

**SPECIAL CALL CITY COUNCIL MINUTES
MONDAY, OCTOBER 20, 2014 9:30 A.M.
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

PRESENT: Mayor Richard Winger; Vice Mayor Jay Kramer; Councilmember Pilar Turner; Councilmember Amelia Graves and Councilmember Craig Fletcher **Also Present:** City Manager, James O'Connor; City Attorney, Wayne Coment and City Clerk, Tammy Vock

1. CALL TO ORDER

A) Roll Call

Mayor Winger called the meeting to order and the Clerk performed the roll call.

B) Pledge of Allegiance

Mayor Winger led the Council and audience in the Pledge of Allegiance to the flag.

2. PUBLIC HEARING – Quasi-Judicial

A) Appeal by E. Steven Lauer, Cathy Padgett, Mark Tripson, and Charles Relpolge of the Approval by the Planning and Zoning Board of Site Plan Application (#SP14-000003) for Outdoor Dining at Mulligan's Beach House, Located at 1025 Beachland Boulevard, Sexton Plaza

Mayor Winger reported that he would be following the rules for a Quasi-Judicial Appeal Hearing that has been prepared by the City Attorney (please see attached). He read the case by title only. There was no ex parte communications disclosed by the Councilmembers. The City Clerk swore in the parties, staff, and other potential witnesses en masse. Any diagrams, photographs, and other exhibits referred to during the testimony will be marked for identification and kept by the City Clerk.

Mayor Winger asked for the City's presentation.

Mr. Tim McGarry, Planning and Development Director, told Council that they were being asked to affirm, reverse, or affirm with modifications the decision of the Planning and Zoning Board regarding its approval of site plan application #SP14-000003 for the expansion of outdoor dining at Mulligan's Beachhouse Restaurant. Their decision must be based on the competent substantial evidence presented in relevant documents and the testimony at this hearing. The only relevant issue in making their decision is whether or not the site plan application complies with the Land Development Regulations (LDRS). Other issues or concerns not directly related to compliance with the Code are not relevant. He will demonstrate in his oral testimony and supporting staff report that the competent substantial evidence overwhelming demonstrates that the site plan meets the LDRS; therefore, the appropriate decision at this hearing is to affirm the decision of the Planning and Zoning Board.

Mr. McGarry stated that this hearing is de novo. He began his presentation with giving the background on the site plan application and a review of the specific findings and conclusions reached by staff and affirmed by the Planning and Zoning Board and considered by that body in making its decision to approve the site plan application. His opening statement will conclude with a rebuttal to the central argument raised by the appellants that the Planning and Zoning Board incorrectly approved the site plan application based on staff's misinterpretation of the Code that outdoor dining was exempt from the parking requirements of the LDRS. The site plan application was submitted to obtain approval after the fact approval for the expansion of outdoor dining at Mulligan's, as was more fully discussed in the staff report. As the application requested approval for more than 1,000 square feet of outdoor dining area it needed to go before the Planning and Zoning Board for public hearing approval. The 6,400 square feet Mulligan's Beachouse restaurant is part of the 104 unit Holiday Inn development. This hotel property also includes approximately 1,600 square feet of retail. The submitted site plan is displayed on their monitors and the two Chamber display screens. The site plan depicts the area of the outdoor dining and new brick pavers. Other than the pavers, the tiki tables and other movable furniture, such as chairs (not shown on the site plan) were not germane to site plan approval. He said the parking and trip generation for outdoor dining and indoor dining is calculated based on area not based on seating. The dash line shown on the site plan is the 3,280 square feet area of the outdoor dining. This area includes space underneath the roof overhang of the restaurant. The amount of outdoor dining under the roof overhang is 475 square feet. The area outside the roof overhang is 2,805 square feet.

Mr. McGarry stated that in Section 64.10 of the Code it requires that approval of site plans and amendments to site plans must comply with pertinent general review, performance, and development STDS of the LDRS. The two pertinent categories relevant to this application is in compliance with LDRS (Section 64.10(A), which encompasses site design performance STDS (Section 64,10 (B). As shown on page 2 of exhibit 1 of Appendix A, the site plan meets the open space requirements of the Code. Other STDS such as setbacks, FAR, and building heights are obviously not relevant to this site plan approval. The Public Work's Department reviewed the site plan for compliance with the City's stormwater management regulations and found it in compliance. The site plan application demonstrated that it met the traffic concurrency requirements of the LDRS. A traffic impact study was prepared by the applicant's traffic engineering consultant and approved by the City's Planning and Development, Public Work's Department and Indian River County Traffic Engineering Division. A copy of the executive summary is included in Appendix D. However, in their appeal application, the appellants have challenged the finding of the staff and Planning and Zoning Board concerning off street parking regulations of Chapter 63 of the Code. It would be useful to go over the site plan specifically the City's off street parking regulations, which is presented on page 2, Exhibit 1, of Appendix A in the staff report. The Hotel development, including its accessory restaurant and retail uses received a parking exception from the Board of Adjustment in 1967. This exception only required 92 off street parking spaces to be provided for the entire development. Section 63.03 of the Code sets the standards for calculation of off street parking requirements. This Section requires parking to be based on floor area, except for certain outdoor uses identified in Section 63.04 and covered space under awnings and roof overhangs. Floor area is defined

in the Code as area under the roof. Therefore, the 2,805 square foot outdoor dining area is by virtue of the Code exempt from off street parking regulations, as it is not floor area, not under an overhang, nor listed as an outdoor use in Section 63.04. Only 275 square feet of the 475 square feet of dining area under the overhang is subject to parking requirements as Section 63.03 (c) (2) exempts the first 200 square feet of area. Applying the parking standards for restaurants accessory to hotels in Section 63.04, a total of three additional parking spaces are required. However, Section 63.03(g) allows credit for on street public parking spaces to exist along the restaurant and no additional parking is required. An aerial of the site is provided in Exhibit 1 showing the number of spaces. Therefore, staff as confirmed by the Planning and Zoning Board, found that the site plan met the off street parking requirements of Chapter 63 of the LDRS. Although, performance standards in the Code are intended to address site plans involving construction of buildings, parking, and landscaping, the staff did a review of those aspects covered regarding impacts on neighboring businesses. Staff found that its location in the commercial district would not have disruptive impacts in terms of noise and other factors on neighboring businesses. The outdoor dining would only add 36 additional vehicular peak hour trips, which will be insignificant compared to existing background traffic. Based on all of these findings, staff found the site plan complied with the LDRS and recommended its approval to the Planning and Zoning Board. At the public hearing on the site plan, the Planning and Zoning Board, based on the staff report and testimony of staff and the public, found the site plan complied with the LDRS and approved the site plan.

