA

Mayor Samora requested to move Commissioner Comments to just before Staff Comments.

VII. PRESENTATIONS

Plaque to Commissioner Margaret England for 14 Years of Service to the City as Mayor, Commissioner, and Member of the Comprehensive Planning and Zoning Board

City Manager Royle advised that this is Commissioner England's last meeting, and that he would like to present her with a plaque and take some photos with the Commission. Mayor Samora read the dedication from the plaque and presented it to Commissioner England.

Mayor Samora moved on to Item VIII and advised that everyone would have three minutes to speak on non-agenda topics and that any questions would be followed up by staff at the end of the meeting.

VIII. PUBLIC COMMENTS

William Pelzer, 461 Ocean Grove Circle, St. Augustine Beach, FL, commented on SEPAC's monthly report which indicated input from seven different, assumably authoritative, yet strangely anonymous sources; their inputs are based on the false premise that there would be no central pathway in Ocean Hammock Park, but every version of Phase 3 that he has seen shows one; since there would be a central pathway, then most of the input that SEPAC provided would support relocating the boardwalk which would return roughly one acre of property to its original undisturbed state; it would increase the amount of contiguous undisturbed space which these individuals said was desirable; it would reduce the number of permanent intrusions into the wetlands; given the input, how could SEPAC not support the relocation of the beach access; it is not logical.

Doug Conkey, St. Johns River Water Management District (SJRWMD), 7775 Baymeadows Road, Jacksonville, FL, congratulated Commissioner England and wished her well; emailed the City Manager about a cost share window that is opened December 1st through January 31st; cost share is great for flooding, water quality projects, etc.; resiliency projects are also now considered; SJRWMD would cover twenty-five percent of the cost up to \$3 million; in 2021 they decided to pick up the tab to plug abandoned/unused artesian wells which can be expensive for a landowner; they have plugged 171 wells which equated to 24.2 million gallons of water a day in savings; the growing State has put a lot of pressure on our water resources; there are some great things going on as we work to preserve our water. Commissioner Sweeny asked if the \$3 million cap was per project. Mr. Conkey advised that the cap would be for the entity, but that more than one project could be submitted.

Nick Binder, 232 Big Magnolia Court, St. Augustine Beach, FL, suggested that Commissioner comments should be at the beginning so that people would still be here to hear the Commission; staff provided him with the latest Florida Department of Transportation (FDOT) information regarding the traffic signal at Madrid Street and A1A South; he talked to someone last Friday and received information that a signal study would cost between \$12,000 to \$15,000; if there is merit for the signal, the intersection controlled evaluation could cost another \$30,000; the actual signals would cost \$500,000 due to the material needed being so close to the ocean; suggested working with Marsh Creek subdivision to apply for legislative aid; something serious is bound to happen without a traffic signal there; suggested to not have the Ocean Hammock Park restroom money as a Consent item and to have it for further discussion so the public can understand what the money is being used for; suggested a rubberized surface at Splash Park similar to Jacksonville Zoo.

Henry Dean, St. Johns County Commissioner, 224 North Forest Dune Drive, St. Augustine Beach, FL, has had the pleasure of working with Commissioner England for the past six years; we served as a good team and reached out with good ideas, and he wished her well; as a resident he is confident with new City Attorney Blocker who is also a friend.

Gary Van Hartogh, 4 Ocean Trace Road, St. Augustine Beach, FL, had a productive meeting several weeks ago regarding the drainage issue and the conundrum it has created, which is an easement to a drainage area that is considered a wetland and cannot be drained or dredged so the water has no place to go; the pond was created to be used for our drainage and we cannot use it; the valve has been closed for four years and the parking lot turns into a swimming pool; the pond is not able to perk because of the contaminates from the tennis courts; pretty soon the adjacent townhouses will flood; it has been brought up several times and he just wanted to be proactive, get involved, and make a difference for this drainage issue.

Mayor Samora closed Public Comments and asked Director Tredik if he had follow-up information for the Ocean Trace drainage issue. Director Tredik advised that he spoke to SJRWMD about it,

and they are concerned about the boundaries of the pond being wetlands and less concerned about the bottom of the pond being wetlands, so dredging may be a possibility, but he did not think that it would result in a significant drainage improvement. He said that he also talked with Matthews Design Group, who did some work for the property owners there, and their belief is that most of the water movement is lateral and that they agreed that the benefit would not be sufficient to solve the drainage problem. Mayor Samora asked if he was in communication with any of the stakeholders that were at our workshop meeting. Director Tredik advised that he has had conversations with several stakeholders but nothing substantial yet. He has heard from people on Sabor de Sal Road as well as a few condo owners. Mayor Samora asked that he keep the Commission informed through his monthly reports. Director Tredik agreed.

Mayor Samora asked the City Manager to follow up with Mr. Binder regarding his traffic study suggestion. City Manager Royle agreed.

Mayor Samora moved on to Item IX and asked Building Official Law for his presentation.

IX. PUBLIC HEARINGS

1. Ordinance 22-13, Final Reading, to Vacate Alley between 1st and 2nd Streets, West of 2nd Avenue, Block 32, Chautauqua Beach Subdivision (Presenter: Brian Law, Building Official)

Building Official Law advised that this is the final reading, and he showed a map of the area on the overhead projector [Exhibit A]. He advised that there have not been any changes to it since last month.

Mayor Samora opened Public Comments. Being none, he closed Public Comments. Mayor Samora asked the City Attorney to read the preamble. City Attorney Blocker read the preamble.

Motion: To approve Ordinance 22-13 to vacate the alley between 1st and 2nd Streets, west of 2nd Avenue, Block 32, Chautauqua Beach Subdivision. **Moved by** Vice Mayor Rumrell, **Seconded by** Commissioner George. Motion passed unanimously.

Mayor Samora moved on to Item X.

X. CONSENT

(Note: Consent items can be approved by one motion and vote unless a Commissioner wants to remove an item for discussion and a separate vote)

Vice Mayor Rumrell asked to pull Consent Agenda Item X.6 so that Director Tredik could explain the increase for the Ocean Hammock Park restrooms.