Mr. McGarry commented that the appellants raised several arguments to support their contention that the site plan application was noncompliant with the LDRS. However, their only argument relevant to this case is their consideration that staff misinterpreted the parking regulations regarding the exemption of outdoor dining from the off street parking requirements of the Code and mislead the Planning and Zoning Board approving the site plan.

In 2011, the parking regulations went through a long vetting process that included two advertised Planning and Zoning Board public workshops and a public hearing before that body. The draft ordinance also had a first reading and adoption hearing before City Council. The parking regulations were amended to encourage outdoor dining, which would be in line for creating active pedestrian oriented entertainment areas as envisioned in the Vision Plan.

Mr. McGarry testified that he has gone over details regarding how the parking requirements were met by the site plan. However, in trying to support its contention, the appellants are claiming that if the City Council had specifically wanted to exempt outdoor dining the regulations would have specifically stated so. Without arguing the merits of this point, the record doesn't support their contention. Exhibits 3 through 6 of Appendix A clearly and unequivocally demonstrate that the regulations were drafted to exempt outdoor dining and retail display areas from the off street parking requirements of the Code. The relevant language is identified by arrows in these exhibits. If there was any doubt or misunderstanding regarding the intent of the changes to the parking regulations in 2011, this was put to rest when a Power Point presentation was made to the City Council at the public hearing to adopt the amendments to the parking regulations. Exhibit 6 in Appendix A specifically identifies the exemption of outdoor dining and retail display from the parking requirements as one of the substantive changes to the parking regulations. Just because the appellants don't appear to understand or accept the parking

regulations or believe they should have been more clearly crafted, doesn't invalidate the parking regulation as applied to this site plan application. This exemption from parking regulations for outdoor dining has been applied to other restaurants on the barrier island and in other commercial districts of the City. To further bolster their case, the appellants brought up the issue of the parking problems in the beachside commercial district. However, how significant this issue may be, it is not relevant in the consideration of this appeal which totally rests on compliance with the City's LDRS. If the Council is concerned that the outdoor dining exemption may be contributing to parking problems, this should be appropriately addressed in changes to the parking regulations, not retroactively and unfairly applied to the applicant. He said unless Council has specific questions, this concludes his opening remarks. He believes that the evidence that he has provided in his oral and written testimony support the decision made by the Planning and Zoning Board. He requested that his report with the Appendixes be entered into the record of these proceedings.

Mrs. Turner asked what was the vote at the Planning and Zoning Board meeting. Mr. McGarry explained that the motion passed 4-1 to approve the site plan application for the expansion of outdoor dining at Mulligan's restaurant.

Mr. Kramer asked when the change in the Code came before the City Council.

Mr. McGarry answered August 16, 2011.

Mr. E. Steven Lauer, 1890 Tarpon Lane, stated that he owns the office building just to the North of the Holiday Inn. He asked Mr. McGarry who brought this situation to staff's attention. Mr. McGarry said that it was Mrs. Angie Schepers, Marketing Director for Mulligan's. He said that staff was told that Mulligan's had put tiki tables on the site, so a Code Enforcement Officer was sent out to look at it. The discussion took place in March of last year and there have not been any complaints from anyone in the neighborhood.

Mr. Lauer displayed the letter that Mr. McGarry sent out on July 24, 2014. Mr. McGarry said that is the notice that he sends out to the property owners who have property within 500 feet of the site plan request. Mr. Lauer noted in the notice it states that this is a proposed expansion of a 3,280 square foot outdoor dining area. Mr. McGarry said that was correct. Mr. Lauer asked Mr. McGarry why it said proposed. Mr. McGarry said because it had not been approved. Mr. Lauer asked Mr. McGarry to give some background on the situation and what state was the site was in when it came to the Planning Department's attention. Mr. McGarry explained that everything that is on the location currently was there at that time. Mr. Lauer asked was everything out there in March 2014 when the representative of the restaurant brought it to his attention. Mr. McGarry explained that this was going on in the prior year. Mr. Lauer asked if there was any code enforcement action taken. Mr. McGarry answered yes, a \$50.00 citation was issued. He explained that the City entered into an informal agreement with Mulligan's and tried to work with them. It took some time for them to receive approval from their property owner (Holiday Inn) in order to submit an application. The City allowed Mulligan's to continue to operate because they have a good relationship in getting things done. He said parking was not an issue and had he known that it would take over a year to get this done he probably would not have done it. Mr. Lauer asked if the informal agreement was in writing. Mr. McGarry stated it was an informal agreement and it was not in writing. Mr. Lauer asked who the agreement was between. Mr. McGarry said it was between Mulligan's and the Planning Department. The understanding he had with Mulligan's

was that they would submit an application that would have to go before the Planning and Zoning Board. Mr. Lauer asked if they did not submit an application what were their consequences. Mr. McGarry said they would end up being fined and most likely have to remove all of their outdoor dining area, which they (Mulligan's) understood would happen if the site plan was not approved. Mr. Lauer mentioned that Mr. McGarry said in his presentation the 2011 change to the off street parking and zoning requirements. He asked who drafted those changes. Mr. McGarry said that he drafted those changes, working closely with the Planning and Zoning Board. Mr. Lauer asked if the City Attorney had anything to do with it. Mr. McGarry said that the City Attorney, as well as the Assistant City Attorney had reviewed them. Mr. Lauer asked who the City Attorney was in 2011. Mr. McGarry said Mr. Wayne Coment was the Interim City Attorney at that time. Mr. Lauer displayed Section 63.01, which is marked as Exhibit B. Mr. McGarry read what the intent of this Chapter was. Mr. Lauer mentioned that what Mr. McGarry said was the intent of parking changes was to encourage outdoor dining. He asked where that is in Section 63.01. Mr. McGarry explained it is where the code reads "furthers the establishment of mixed use pedestrian-oriented commercial areas within the City as identified in the Comprehensive Plan and other City policies." Mr. Lauer said so pedestrian oriented means outside dining. Mr. McGarry said it did in the contents of the workshops. Mr. Lauer was looking at the specifics in the Code and not hearsay about what was said at a workshop. He asked where in the Code it mentions outdoor dining. Mr. McGarry repeated "mixed use pedestrian-oriented" and said that was a planning instrument. Mr. Lauer asked where in the Code it provides for the off street parking requirements for temporary or permanent coverage spaces. Mr. Lauer displayed Exhibit C, which was Section 63.03 of the Code – Computation of parking spaces. He asked Mr. McGarry to read Section 63.03 (c) (2), which he did. He asked if a copy of this Section was given to the Planning and Zoning Board. Mr. McGarry answered yes. Mr. Lauer asked where in the minutes it says that this section of the Code was given to the Planning and Zoning Board. Mr. McGarry explained it was not given to them at the meeting. He said that Planning and Zoning Board worked with him in coming up with this language in 2011. Mr. Lauer asked if all the current members on the Planning and Zoning Board were also on the Board in 2011. Mr. McGarry answered no. Mr. Lauer said so the only thing that the Planning and Zoning Board had at the meeting was Mr. McGarry's characterization of the Code. Mr. McGarry felt that was rather misleading. He said the information was not given to the Board at that meeting, but certainly if they would have asked for it, then he would have provided it. Mr. Lauer asked Mr. McGarry if Section 63.03 (c) (2) pertains to coverage spaces. Mr. McGarry said it was overhang coverage space. Mr. Lauer asked him what is the section of the Code that pertains to outdoor dining. Mr. McGarry explained it is not covered and does not meet one of those definitions. Mr. Lauer said that what Mr. McGarry was saying was that outdoor dining was not covered by section 63.03 (c) (3). Mr. McGarry said that was correct. He said when you look at section 63.04 there are only so many outdoor uses that are listed. They did it that way because they used to use floor area ratio for outdoor dining. Mr. Lauer said that it is Mr. McGarry's testimony today that section 63.03 (c) (3) does not apply to outdoor dining. Mr. McGarry testified it does not apply to outdoor dining. Mr. Lauer said so there is no section of the Code that deals with outdoor dining. Mr. McGarry said that is correct. Mr. Lauer displayed Section 63.04 of the Code dealing with parking ratios. He asked if there are several categories developed for different types of uses. Mr. McGarry said yes. Mr. Lauer asked if there was a category for outdoor uses. Mr. McGarry said that there were several. Mr. Lauer noted that there was a category for Residential Uses and a category for Commercial and Service Uses. He asked if there was a category for Outdoor Uses. Mr. McGarry explained that someone has to look under each category and this was explained to the Planning and Zoning Board and they supported it. Mr. Lauer said Mr. McGarry's argument is that all of the different categories deal with floor area. Mr. McGarry said yes, almost all of them. Mr. Lauer asked how the use for Marina's is characterized. Mr. McGarry said it is under boat slips. Mr. Lauer asked Mr. McGarry if he would agree that a golf course is an outdoor use. Mr. McGarry said it is a little different because it is

done by holes and not square footage. He then asked how commercial boat ramps were calculated. Mr. McGarry said it would be six spaces per ramp. Mr. Lauer commented that there are a number of outdoor uses that are not calculated by floor area. Mr. Lauer said that Mr. McGarry mentioned the August 16, 2011 meeting in which the City Council considered this proposed parking amendment. He asked Mr. McGarry if he made it clear that outside dining was exempt regardless of the size and area. Mr. McGarry answered yes and that there were no limitations. Mr. Lauer showed a video clip from the August 16, 2011 Council meeting. Mr. Lauer asked Mr. McGarry if the video was an accurate depiction of his unequivocal statements about outdoor dining. Mr. McGarry said yes. Mr. Lauer asked Mr. McGarry if he got back to Councilmember Carroll as promised at that meeting. Mr. McGarry was not sure if he got back to Councilmember Carroll or not.

Mr. Lauer stated for the purpose of his calculation for parking spaces that were allowed to Mulligan's in this site plan, he asked Mr. McGarry if he gave credit for public parking spaces. Mr. McGarry answered yes. Mr. Lauer asked how many. Mr. McGarry said at least 7 to 10 spaces. Mr. Lauer said his calculation for the parking was based on a 1967 agreement/minutes that the Planning and Zoning Board had. He asked was the credit for the adjacent parking spaces part of the Code in 1967. Mr. McGarry said no. Mr. Lauer said so Mulligan's is given the benefit of this 1967 agreement and then he (Mr. McGarry) adds on the benefit of seven (7) contiguous parking spaces. Mr. McGarry said this is a property that the Hotel has. Mr. Lauer wondered if this was double dipping. Mr. McGarry gave Mulligan's the benefit of this agreement and then he also gave them the benefit of the new Code provision. Mr. Lauer asked why this was not applied consistently. Mr. McGarry explained that is how their Code operates. Mr. Lauer commented that in addition to having the benefit of that agreement, Mulligan's also gets the benefits of Code enhancements. Mr. McGarry said yes, like every other property owner in the City. Mr. Lauer said to Mr. McGarry that his testimony today was any property owner who has an agreement with the City, gets the benefits of the agreement, as well as any amendments to the Code to afford them additional parking. Mr. McGarry asked Mr. Lauer to explain what he means by agreement with the City. Mr. Lauer said he was talking about the 1967 agreement. Mr. McGarry explained that what was granted was a special exception (variance for parking spaces was granted). Mr. Lauer said if these seven (7) parking spaces were not allowed to Mulligan's, would they have met the parking requirements. Mr. McGarry answered no. Mr. Lauer asked Mr. McGarry if he told the Planning and Zoning Board that was the case. Mr. McGarry did not recall if he did, but there were credits for it so it is in the Code. Mr. Lauer reiterated that Mr. McGarry's testimony was that Mulligan's received the benefit of the 1967 agreement, as well as the benefit of these contiguous parking spaces and the Planning and Zoning Board had no reason to know that this was separate or to deny the site plan because of inadequate parking as a result of those spaces. Mr. McGarry felt that Mr. Lauer was selling the Planning and Zoning Board short. They (Planning and Zoning Board) know how the Code works and what a special exception is. Mr. Lauer asked who was the owner of the property in which Mulligan's operates its business. Mr. McGarry said it was Velogan Inc., (or to that effect). Mr. Lauer said it was Velogan, Inc. He asked if they were required to enter into the site plan application. Mr. McGarry stated they had to approve the submittal. Mr. Lauer asked if they entered into the site plan application. Mr. McGarry said they gave authority to Mr. George Hart, who is the owner of Mulligan's to submit an application. He did not believe that they signed the application. Mr. Lauer asked if the owner was required to sign the application. Mr. McGarry stated that a Letter of Authorization was fine.