2. Reappointment to a Three-Year Term of Ms. Sandra Krempasky to the Sustainability and Environmental Planning Advisory Committee
3. Budget Resolution 22-18, to Adjust Fiscal Year 2023 General Fund Revenues and Expenditures for Second Code Enforcement Officer
4. Budget Resolution 22-19, to Increase Revenue and Expenditures in the American Rescue Plan Act Fund for Fiscal Year 2023 Budget for Dune Walkover Project
5. Budget Resolution 22-20, to Adjust Fiscal Year 2023 General Fund Accounts for Audit Fees

Motion: To approve the Consent Agenda Items 2-5. **Moved by** Commissioner George, **Seconded by** Vice Mayor Rumrell. Motion passed unanimously.

Mayor Samora moved on to Consent Agenda Item X.6 and asked Director Tredik for his report.

6. Budget Resolution 22-21, to appropriate \$100,000 from American Rescue Plan Act Funds for the Ocean Hammock Park Restroom Project

Director Tredik advised that, as written in his Memo for the Commission Agenda, we have ordered the restroom and it should be delivered soon. He is contracting with Thomas May Construction Company to prepare for the installation which includes a pump station, sewer/water mains, a handicapped parking space, etc. at a cost of \$355,000. He said that Thomas May is a continuing contractor with St. Johns County and that we are piggy backing for this project. He advised that that gets us to the funds that we have allocated right now. We still have other things to do in the next four months and fees to pay, such as Florida Power and Light (FPL) utility connection fees, natural trail signs, etc. as indicated in the Memo. He is asking for additional money because there is no money in the budget to do those required things as part of our grant.

Commissioner Sweeny asked if the nature trail would be different from the paved pathway. Director Tredik yes, it is a trail that loops around the parking lot.

Commissioner George said that this would bring the total cost to approximately \$455,000. Director Tredik said no, there is the additional \$147,000 for the cost of the restroom. He said that it was bid back in the spring and that we are still about \$50,000 to \$60,000 less than it would have been. He said that with the inflation over the past several months that we are not realizing the benefits, but that we are in better shape than we would have been if we had awarded the bid. Commissioner George said that the premanufactured restroom is one of the best investments we have made to incur the price before the cost explosion occurred. She asked if there was any particular element in the list of items included in the \$355,000 that significantly increased more than another. Director Tredik said that he believed it is spread across the board with labor, contractor availability, materials, etc. He said that if this had been built a few years ago it would have been significantly cheaper. Commissioner George asked if there was anything that is not critical and could be removed. Director Tredik advised that he had already removed everything that was not required by the grant. Commissioner George asked if each cost was still considered reasonable and commensurate with other vendors. Director Tredik said yes. Commissioner George asked if we are complying with our purchase policies even though the increase has occurred. Director Tredik advised yes.

Commissioner Sweeny asked the Finance Director to clarify if this project would be taking away money from any other potential American Rescue Plan Act (ARPA) funded projects. Finance Director Douylliez said no and she advised that the \$227,000 still sitting there was just over and above what the initial approved list was from the Commission. Commissioner Sweeny asked if there were still the separate salary funds leftover and available to use. Finance Director Douylliez said no that those funds were taken by Director Tredik for another project last fiscal year shortly after the funds were put back into ARPA. She advised that the balance of \$227,000 is what is left and that everything else was allocated to other projects or uses that may not be in the current fiscal year's budget, but they are set aside for other aspects of what we are looking at doing.

Mayor Samora said that we would be left with \$127,000 in funding, and he asked if it needed to be incurred by a certain date. Finance Director Douylliez advised that it does not.

Commissioner England asked what phase this would complete for the Park. Director Tredik advised that this would complete Phase 2, which is the area around the restrooms and Phase 3 would take the improvements into the Park to include the walkway as well as the observation deck, playscape area, etc. Commissioner Sweeny said that we have no funding for Phase 3. Director Tredik advised that there is a \$60,000 Coastal Partnership Initiative grant

which we are ready to bid after he gets some resolution here tonight. Commissioner Sweeny asked what the total cost of Phase 3 would be. Director Tredik advised \$400,000 or more. Commissioner George asked if Phase 3 could be collapsed into Phase 2 and eliminate some of the additional improvements and use those funds toward the restroom project. Director Tredik said that they are two different funding sources which would make it challenging to do.

Mayor Samora opened Public Comments. Being none, he closed Public Comments.

Motion: To approve Resolution 22-21. **Moved by** Vice Mayor Rumrell, **Seconded by** Commissioner George. Motion passed unanimously.

Mayor Samora moved on to Item XI.

XI. OLD BUSINESS

7. Ocean Hammock Park Beach Access Proposed Relocation: Request for Commission Guidance for Information It Needs for a Decision and Scheduling Date for Special Meeting in January (Presenters: Max Royle, City Manager; Bill Tredik, Public Works Director)

City Manager Royle advised that this agenda item is simply to ask the Commission to give staff information and that the Commission would not be making a decision tonight. He said that staff wants to make certain to get all the information that the Commission needs to make a decision and eliminate any hesitation or doubt so that a decision can be made. He said that he thought that January would have been adequate time to schedule a special meeting about the walkway, but Director Tredik now has additional information, and we should probably postpone the special meeting until we get those answers.

Mayor Samora asked for staff to present the information that they had already planned to present at the special meeting, afterwards the Commission could discuss it and come up with a list of items and then open it to the public and encourage them to ask for what they would like to see to help everyone make an informed decision. He said that it would be brought back to the Commission and then we could pick a date to allow ample time.