Mr. Lauer displayed the site plan application and asked Mr. McGarry if this was indeed the accurate site plan application. Mr. McGarry said yes. Attached to the site plan is a letter of authorization from the property owner (Velogan, Inc.). He said in the Letter of Authorization there is a reference to "Vero Floor Plan" and he asked if "Vero Floor Plan" was presented to the Planning and Zoning Board. Mr. McGarry

answered no. Mr. Lauer asked him if he felt that it was relevant to this site plan application to see what the owner actually approved. Mr. McGarry said no, because we don't know if the owner actually has ever seen the whole application. He said this comes up all the time. He said if the owner had a problem with this matter, then the owner would have showed up to state their opposition. Mr. Lauer said the Letter of Authorization indicates the "Vero Floor Plan" was attached. He asked Mr. McGarry if it was attached. Mr. McGarry believed that it was. Mr. Lauer presented an Exhibit, which is the Vero Floor Plan and he asked Mr. McGarry if that was what was attached to the application. Mr. McGarry answered yes and that was what the owner authorized. Mr. Lauer displayed the site plan and asked if they were the same. Mr. McGarry said that was immaterial. He explained this is not drawn to scale, but it shows what Mulligan's wants to do. He said this is what was agreed to and if he wanted any more information about the site plan he would need to talk to Mr. Hart. He commented that Mulligan's had to also amend their lease, which means there is a lot of money involved. He reiterated that the Vero Floor Plan is not to scale. Mr. Lauer asked is it fair to say that the owner did not approve the site plan. Mr. McGarry answered no. He said what is shown in the site plan is pretty close to what Mulligan's wants to do. He said the chairs and tables are moveable. Mr. Lauer expressed that the Vero Floor Plan was not attached to the Letter of Authorization when the package was given to the Planning and Zoning Board. He said it was missing and he had to find it in order to give a copy to Council today.

Mr. Lauer displayed the "1967 Holiday Inn Parking Agreement," which is Exhibit F. He said these were just minutes, which were very difficult to read. He retyped them for Council so that they were clearer. Mr. Lauer asked Mr. McGarry if he provided the Planning and Zoning Board a copy of this agreement. Mr. McGarry replied no. Mr. Lauer then asked where accessory commercial is mentioned in these minutes. Mr. McGarry said they are accessory to the restaurant and commercial use to the hotel. Mr. Lauer said this parking agreement doesn't mention accessory commercial does it. Mr. McGarry answered no. Mr. Lauer asked does it also provide one additional space for every 200 feet of commercial area. Mr. McGarry said yes and includes retail and restaurant. Mr. McGarry expressed they are going over a 1967 exception, which is water under the bridge. Mr. Lauer asked where the 299 square feet is as Mr. McGarry mentioned in Attachment A in the parking agreement. He said so the 299 square feet was not consistent with the parking agreement. Mr. McGarry said he did not see it in the agreement. Mr. Lauer asked if there were any circumstances in which the City of Vero Beach would not be bound by this 1967 parking agreement. Mr. McGarry explained that the special exception runs with the land. Mr. Lauer said so if the Hotel was knocked down and rebuilt they would still be bound by the 1967 special exception. Mr. McGarry said yes if they wanted to make changes. He reiterated that it runs with the property. Mr. Lauer asked if they decided to put additional square footage on the property, would it be subject to the agreement. Mr. McGarry answered yes. He said the addition would be subject to the current Code. Mr. Lauer asked if the floor plan for the Holiday Inn 1967 agreement is identical to what it is now. Mr. McGarry did not think going over all this was worthwhile. Mr. Lauer stated that he would be happy to move on if Council does not think this is relevant. Mr. Fletcher told Mr. Lauer that he needs to continue. Mr. Lauer asked Mr. McGarry if he knew where the restaurant was located in 1967. Mr. McGarry answered no. He said all he knows is that there have been site plans approved prior to him coming to the City that had Mulligan's where it was, the retail shops and the hotel, which has been approved by the City and that is what is there. He said today they are dealing with a new point and time, which is expansion of the outdoor dining. He said whether or not this has been calculated correct or not is immaterial. Mr. Lauer stated that the 1967 agreement provides for parking for the Hotel and the commercial uses. Mr. McGarry told him that was correct, and that was the way that it reads. Mr. Lauer asked if under the current parking situation was not available to the restaurant patrons, would they still be subject to this agreement. Mr. McGarry stated that is immaterial. He said the Planning Department does not go into how parking is done on an individual site. He noted

there are owners that put out signs saying parking for this boutique only. Mr. Lauer thought it was a huge issue at the Planning and Zoning Board meeting. He said didn't several of the Planning and Zoning Board members after public comments discuss that patrons of the restaurant were not allowed in the Holiday Inn parking lot. He said didn't the Planning and Zoning Board question the site plan application. Mr. McGarry said they brought it up, but it didn't mean that it was germane. He said there are a lot of old uses on this property, including their appellants parking that does not meet the Code. Mr. Lauer did not think that his appellants were requesting any changes to their site plan. Mr. McGarry said it is not an issue whether they allow Mulligan customers to park at the Hotel site or not. He said that is an issue for the Hotel to deal with. Mr. Lauer asked if it was his position that it doesn't matter what the Holiday Inn does as far as their parking is concerned. Mr. Lauer asked what is the purpose of the site plan approval. Mr. McGarry said it is for the importance of getting input from the public. He said anything less than 1,000 feet for outdoor dining can be approved administratively. Their concern was when you go over 1,000 feet that there may be impact in residential areas. Mr. Lauer asked Mr. McGarry to read out of the Code, section 63.06 (a). Mr. Lauer asked Mr. McGarry if he took the rights of the adjoining property owners into account when he recommended approval of this project. Mr. McGarry stated that he recommended approval because it met the LDRS and he did not see any adverse impact as he pointed out in the performance standards and the Planning and Zoning Board agreed. Mr. Lauer asked if there were a number of property owners at the Planning and Zoning Board meeting who expressed concerns about how this project was going to affect their property rights. Mr. McGarry answered yes, but said they could provide no competent substantial evidence that showed there was any real impact on their property. Mr. Lauer asked Mr. McGarry if he told the Planning and Zoning Board that the rights of the adjoining property owners needed to be taken into account when they were making their decision. Mr. McGarry said no, but that it is generally understood by the Planning and Zoning Board. Mr. Lauer had no further questions.

Mayor Winger asked what exhibit was just read. He was told it was Exhibit G, which is section 64.06.

Mr. Lauer asked that the Exhibits that Mr. McGarry identified become part of the record.

At this time, Council took a ten-minute break and the meeting reconvened at 10:40 a.m.

Mr. Lauer thanked the members of the City Council for their service to the City. He said that this appeal goes beyond the parties here today because it is an important issue they will see again. He said there is an application in the works for a change in outside dining for the Vero Beach Hotel. He put up a picture of a summer day in Vero Beach. This appeal has been submitted by a number of aggrieved persons who are actually business owners who have businesses in the area. The names are listed in the application, as well as the addresses of their businesses. He was at today's meeting as a property owner and not as a lawyer. He was not getting paid for his time today. He is concerned with the parking problems that they have right now. He said there are a number of different ways this Council can reverse the decision of the Planning and Zoning Board. The reason to grant the appeal is the failure of the Planning and Zoning Board to properly notify the adjacent land owners that the application was for an "after the fact" approval, rather than a "proposed addition;" staff's misinterpretation of the parking regulations to totally exempt outside dining from off street parking requirement, and misrepresentation of the law to the Planning and Zoning Department and the public; violation of the 1967 parking agreement; and negative impact on adjoining businesses. He then called on his first witness, Mr. Charles Relpolge.

Mr. Charles Relpolge, 105 Sandfly Lane, stated that his family leases the property where the Ocean Grill restaurant is located. He became aware that Mulligan's was having outside dining because in March

parking seemed to be a problem and it was after the tiki hut tables had been installed. He assumed the City would have noted the tiki hut tables. He called Mr. Monte Falls, Public Work's Director, and asked him about the extra seating at Mulligan's. Mr. Falls referred him to Mr. McGarry who told him that there would be a public hearing on this matter and he (Mr. Relpolge) would be notified. He never received notice of the Planning and Zoning Board meeting. He said that notice went to the landlords, but not the tenants of the properties. He was told by Mr. McGarry that staff allowed outside dining and it was a done deal. He let Mr. McGarry know that he would be at the Planning and Zoning Board meeting when this was going to be heard. Mr. Relpolge does not understand the logic behind this. He said having additional seating requires more parking, which is a problem in this area.

Mr. Lauer referred to his Power Point presentation and a copy of the notice sent out concerning the Planning and Zoning Board meeting. He asked Mr. Relpolge if he received a copy of the letter. Mr. Relpolge said that he did not receive a telephone call or notice concerning the meeting. However, Mr. Tripson, the property owner of Ocean Grill, received a copy of the notice. Mr. Lauer asked Mr. Relpolge to explain how this affects him. Mr. Relpolge said that Mulligan's is using some of his parking spaces. He had to hire a security guard during the day to protect their parking and they put up a blockade on Sundays, which is the only day of the week that they don't open for lunch. He said the parking issue is a serious thing for all of them that do business on Ocean Drive.

Mr. McGarry commented that there was a large posted sign outside of Mulligan's letting people know about the Planning and Zoning Board meeting. Mr. Relpolge explained that he was out of town so he would not have seen the sign and he would not be cruising in front of Mulligan's looking for a sign. He felt just out of courtesy, he (Mr. McGarry) could have called him and let him know about the meeting. Mr. McGarry assumed that the owner of the property would have notified him. Mr. McGarry mentioned that a lot of beach goers park in this parking lot. Mr. Relpolge thought that a lot of students were dropped off and then picked up.

Mayor Winger asked Mr. Relpolge how many parking spaces are available in the private parking lot that he owns. Mr. Relpolge said approximately 80 spaces and his building is 9,000 square feet. Mr. McGarry commented that simple math would show that the Ocean Grill is a little short of parking spaces.

Mr. Lauer went back to the notice that was sent out and said a lot of people felt that in reading the notice, the hearing was to allow the proposed addition of a 3,280 square foot outdoor dining area. His argument is that the notice was inadequate (Exhibit A).

Mr. Lauer went over staff's misinterpretation of the parking Ordinance. He said Attachment A – Expansion of outdoor dining area Mulligan's Beach House Project Description and Fact Sheet; was presented to the Planning and Zoning Board. However, this was not a copy of the Statute or a copy of the Code. It was Mr. McGarry's interpretation of the Code, which he feels is severely lacking as far as logic is concerned. In Section 63.03, Computation of Parking Spaces, and subsection 2 – *commentary* reads: "Outdoor dining and retail areas approved under a site plan would have no parking requirements, except for areas with more than 200 square feet under cover. The current code never specifically addresses off-street parking requirements for outdoor dining areas; however, historically such outdoor areas have been calculated as floor area for meeting parking requirements and are considered floor area for impact fees." He said this would mean to him that there is a parking requirement and in most cases it doesn't make a distinction between dining undercover and outdoor dining. If he was sitting on the Planning and Zoning Board, he would read this as meaning there is a parking requirement for outdoor dining and not that it is exempt from outdoor dining. He said it is important to look at the Code and not