Director Tredik advised that he would like to update a couple of conversations that we have had. He said that Florida Communities Trust provided \$1.5 million in grant money towards the last purchase of the 4.5 acres at Ocean Hammock Park and that they have reservations allowing a replacement walkway on the land that they helped us acquire. He said that they were careful not to say that it is impossible, but that it would be challenging since the existing walkway was funded with FRDAP (Florida Recreation Development Assistance Program) money. He said that it would be a lengthy process or possibly not permitted at all and it would likely require an updated Management Plan for the Park. He advised that there are protective covenants in place from when we acquired the land, one of which stipulates that the recipient shall coordinate management of the project site with the adjacent Ocean Hammock Park walkway, so it specifically references the existing walkway. He advised that the other issue is cost. He said that the past estimate was based upon the Phase 3 – Opinion of Probable Cost, and since that time we have built two of the dune walkovers and are working on two more, etc. and that the cost is a little higher than the past estimate. He said that just to do the work associated with the relocation of the western piece and tying it into the Phase 3 concrete walkway going to the observation deck and the beach could be \$750,000 which is more than the \$600,000 that was discussed. He advised that it does not include the benefits we hoped to get with the picnic pavilion and playscape which are valid considerations about cost which were raised in past public comments. He said that we need to understand exactly how much it would be and, with the way things are now, it could go up even more and that we need

some sort of guarantee that this would be funded. He advised that he talked to SJRWMD about it and that he does not think that they would be an insurmountable hurdle. He said that there are potential wetland impacts that we would have to deal with, but they are all temporary impacts. He said that he believed that it is a permissible design which could be developed for that Park through SJRWMD and DEP but that the Florida Communities Trust is the one that he is not sure about right now. He said that if we get \$600,000 and the bid comes in at \$800,000 then would the City be willing to pay more money or not do the project, which is something that would need to be worked out in the upcoming special meeting. He said that we may reach a point where it is not going to be permissible.

Mayor Samora said that he heard a couple different issues such as permitting, cost, and conditions of the grant, which are three items to be brought back to the Commission with as much detail as possible. He suggested to provide an estimated cost and possibly provide the original grant application. He asked what other information Director Tredik had planned to bring to the special meeting. Director Tredik advised that he does not have a lot more on it and that the cost is the main item for him and whether we could fund it and permit it. He said that we could certainly build it if we have the money and the permits.

Commissioner George advised that it is important to receive both the physical and digital petitions because she has heard that there are about 860 signatures on them now. She has also heard of some surveys within Sea Colony and that this is a call to the public to make sure to manifest them to City Hall. She said that rumors mean nothing unless the Commission can actually see the evidence and that they could also call any of the Commissioners or City Hall to let us know how we could obtain those documents. If we are going to have a workshop on this item, which has a lot of hurdles and was brought up outside of City Hall, then there are individuals and interested parties that should be willing to bring forward a formal response on a guarantee of cost. She is not in favor of spending a lot of staff time because there has already been so much time invested and she does not want to waste any more time unless it is going to be a viable option from the funding side. She said that she has been trying to keep an open mind about it but out of respect for the staff effort, this information needs to be brought forward or step back.

Vice Mayor Rumrell thanked Director Tredik and City Manager Royle. He is a little disappointed to see it on the agenda again for the fourth or fifth time because we still have no answers but that he gets the reason for that tonight. He said that it is a very passionate issue with everyone. He said that he was a little disappointed because he is a factual person who wants to make sure things are upfront. He said that he is also upset that people are attacking the integrity of this Commission, which is absolutely wrong. We have a job to do, and people should not assume that because someone lives somewhere, that they feel any different from anyone else. He said for the record that the Commission is here, we have a job to do, and to attack us or any fellow Commissioner's integrity is wrong. He said that he believed that January would be premature and that he has had conversations with the City Manager and the Public Works Director and that we have a hurdle with the new information that we just received and that he wants to make his decision based on facts and not emotions.

Mayor Samora advised that this is the first real discussion that the Commission has had on this matter. It may have been on the agenda, and we had always taken public comments but we did not discuss it because we wanted to make sure that any ethical issues were sorted out before we weighed in on it. He advised that those issues were cleared up a week ago and this is the first time we have had a chance to discuss it as a Commission.

Commissioner George advised that she brought with her for inclusion in any further discussion the Conservation Coastal Management element of our Comprehensive Plan which

makes specific reference that the beach would not vacate walkways or other access points to the shores, and it should be considered and interpreted.

Commissioner Sweeny thanked Vice Mayor Rumrell for his comments. She said that one thing that has really bothered her about this discussion is the “war” between the neighborhoods that has erupted, and she hoped that it could be civil. She said that we as adults can disagree on policy decisions, and it does not have to get nasty. She asked for respect for each other. She said that she has a list of things that she would like to see such as a topographical survey of the property, a copy of the covenant with the land trust, and the original environmental impact study. She said that what has been left out of a lot of the comments is that people are against any path, but that the path is happening. There will be environmental impacts and she would like to see that from the current plan and that there would also be potential environmental impacts of extending the path over the dunes. She would like additional information about the current walkway for when we anticipate making significant repairs and the estimated costs. She advised that she walked through there this morning and hiked through some of the property to try to gain a better understanding and that a topographical survey would help her understand where everything is in relation to the plans for the property. She said that the raised nature of the path means that the Sea Colony fencing seems very low in some areas which may be from fence height restrictions. She said that if we decide not to move the walkway, then maybe there could be some sort of variance provided to allow Sea Colony to build a taller fence. She said that she would like to know the costs as well and how an agreement with residents could be legally done.

Commissioner England advised that the other Commissioners have brought forth some great things. She advised that she has five things to consider: 1) what would Director Tredik’s ideal plan for that grant look like if he did not have to consider the current walkway; 2) is there a substantial safety issue with a ground level walkway, such as snakes; 3) the Commission needs a thorough discussion from an expert regarding the environmental impact of moving the walkway and if it would have a substantially greater impact than all the other construction going on there.; 4) if there is a financial benefit or future savings from moving the walkway or would it be a wash; 5) what should the Park look like factually without taking Sea Colony into consideration.

Vice Mayor Rumrell asked for Commissioner-Elect Morgan to provide her comments as well. Mayor Samora advised that he would go through his list first to allow Commissioner-Elect Morgan time to gather her thoughts for the information that she would like to see.

Mayor Samora advised that we have already covered the permits, cost estimates for the removal and extension of it, terms of agreement with donors, and how the money would be handled. He said that he would also like to see a visual representation of the Park as originally proposed and with the boardwalk removed. He asked for information regarding the expected useful life of the existing boardwalk and its current age. He advised that any letters of opinion, petitions, etc. should be on public record to be considered. He would also like to see the original grant application/agreement, the Comprehensive Plan section, the topographical survey, the original environmental impact study, any potential additional environmental impact of extending/removing it, any possible fence modifications, the safety concerns for either plan, how the design meets the original intent of the Park Management Plan, and any financial benefits long-term.