Mr. McGarry's interpretation of the Code. The first thing that they want to look at is section 63.01 – Intent. As he pointed out earlier, there is nothing in this section that says it is their intent to encourage outdoor dining. It reads: "It is the intent of this chapter to ensure that adequate off-street parking and loading spaces are provided to serve the majority of the traffic generated by development in a manner that protects public safety, protects the capacity of the road system, reduces potential adverse impacts on adjacent uses, encourages flexible approaches to meeting parking needs through shared use of parking spaces, and complements and furthers the establishment of mixed use pedestrian-oriented commercial areas within the City as identified in the Comprehensive Plan and other City policies." The Planning and Zoning Board at their meeting were told they could not consider adjacent uses, which he felt was important. He then asked why even have section 63.01 in their Code. He said it is important that Council realizes what the Code says and not necessarily what staff thinks. The courts in Florida have been asked on numerous occasions to consider interpreting municipal Ordinances, which is called Statutory Construction. He said as an attorney who has had over 30 years of practice in the State of Florida, he has had extensive experience in interpreting Florida Statutes, as well as the Internal Revenue Code. Mr. Lauer displayed section 63.02 (c), which he feels is the most important Ordinance that they are looking at. Mr. Lauer mentioned a court case concerning Rinker that ended up in the Florida Supreme Court that dealt with interpretation of the Code. He also reported on another case involving the Town of Long Boat Key and the final case he mentioned was the Raymond James case. In section 63.02 (c) (2) it deals with outside zoning and says that the number of off-street required parking spaces shall be calculated based on the following: (1) Floor area, as defined in Chapter 60 of this title, (2) Temporary or permanent covered space, such as under an arcade, awning, porch, building overhang or similar structure attached to the building, approved under a site plan for dining or retail display areas, except that the first 200 square feet of such area shall be exempt from such calculation and (3) Outdoor uses and sales displays pursuant to section 63.04. Mr. Lauer stated that outdoor dining is an outdoor use, so you have to go to section 63.04 in order to determine what the parking requirements are. It does not say that outside dining is exempt or outdoor dining or retail display areas are exempt. He referred to section 63.04 and highlighted some of the things that refer to this matter (all outlined in Exhibit A). He pointed out some of the things that are considered outdoor uses. He said that Mr. McGarry's argument with the square footage for this outdoor dining is that there are no parking requirements for outdoor dining. The only section they can refer to for dining is restaurants. He went over the recalculation of spaces required. He said since 475 square feet of the subject area is "under roof," 2,805 square feet is "outdoor uses." As a result, 38 additional parking spaces are needed to meet the requirements of section 63.04. Therefore, the total required parking is 92 spaces for the Hotel and accessory commercial, three (3) spaces for the outside dining under roof, and 38 spaces for outside dining, for a total of 133 spaces. Since staff has calculated the total spaces to be 99, the applicant is lacking 34 parking spaces. Mr. Lauer mentioned that he already covered that the property owners did not approve the application. He said the Letter of Authorization references the Vero Floor Plan and he didn't think the Vero Floor Plan looked like the site plan. He was concerned with the parking policy at the Holiday Inn and an agreement being entered into in 1967. He has heard Mr. McGarry say that regardless of how Holiday Inn treats their tenants, guests, and employees, they are still under this agreement. He said it was a ridiculous interpretation of this agreement and this Code.

Mr. McGarry stated that under section 63.04 golf courses are shown and there are parking requirements. Mr. Lauer agreed that there is a parking requirement or a parking ratio for golf courses as there is a parking ratio for restaurants. Mr. McGarry asked what is the parking requirements for outdoor restaurants. Mr. Lauer displayed section 63.04. Mr. McGarry told him that refers to floor area. He was not saying that this was the greatest Code written and didn't know how they could come up with a floor area calculation. Mr. McGarry asked Mr. Lauer if he attended any of the workshops when these

sections were discussed. Mr. Lauer answered no. Mr. McGarry explained the reason some things were put in the section were to allow restaurants some flexibility and the intent was that these areas could be easily enclosed. He said there were a lot of reasons why this was done. He explained a lot of discussion took place at the workshops that were held. Mr. Lauer said that he is looking at the Statute and reading what the Statute says and not what Mr. McGarry says. He said what Mr. McGarry says for the most part is hearsay because there is no one in the audience from the Planning and Zoning Board to testify, he has already shown a video clip of his answer to former Councilmember Carroll's question on outdoor dining, which was clear as mud as far as he could see. He said that he could see if he was sitting on one of these Boards how he could be totally confused by what Mr. McGarry was saying the requirement is. If he was at one of these hearings, he would want to at least get a copy of the Statute to make his own determination of what the Code says.

Mr. Jim O'Connor, City Manager, asked Mr. McGarry to define floor area as it is defined under Chapter 60 of the Code.

Mr. McGarry read the part dealing with floor area located in Chapter 60 of the Code.

Ms. Laurie Connelly, 3010 Oslo Drive, was called to speak. Mr. Lauer asked if she appeared at the Planning and Zoning Board meeting when Mulligan's was discussed and this site plan was approved. Ms. Connelly said yes and that her parents own DeDe's shoe store and they were concerned about the parking. She said there is no available parking in Sexton Plaza anymore. When she came to the meeting she thought after reading the notice that additional proposed seating was being requested and then after being at the meeting she found out that this pretty much had already passed. She took pictures of Sexton Plaza showing the parking lot full (Exhibit I). She said the pictures were taken on a Saturday and there is not one parking space available at Sexton's Plaza. In her next picture (Exhibit J), it shows a rope that is put up near the Holiday Inn parking area. She asked the Clerk at Holiday Inn if guests going to Mulligan's to eat could park in their parking lot and she was told no, the parking spaces were for Holiday Inn guests only. There were additional pictures taken on Labor Day showing that the barricade was still up. In Exhibit K it is a picture of Ocean Drive in front of Coste d Este. In Exhibit L it is a picture in front of Humiston Park and Exhibit M is a picture in front of Sexton Plaza.

Mr. Kramer referred to the picture of the Holiday Day Inn and questioned why the spaces should be counted as parking spaces for Mulligan's restaurant if Mulligan's is not allowed to park there.

Mr. McGarry asked Ms. Connelly what parking spaces are being used for her parents business. Ms. Connelly pointed out that her parents business is 3,000 square feet and the parking in Sexton Plaza is also for merchants and not just for the restaurant. She did not know that Mulligan's had applied for this site plan amendment.

Mr. Lauer referred back to his Power Point presentation and went over the negative impacts on adjoining businesses that the approval of this site plan allows. It defies logic to allow a restaurant located in an area of Vero Beach that already has a significant parking problem to nearly double its serving area without a significant increase in its parking requirements. To allow this type of development, especially with an after the fact approval, sets a dangerous precedent for their City. He went over the reasons to grant the appeal. The failure of the Planning and Zoning Board to properly notify the adjacent land owners that the application was for an "after the fact" approval, rather than a "proposed addition." Staff's misinterpretation of the parking regulations to totally exempt outside dining from off-street parking requirement, and misrepresentation of the law to the Planning and Zoning

Department and the public. The failure of the owner to approve the site plan. Violation of the 1967 parking agreement and negative impact on adjoining businesses. He brought up the short term rental Code Enforcement case that the City appealed and lost. Mr. McGarry explained the interpretation of the Statute did not set up the definition of short term rentals. Mr. Lauer reiterated that this was a dangerous precedent to set.

Mr. McGarry called Mr. Mark Mucher, Planning and Zoning Board member, as one of his witnesses.

Mr. Mark Mucher, 617 Indian Lilac Road, took offense to a number of things said today. He voted yes to approve the site plan at the Planning and Zoning Board meeting and told why he voted that way. He agreed that there was confusion in the notice that was sent out, but Mulligan's was not adding any additional seating. This operation has been in place well over a year and not approving their application would require them to tear out their outdoor dining, which he didn't think was correct. The biggest reason he voted for approval was because of the fact that this whole argument presented about additional seating is all for over flow. There was testimony that it was not for over flow. He said sometimes empty seats inside had nothing to do with parking. One of the big items in their Vision Plan was the encouragement of outdoor dining. He understood at the Planning and Zoning Board what he was voting on.

Mr. Lauer asked Mr. Mucher if at the conclusion of the Planning and Zoning Board meeting he believed that Mulligan's was in full compliance. Mr. Mucher said that he believed that is what he said. Mr. Lauer showed Mr. Mucher a copy of Exhibit H, which was an excerpt from the Planning and Zoning Board minutes. In the minutes, it quoted Mr. Cahoy as saying he was prepared to vote, but until the signage at Holiday Inn is dealt with he doesn't think the problem is solved, so he could not vote for this being in compliance. Mr. Lauer asked Mr. Mucher if he remembered Mr. Cahoy saying that. Mr. Mucher said yes. Mr. Lauer continued quoting the minutes with "Mr. Lauffer asking if there were any comments. Mrs. Minuse asked Mr. McGarry, can you respond to that. Mr. McGarry said well again, he didn't know that if this was germane to what they are looking at right now. It is an ongoing problem. There has been conflicting testimony whether people can do it or not. The main issue they have here is to whether this outdoor dining meets the Code and he believes it does. The other issue should be discussed later as part of this group getting into that thing with the employees. He said staff still sticks by their recommendations. Mrs. Minuse asked the Assistant City Attorney if she had any comments on this. Mrs. Lyon said that she felt what the Planning Director was saying is that because there is no parking requirement for the outdoor parking and that's what is in front of them in the site plan application. Mr. Mucher felt that these things were probably said at the meeting."

Mr. Mucher said there was some question as to whether Mulligan's patrons were allowed to park in the Holiday Inn parking spaces and there was no representation at the meeting from the Holiday Inn. He heard Mr. Hart say that there was permission from the desk clerk and not the owner of Holiday Inn. He didn't think any of this was germane to this case.

Mrs. Turner excused herself from the meeting at 11:43 a.m. Council took a break and the meeting reconvened at 11:55 a.m.

Mayor Winger said that he wanted to know what the rules are on parking.

Mr. George Hunt, owner of Mulligan's Beach House Bar and Grill and who has been sworn in, said from his conversations with the owner and with the General Manager of the Hotel, their employees park on

that site Monday through Thursday. The Hotel meets with Mulligan's staff on Fridays to let them know if the Hotel is full. If it is full then his employees need to find alternate parking. He is trying to find a parking lot or somewhere that his employees can park on the weekends.

Mayor Winger asked about the people coming to Mulligan's and about the sign that says Holiday Inn parking for guests only. Mr. Hunt said that he has not seen the sign. He said that he parks there a couple days a week and has never had any problems or his car towed. He is not aware of anyone's car being towed.

Ms. Graves asked if he has had any discussions with them about his patrons parking there. Mr. Hunt answered no. He said they have been there for 12 years and had a good working relationship with the Hotel and never had an issue.

Ms. Graves asked about the tiki tables and how many are there and how many seats. Mr. Hunt said there are seven (7) tables with four (4) seats per table, for a total of 28 seats.

Mr. Kramer asked if the Holiday Inn parking lot gets used by their restaurant customers. Mr. Hunt said he assumes that it does.

Mr. Lauer asked Mr. Hunt where he resides. Mr. Hunt said Jensen Beach. He is in Vero Beach two to three days a week. Mr. Lauer asked about the meetings with the Holiday Inn and if he was present. Mr. Hunt said that he had meetings with the ownership who reside in Delray Beach. His management on a weekly basis meets with the Holiday Inn management. Mr. Lauer questioned that he does not go to meetings with the local Holiday Inn. Mr. Hunt answered no, but his Manager does and tells him the conversations.

Mr. Lauer said so what he is saying happens at these meetings is completely hearsay. Mr. Hunt answered no. He said they (Holiday Inn) have had an ongoing relationship for 12 years. He said they have had an understanding that when the Hotel is full, they are going to need their parking spaces. When there is a problem, they understand they have to move their employees elsewhere. He encourages his employees to ride a bike, carpool, or get dropped off. Mr. Lauer asked if he has any ownership in that land. Mr. Hunt answered no.

Mr. Lauer asked can they also assume that Mr. Relpolge and the Sexton family pay real estate taxes on that parking lot. Mr. Hunt said that he is sure they do. Mr. Lauer said this is not something that the City is giving them.

Mr. Lauer said at first when Mr. Hunt testified he said that he was not at the Friday meetings and now he says he was at the meetings. Mr. Hunt said he does not go to the meetings every week. His Manager goes to see their Manager every Friday afternoon to find out what the capacity is going to be that weekend. He has not been at every meeting on Friday. Mr. Lauer asked if these meetings are conducted any different during the tourist season than in the summer. Mr. Hunt answered that it is all based on the capacity. Mr. Lauer asked is he testifying here today that there are times when his employees cannot use the Holiday Inn parking lot. Mr. Hunt said he is not testifying on that. He said the majority of the time if the Holiday Inn has something going on they will contact them and they will have their employees park elsewhere.

Ms. Graves asked if he was the one who prepared the floor plan. Mr. Hunt said that his office did. Ms. Graves asked what is his understanding in how it should be prepared was. Mr. Hunt said that the seven (7) tiki tables were on the application.