Mayor Samora invited Commissioner-Elect Morgan to the podium.

Commissioner-Elect Virginia Morgan, 208 Bluebird Lane, St. Augustine Beach, FL, said that she took some notes while she was listening to the discussions. She said that she did not know

that she had anything in particular that she would like to add, but that she would also like to see all the surveys, letters, petitions, etc. so that we have time to read them and consider it all beforehand because there will be a lot to talk about that day. She would like to know what the Comprehensive Plan implications would be. She said that due diligence is really important before returning this to an agenda or another meeting because a lot of people feel very passionate about it, and she does not want to cause people to become more entrenched in their position. She said that the Commission should take all the time it needs to carefully consider all the information and do our due diligence so that there is no continuance. She said that having a topographic survey and a visual of what we have currently vs. what is proposed and walking through the Park to envision what the alternative might be. She asked to see the original environmental impact study and information about the covenants of the grant so that we can make sure that whatever is proposed is in compliance with it or know what the viable options are to bring it into compliance. She suggested to balance the financial benefit and that the longer we wait, the more the cost is going to go up. She asked what the legal implications would be and who from Sea Colony would be the entity that would sign off on this agreement. She advised that she would not feel comfortable moving forward unless she could see all those things.

Chief Carswell advised that a lot of the comments over the past few months have been about safety concerns and that he sent the Commission a five-year history of the Police Department's calls for service at the walkway. He said that if there is anything else that the Commission needs from him, to please let him know. Mayor Samora said that the data is good, but to also possibly survey the officers that have made calls there or if there are any other additional concerns for the way the Park is going to be when it has more amenities and to provide that as well. Chief Carswell agreed.

Commissioner George said that Commissioner England's comment about looking at the entire parcel as a blank slate and what would be the best use of the Park got her thinking. She commented that it is subjective and that typically we as a Commission would create policy decisions and the selection of a park planner and that everyone should keep that in mind because some people may only want one narrow linear path. She believed that a park planner had been selected years ago with a design plan that was never implemented due to lack of funding and she asked the City Manager to try to find that plan to see what the vision was back then which could potentially give some perspective on the policy decisions that were previously made by a sitting Commission looking at it as a blank slate.

Mayor Samora opened Public Comments and he reminded everyone that this is about a park, which is a beautiful addition to our City, and not about attacking neighbors.

Vice Mayor Rumrell advised that he only had five public comment cards and he asked for everyone to turn in a speaker card if they would like to speak on this topic.

Nana Royer, 6 Willow Drive, St. Augustine Beach, FL, came up with some talking points as to whether to move the boardwalk or not and she read from her handout [Exhibit B].

Chris McDermott, 392 San Nicolas Way, St. Augustine, FL, lives just south of St. Augustine Beach and is a frequent user of the boardwalk, which is beautiful; takes visitors there when in town; would the proposed boardwalk really be better and justify the resources going into it; having a raised walkway allows people with limited mobility to use it which should be a strong consideration with any proposed changes; is encouraged by the Commission's questions regarding environmental impact; more debris would collect on a lower, flatter surface; knows the Commission will ask questions and make the right decision [Exhibit C].

Russell Denea, 403 Ocean Grove Circle, St. Augustine Beach, FL, has been following the Park development for a long time and is encouraged with the resources being added and it would be nice for our City; the added amenities are required to qualify for the grant; the main center would be an asset and redirecting the walkway would provide a better way to reach those amenities; was struck by the comment regarding what the design might look like if it were started from scratch and that the walkway would probably have been in the middle to reach the amenities; agreed that there needs to be a valid environmental impact which he has not seen yet except for SEPAC's anonymous professors; we do not know those professors qualifications and they made their opinions on the Park without any path.

William Pelzer, 461 Ocean Grove Circle, St. Augustine Beach, FL, referenced a November 22nd memo from the City Manager to the Commission suggesting to add a factor of 20-25% to the cost estimate to relocate the boardwalk; does not think that additional cost would be appropriate for several reasons: 1) it was indicated at the last Commission meeting that the construction of Phase 3 would be done in 2023; 2) there is a high rate of inflation with the construction industry trending down recently for a predicted 2023 increase of between 2 and 4%; 3) the \$600,000 would be paid upfront and should be invested in a short-term instrument such as a Certificate of Deposit (CD) which are currently at or better than 4% earnings which would offset the 2-4% inflation increase; there is no reason to make an adjustment to the cost estimate.

Nick Binder, 232 Big Magnolia Court, St. Augustine Beach, FL, received a copy of the Ethics letter sent to Mayor Samora [Exhibit D]; the terms of the size of the class affected by the vote was applied for consideration only on his own behalf at 0.44%; Vice Mayor Rumrell lives in Sea Colony which would mean that it should be 0.88% which is a critical point in the whole situation; if it is in the 1-2% range, then a class is affected and it is very close to that situation; may have a difficult time justifying and guaranteeing that the old walkway would ever come out; should have a full matrix of all the agencies that you would need to deal with and list their concerns for the next meeting; there is always a possibility of a temporary restraining order against the City stopping them from closing or removing the existing walkway; there are many minority families using the walkway to the beach.

Matt Bond, 616 Ocean Palm Way, St. Augustine Beach, FL, reiterated the question of what the Park would look like if it were started from ground zero; this is the opportunity to make it into the Park that it would have looked like if the City would have owned all the property from the beginning; the walkway is there because the City only owned that strip of land and a strip of land abutting the Bermuda Run subdivision; this needs to be the right thing for the City and the residents and if it benefits Sea Colony, it does not make it illegitimate; Bermuda Run has a buffer and that other neighborhoods are seeking buffers to protect themselves; this should be the best thing for the City as a whole; believes that if the Park were being designed from the beginning that it would probably have a walkway in the center; what is the best use of this property and the best park that could be built and some are contributing money to make that happen.

Lee Geanuleas, 233 North Forest Dune Drive, St. Augustine Beach, FL, reiterated what Mr. Bond said and that while the City is completing Ocean Hammock Park to please reroute the beach access away from Sea Colony homes; once the Park is completed, traffic will increase substantially and will attract homeless people; take this as the opportunity to reroute the boardwalk away from Sea Colony homes; private citizens are offering over a half a million dollars to make this happen and that should help; social media posts accuse Sea Colony of being selfish and if that were true then Sea Colony would be trying to stop the Park; there is going to be more traffic, people, and noise, but Sea Colony has been in favor of the Park which

will be a terrific amenity for the City and St. Johns County; some people have argued that rerouting the Park would disturb nature, but they do not realize that the central pathway is going to be built and not rerouting the boardwalk would not change that; the Chairperson of SEPAC lives across the street in Whispering Oaks.

Clare Devine, 1004 Makarios Drive, St. Augustine Beach, FL, loves all the comments about environmental impacts, etc.; asked if there is an ordinance regarding homeless people because they are there now and when we make an area with restrooms, etc., it might encourage more homeless.

Mayor Samora closed Public Comments and asked the Commission for any further discussion.

Commissioner George agreed that the suggestion of obtaining a list of all the agencies involved would be helpful. She said that the estimated cost should include staff time as part of the overhead.

Vice Mayor Rumrell asked for the City Attorney to provide any potential legal ramifications.

Commissioner Sweeny said that she would like to see any ordinances with regards to the homeless and she asked Chief Carswell to provide comments during the meeting whether he anticipates any influx and how he would address it. Chief Carswell said that there is no ordinance against homelessness, but there is an ordinance against camping/sleeping overnight in public, which is how he would enforce it, and that he would do more frequent patrols through the improved park and the beach. Commissioner Sweeny has concerns for ADA access and possible flooding for a raised vs. ground path and asked Director Tredik to provide additional information on the pros and cons for the next meeting.

Mayor Samora asked Chief Carswell to revisit whether he has the ordinances in place that he needs for enforcement of the Park and to let the Commission know. Chief Carswell advised that he and the City Manager reviewed the ordinances a few months ago, but that he would look at them again.

Commissioner George asked Chief Carswell to provide any suggestions regarding the security concerns with the placement of the walkway impacting security on the Sea Colony side because the topography allows foot traffic right up to the fence regardless of a walkway being there or not. Chief Carswell advised that he would have that information prepared for the next meeting. Commissioner George also inquired how the Police Department would handle a remote corner of a park because moving it would make that area very remote and she is concerned about a lack of ability for a visual sightline for security purposes and would it impact the patrolling.

Mayor Samora said that there was one other concern he heard regarding increased traffic in the area and he asked the Public Works Director for an estimate of how much more parking and traffic he anticipates, how it would flow with each design, and to provide graphics for each. Director Tredik advised that there are no immediate plans to increase parking and that any increase would be from the utilization of the park and pedestrian traffic. Mayor Samora said that the fact that we are not increasing parking would be good information for the discussion.

Mayor Samora said that we need to set a date for the next meeting, and he asked the City Manager for his suggestions. City Manager Royle advised that he would prefer to do further research with the Florida Communities Trust and give a status report at a future meeting in February and suggest a special meeting at that time. Mayor Samora said that maybe at the January regular meeting we could set a date. City Manager Royle said that he would try to

provide a suggestion in January if possible, but that he would prefer February. Mayor Samora suggested to push for that so that we can get this behind us. City Manager Royle agreed.

Mayor Samora thanked everyone for their comments and for being civil and said to stay tuned for more information to come on this topic.

Mayor Samora moved on to Item XI.8 and asked Building Official Law for his report.

8. Vacation Rentals: Resolution 22-18, to Increase Yearly Inspection Fees to \$450 (Presenter: Brian Law, Building Official)

Building Official Law advised that at the last meeting he was directed to increase the transient rental inspection fees to \$450 per unit. He advised that in 2018 the fee schedule was changed to a resolution in lieu of an ordinance and that the only change is to the transient rental inspections.

Mayor Samora opened Public Comments. Being none, he closed Public Comments.

Motion: To approve Resolution 22-18. **Moved by** Vice Mayor Rumrell, **Seconded by** Commissioner Sweeny. Motion passed unanimously.

Mayor Samora moved on to Item XII.9 and asked the City Manager for his report.

XII. NEW BUSINESS

9. January Regular City Commission Meeting: Request to Schedule Date Because First Monday is a Holiday (Presenter: Max Royle, City Manager)

City Manager Royle advised that everyone has new 2023 calendars in front of them and that January 2nd is a holiday for City employees. He suggested to have the regular Commission meet on January 9th.

It was the consensus of the Commission to hold the next regular Commission meeting January 9, 2023, at 6:00 p.m.

Mayor Samora moved on to Item XIII.

XIII. COMMISSIONER COMMENTS

Commissioner Sweeny thanked everyone involved with the Surf Illumination event and said that her daughter was particularly excited to help lead the countdown and she thanked her fellow Commissioners for giving her that honor. The Civic Association, the Art Studio, and all the Public works staff worked really hard to get everything ready. She thanked the Police Department for being there and Ms. Conlon for putting on a great event.

Commissioner George advised that she would volunteer to reach out to Marsh Creek for the discussion of a potential traffic light and that she had already gathered some contacts from friends that live there. She said reading the emails that have come through, that the typical DOT procedure is that the gated communities would pay and that she believed that it would be appropriate for the City to ask Marsh Creek if they have any interest in it. She said that Marsh Creek is a very large community and that they may have enough interest and be willing to fund some of it because it is not the City's responsibility to bear the burden, but it does impact the City a lot. Mayor Samora advised that he did not have an issue with it and applauded Commissioner George for volunteering. Commissioner George said that this was something tangible that she could get done.

Commissioner George gave a huge thank you to Commissioner England for all her years of service and the long history that they have of working together. She said that she has always admired her

contributions to the Planning Board, the Commission, as a fellow attorney, as a friend, as a person, and as a neighbor. She said that she reflects strongly on her passion for the old City Hall and her contributions to improving architectural standards, the streetscape on A1A Beach Boulevard, her transportation coordination with other governmental agencies, and that her service has been remarkable.

Vice Mayor Rumrell thanked Commissioner England and said that he has learned a lot sitting on the Commission with her for the last four years. He said that it has been a great opportunity to work alongside her and take her ideas and watch them grow and make the City a better place. He said that she should walk out of here with her head high knowing that she has made a positive impact on this beach community, and he is thankful to have been a part of that journey.

Mayor Samora said that he would not try to outdo those comments and that they were well said by both. He said that Commissioner England has been an integral part of this community and that she should walk out of here knowing that she has made a positive impact and to enjoy this community that she has helped shape and create for the past fourteen years and to hopefully find a way to stay involved and volunteer.

Commissioner England said that it has been her honor and pleasure to serve the residents of St. Augustine Beach, the dedicated staff, the experienced management, and the very professional Police Department. She said that she knows that she will miss the service, but she felt that it was time to pass the baton to Virginia Morgan and that she knows that Commissioner-Elect Morgan will do a great job and as well as all the Commissioners and staff who serve unselfishly to preserve the quality of life in the City. It is such an exceptional City, and she promised to finish the Vision Plan with the City Manager. She wished everyone well and thanked everyone very much.

Commissioner Sweeny thanked Commissioner England and said that it has been a pleasure to learn from her and that she appreciated her poignant questions and the direct nature of her comments.

Mayor Samora moved on to Item XIV.

XIV. STAFF COMMENTS

City Attorney Blocker thanked Commissioner England for her service. Mayor Samora said that he looks forward to having City Attorney Blocker with us.

Mayor Samora asked the Finance Director how the finances are doing. Finance Director Douylliez advised that funds are coming in slowly.

Chief Carswell reminded everyone about the Cops and Claws event Wednesday, December 7th at 5:30 p.m. at the Police Department.

Director Tredik advised that the Mizell pump station is now operating in automatic mode so it is nearly finished and maybe we could schedule a celebration.

Mayor Samora said that Public Works did a fantastic job getting everything ready for the Surf Illumination event and that the trees looked great.

City Manager Royle thanked Commissioner England on behalf of the City staff. He said that he and Commissioner England went to several conferences together, they had road time to chat about things, and he enjoyed the company. He welcomed the new City Attorney and said that he has watched him on TV for the County meetings and that it is a shift to see him with us.

Commissioner George said that she heard a rumor from a citizen stating that FPL said that the City could install its own electrical plugs on the poles and then pay for the electricity. City Manager Royle advised that the City has always paid for the electricity when it put the holiday decorations

up. He said that FPL does not want those decorations on the poles and that we have received phone calls from people that are unhappy about it. Commissioner Sweeny asked about non-illuminated décor. City Manager Royle advised that the City is not allowed to hang anything from the poles because of their corporate policy. Commissioner George said that if the City owned its own poles, then we could do it. City Manager Royle said yes. Commissioner George said that she has her facts straight and did not want to misrepresent to the citizens.

Mayor Samora said that this is the festive time of year and that there are a lot of reminders. The Holiday Market is coming up on Saturday, December 10th from 3:00 p.m. – 7:00 p.m. at Pier Park and he asked Director Tredik for a progress report on the holiday lighting situation there. Director Tredik advised that there have been some problems and that they are continuing to try to get them fixed and that he would try to get an electrician out there to get them working. Mayor Samora advised that the SEPAC meeting is Tuesday, December 13th and there is also the Cops and Claws event as the Chief mentioned. He said that City offices would be closed the Friday, December 23rd and Monday, December 26th for the Christmas holiday, and then we have the big City event, "Light up the Night" fireworks show, Saturday, December 31st with the fireworks at 8:30 p.m. He said that it would be simulcast on the radio with music which is new for this year. He advised that the City offices would also be closed on January 2nd for the New Year holiday. He wished everyone happy holidays and a happy healthy new year.

Mayor Samora moved on to Item XV and said that he would like to give Commissioner England the opportunity to make one last motion.

XV. ADJOURNMENT

Mayor Samora asked for a motion to adjourn.

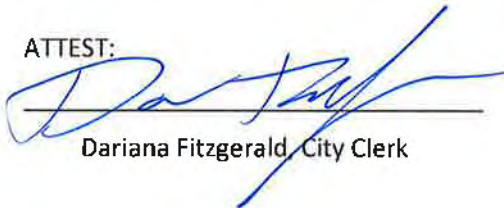
Motion: to adjourn. **Moved by** Commissioner England, **Seconded by** Commissioner Sweeny. Motion passed unanimously.

Mayor Samora adjourned the meeting at 7:42 p.m.

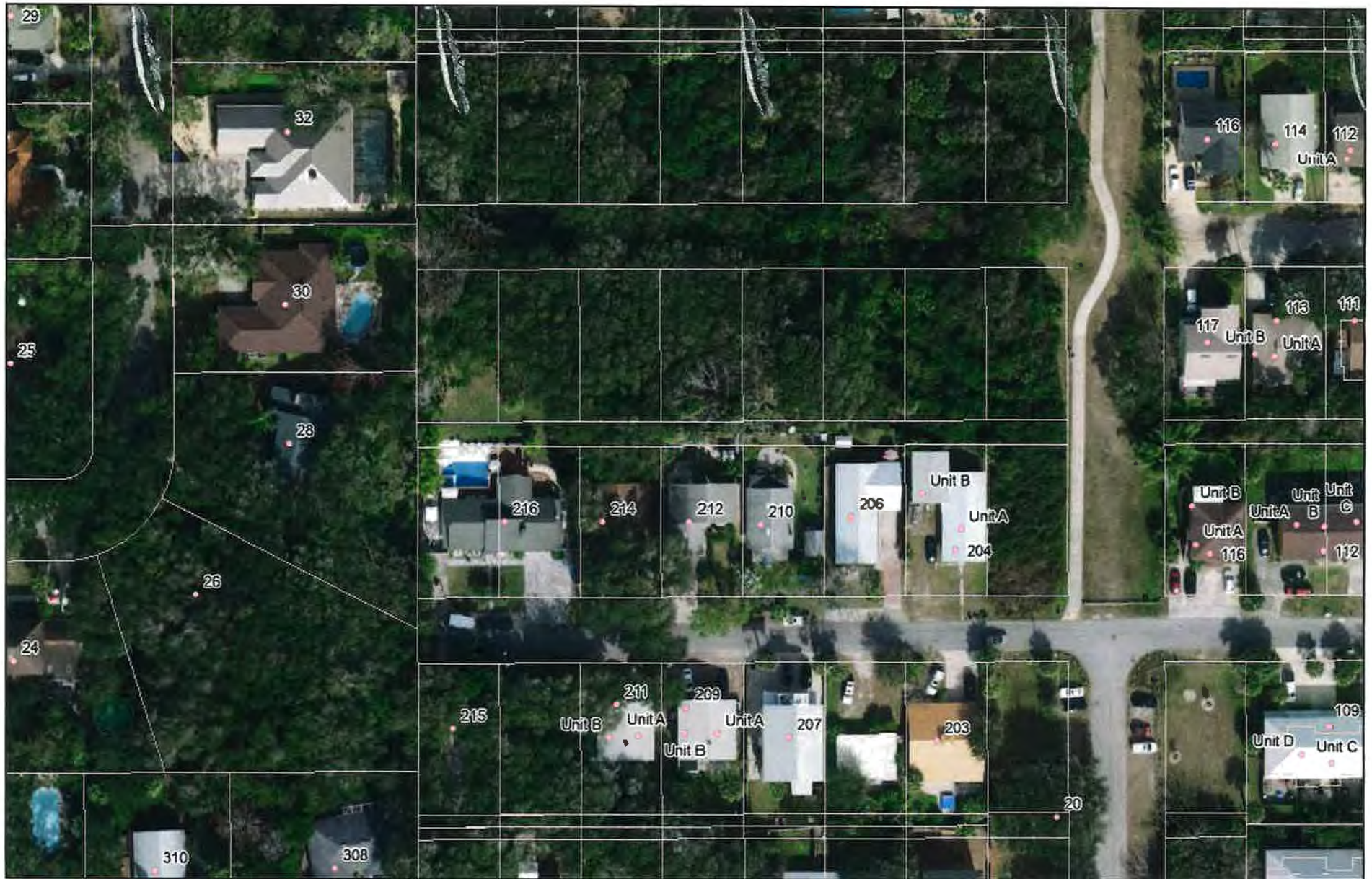


Donald Samora, Mayor

ATTEST:



Dariana Fitzgerald, City Clerk



Map created with St. Johns County's IMap

DISCLAIMER:
This map is for reference use only. Data provided are derived from multiple sources with varying levels of accuracy. The St. Johns County GIS Division disclaims all responsibility for the accuracy or completeness of the data shown hereon.

Date Created: 12/6/2022

Exhibit A

Date 12-5-2022



Re: Request to Move the Ocean Hammock Dunes Walkway

In the interest of making a sound decision, and based on my current understanding of the proposed project, I've put together some talking points relevant to the decision about whether or not to relocate the access of Ocean Hammock Park boardwalk:

1. Would an **environmental impact assessment** of the proposal be relevant? What effect would it have on the existing wildlife, the buffering quality of the dunes and wetlands, and on visitors? What is the economic loss to the City with the loss of these wetlands, especially in light of the flooding we have seen recently? Will funds being donated from Sea Colony residents include enough to perform this assessment? Yes, an assessment was done earlier but it did not include the effects of the proposed changes and disruptions which would be caused by dismantling the present boardwalk and damaging and filling wetlands for the proposed boardwalk.
2. An **assessment of how sea level rise**, long and short term, will affect the ability to use the authorized ground level path which leads to the proposed boardwalk. Storms and rising tides can likely be counted on to flood the area on a regular basis, cutting off access to the beach via a boardwalk.
3. A **police report of the past several years**. Since a security concern has been raised, this would be helpful to view. Since the construction of the boardwalk, how many police calls have there been? As a reminder, persons with ill intent could easily enter the Sea Colony beach via the proposed beach access point through the park. In just a few steps they would be at the same point they would have entered with the previous boardwalk.
4. An **assessment of handicapped accessibility**. As it is now, wheelchairs and walkers have full access on a raised path. A ground level path without siderails would be less accessible and more likely to be washed out. Also, a ground level path will require frequent brushing and debris removal. This would increase the maintenance requirements of the walkway. Some visitors, especially the handicapped, would be deterred from accessing the beach. It is also unclear as to how the handicapped would get from the ground level path to the boardwalk. While scenery may not be an objective criteria, it is my opinion that the raised walkway offers an unequalled view of the marshland and the dunes for the disabled as well as the abled.
5. An **assessment of the financials**. The City received a grant for \$200,000 to help pay for the current boardwalk. Unless they can get the funders to agree, they'll need to return that \$200K. That sets a costly and unhelpful precedent. It could easily deter future grants to the City. It is also unclear as to if it would be adequate to cover the costs. If it doesn't, are we SAB citizens expected to pay it?

Exhibit B-1
Date 12-5-2022

6. And last, but not least, an **assessment of the desires of the greater community** with regard to keeping the current boardwalk. Would most SAB voters agree with the proposed plan?

Nana Royer, 6 Willow Dr, St Augustine Beach

B.S. Biology

Master Naturalist (UF/IFAS)

Master Gardener (UF/IFAS)

Exhibit B-2

Date 12-5-2022

St. Augustine Beach Commissioners

December 5, 2022

Re: Request to Reconstruct the Ocean Hammock Dunes Walkway

From: Christopher McDermott

392 San Nicolas Way
St. Augustine, FL 32080

1. My first comment is on the proposal and the issue of Conflict of Interest (COI). The National Council of State Legislatures notes that to avoid a COI - "a legislator may not have a personal or private financial interest in votes or other legislative duties. Are we to believe that the owners of property adjacent to the walkway don't have any financial or personal interest in the proposal which they initiated and are willing to put substantial funding towards? This begs belief.

2. My 2nd concern is access to those with limited mobility. The existing ramp was thoughtfully designed to maximize safety and access. At present, wheelchairs and walkers have full access on a raised path. Would those with limited mobility enjoy equal access with a flat ground-level path? The proposed walkway would begin at the parking area on ground level and it's not clear whether there would be guide rails. We St Johns County residents know that the ground level path will get lots of weed growth and fallen debris. At ground level and with a solid, hard surface, the path would not be comparable to a slatted raised pathway. It would often have mud and debris, fallen leaves and branches, and it seems obvious that it would be less accessible to elderly and the disabled. This should be a shared concern. Will the proposed path be less accessible AND require more maintenance. Finally, I would point out that it's not clear how wheeled walking aids, would get from the ground walkway to the raised section over the pond. A ramp would seem to be necessary. Finally, I believe that scenic beauty may not be an objective criteria, but, it matters. In my opinion, the existing raised walkway offers an unequalled view of the marshland and the pond below. and the proposal would diminish that.

3. An assessment of the financials. The City received a grant for \$200,000 to help pay for the current boardwalk. It would seem to me that unless the funders agree to the proposal, the city would need to return that \$200K. That sets a costly and unhelpful precedent. Would it not discourage future grants to the City. The price of wood and materials has increased tremendously in the years since the existing walkway was constructed. Would the donations be adequate to cover the costs. If not, would SAB taxpayers front the bill?

4. And last, but not least, an assessment of the desires of the greater community with regard to keeping the current boardwalk. Would most SAB voters agree with the proposed plan?

Please give each commissioner a copy of the above.

Exhibit C
Date 12-5-2022

John Grant
Chair
Glenton "Glen" Gilzean, Jr.
Vice Chair
Michelle Anchors
William P. Cervone
Don Gaetz
William "Willie" N. Meggs
Ed H. Moore
Wengay M. Newton, Sr.
Jim Waldman



State of Florida
COMMISSION ON ETHICS
P.O. Drawer 15709
Tallahassee, Florida 32317-5709

325 John Knox Road
Building E, Suite 200
Tallahassee, Florida 32303

"A Public Office is a Public Trust"

Kerrie J. Stillman
Executive Director

Steven J. Zuilkowski
Deputy Executive Director/
General Counsel

(850) 488-7864 Phone
(850) 488-3077 (FAX)
www.ethics.state.fl.us

November 18, 2022

Mayor Donald Samora
City of St. Augustine Beach
2200 A1A South
St. Augustine Beach, FL 32080

BY MAIL

Dear Mr. Samora:

This letter is written in response to your recent ethics inquiry. You are the Mayor of the City of St. Augustine Beach and a member of its City Commission. In your letter, you state that residents from your neighborhood are requesting that the City Commission partner with the neighborhood to move the neighborhood's local boardwalk. According to your inquiry, many of the neighborhood residents cite safety concerns as their primary reason for wanting to move the boardwalk. You state that the neighborhood would provide approximately \$600,000 for this project. However, if these funds prove to be insufficient to complete the project, you state that the City Commission would then consider providing funding to the project.

With this background, you ask if your voting on the above issues would present a conflict of interest for you as a resident of the neighborhood in question.

Relevant to your inquiry, Florida's voting conflicts statute, Section 112.3143(3)(a), Florida Statutes, states:

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being

Exhibit D-1
Date 12-5-2022

taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

This provision prohibits local public officers from voting on any matter that would inure to the "special private gain or loss" of the public officer, or that he or she knows would inure to the "special private gain or loss" of a relative, among which is a spouse; a business associate; or a principal by whom the public officer is retained.

"Special private gain or loss" is defined in Section 112.3143(1)(d), Florida Statutes, as:

an economic benefit or harm that would inure to the officer, his or her relative, business associate, or principal, unless the measure affects a class that includes the officer, his or her relative, business associate, or principal, in which case, at least the following factors must be considered when determining whether a special private gain or loss exists:

1. The size of the class affected by the vote.
2. The nature of the interests involved.
3. The degree to which the interests of all members of the class are affected by the vote.
4. The degree to which the officer, his or her relative, business associate, or principal receives a greater benefit or harm when compared to other members of the class.

There is nothing in your facts to suggest that the vote on the proposed project would inure to your special private gain or loss. The Commission has previously held that any gain resulting from construction or development near property owned by a public officer was too remote and speculative to be said to inure to the special gain of the public officer. For example, in CEO 14-19, the Commission found that a gain or loss from the installation of a new baseball stadium near a property owned by a city commissioner would be remote and speculative. See also CEO 06-08 and CEO 06-20. Similarly, in order for you to incur a voting conflict, the moving of the boardwalk would have to result in a special private gain or loss to you. Since the Commission has previously opined that such a gain or loss is too remote and speculative, you will not incur a voting conflict under this analysis.

Section 112.3143(1)(d) also requires an examination of the "size of the class" and the degree to which the interests of all members of the class are affected by the vote in determining whether a matter inures to a public officer's special private gain. The Commission has previously opined that where the class of persons affected was sufficiently large, no special gain was deemed to occur. See CEO 18-14 and CEO 13-20. Furthermore, in past opinions the Commission has also found that the threshold for special gain occurs when the official constitutes 1-2% of the class affected by the vote. See CEO 90-71. During a phone call with Commission staff you indicated that there are 225 homes in the neighborhood that would be

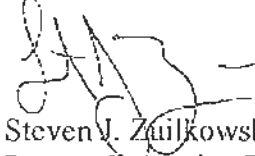
Exhibit D-2
Date 12-5-2022

Mr. Donald Samora
November 18, 2022
Page 3

affected if the boardwalk were to be moved. With your home being only one of the 225, your interest constitutes approximately 0.44% of the class, and there is thus nothing in the facts that you have provided that suggests that you will enjoy a special private gain.¹

Based on these facts and assumptions, it appears consideration of a vote on the proposed issue will not pose a voting conflict for you. If you have any other questions about this matter, please send me an email at zuilkowski.steven@leg.state.fl.us.

Sincerely,



Steven J. Zuilkowski
Deputy Executive Director and General Counsel

Exhibit D-3

Date 12-5-2022

¹ This figure is based upon your owning only one property in the neighborhood. If this is not the case, please contact us so that we may update accordingly.