Mayor Winger asked Mr. Lauer if he wanted to make his summation. Mr. Lauer answered that he has already done his summation.

Mr. McGarry asked to make a few points. First, he pointed out that the appellant is claiming that they failed to provide notice of the meeting. He said the record shows that they provided notice and people did show up. He said they did follow the Code. He said the appellant brought up the misinterpretation of the Code. He said the essential factor gets back to the floor area and what it says. He said in Section 63.04, there is none of that in there for a restaurant. He thinks it is pretty clear what the intent was, whether the Code was written well or not. He said they could all write the Code better, but that doesn't mean that it isn't applicable. He said there were no misunderstandings of what they were doing and that the tables were going to be there. Then there was the violation of the parking agreement. He said it was not a parking agreement, but a special exception granted by the Board of Adjustment and not the City Council. Now that the commercial district has become such a success, there are going to be numerous other problems. He said a couple of people have come here and talked about parking shortages and lastly he said there have been pictures of parking problems. It has been a successful year and there are going to be parking problems. But, it is not substantial confident evidence just taking pictures randomly during the week. That is not a parking study. He said the bottom line is they have followed the Code and because there is a parking situation in this area, it is not fair or equitable in this situation and they cannot retroactively apply that in this case. As a staff member, he doesn't like to be accused of misinterpretation and bringing up the vacation short term rentals that did not apply. He did not write that Code and did have to interpret that Ordinance. He said they do not misinterpret or try to mislead the Planning Board. They do make mistakes and they have to fess up to them.

Ms. Graves asked when the proposed overlay district for outdoor parking in the Vision Plan took place, how many workshops did they have and what year was that. Mr. McGarry answered that went on for five (5) years because there were a lot of disagreements and there were many public hearings. He said a lot of discussions about outside dining was included in that. Ms. Graves asked if there have been other properties on the beach that have been utilizing outdoor dining. Mr. McGarry answered yes, but not to the extent of Mulligan's.

Mr. Kramer said the appellant mentions the August 16, 2011 City Council decision. He remembers business friendly was a big thing they abided by. He said he assumed Mr. McGarry remembers that business friendly mantra they tried to bring in. He said that 2011 was not a very economically friendly time. They were concerned with making sure that businesses had an opportunity to grow. He asked if it was his (Mr. McGarry's) recollection that they were friendlier from one business to another.

Mr. McGarry thought they were equal. Mr. Kramer agreed. He thought they were equal from one business to another. Mr. McGarry said they try to promote tourism and to make it easier for people to come in and redevelop. They were trying to get away from seas of concrete and into shared parking lots and other types of flexible parking places. Mr. Kramer said with the question of intent, it was Council's intent to encourage businesses to grow. Mr. McGarry agreed. Mr. Kramer said that was his purpose at that time. He said now that the economic times are coming back, they might have to revisit that. He asked if the Planning department were to audit the businesses along Ocean Drive, would they find some interesting findings about who has parking issues. Mr. McGarry answered yes, that a lot of existing

establishments don't meet parking requirements. It's the kind of situation where everyone must work together down there. There are solutions to the parking problems. That is a sign of success when you have parking problems.

Mr. McGarry said the calculations came from the special exception. Mr. Kramer said his concern was with the picture of the chain across the driveway at Holiday Inn and if that should be used for public parking. Mr. McGarry answered no, it is private property and they don't get into micro-managing.

Mr. Fletcher thinks they need to grant the appeal and that the Code is unclear and very vague. He added that Mr. McGarry has a responsibility to interpret the Code. He thinks additional seating requires additional parking. He thinks the interpretation of the Code was inappropriate. He said they do a lot of "after the facts" and it is disappointing when they have to. He feels the adjacent businesses have been compromised and they have stepped on their toes. He thinks they need to change the Code to read not just under roof, but outside seating also. He said it is unreasonable not to require more parking for additional seating. He said he is going to vote to grant the appeal and deny the expansion.

Mayor Winger agreed with Mr. Fletcher. He said the square footage is not clearly defined in their City Ordinance. He said the fault is that they have been patching the Ordinance and he thinks it must be fixed. He said in section 64.06(g), they have to consider the adjoining properties. The agreement with the Holiday Inn clearly states that those 92 or 97 spaces have to be available for commercial tenants, which clearly are not. He does not believe, if this was appealed and they upheld the Planning and Zoning Board decision, that we could win an appeal. He said they need to fix the Ordinances. He agrees with Mr. Fletcher that they need to consider all the seating requirements. He thinks the fault is in the Code and he concurs with Mr. Fletcher.

Ms. Graves said they have come across several issues where the language in their Code seems to be affecting a lot of people. It is something they need to address. She also thinks they need to look at giving notices to tenants, as well as property owners. She thinks that outdoor dining was something they wanted to encourage. Parking is not going to be solved here today. They are still going to be facing the same issues until they come up with a parking resolution.

Mr. Kramer said he can't vote for the appeal because he encouraged businesses to expand. He said they need to change the Code, but at that time, Council encouraged businesses to expand and they have to take responsibility for it. He cannot go back and destroy their investment.

Mr. Wayne Coment, City Attorney, said this will take the affirmative vote of three members.

Mr. Fletcher made a motion to grant the appeal. Mayor Winger seconded the motion. The motion died 2-2, with Mr. Fletcher voting yes, Ms. Graves voting no, Mr. Kramer voting no, and Mayor Winger voting yes.

Mr. O'Connor said that starting Saturday, November 8th, they are going to be enforcing the two (2) hour parking limit on Ocean Drive. He said that came from a vote of the Oceanside Business Association (OBA).

Mayor Winger asked why can't they give warnings for a period of time.

Mr. O'Connor said they could do that, but they are going to be hitting different people at different times. Mr. Fletcher agreed that they have to go ahead and do it.

Mr. Coment said the motion to approve the appeal failed, therefore the action from the Planning and Zoning Board stands the way it is.

Ms. Cathy Padgett, store owner on Ocean Drive, referred to Saturdays when they are going to start the two (2) hour enforcement. She said there is only one Parking Enforcement Officer for Vero Beach and he works on the beach and in town. She felt there needed to be more than one Parking Enforcement Officer. The stores cannot be successful when you allow the things that you just allowed (referring to the outcome of this case). She heard that the Vero Beach Hotel and Spa complained so much about the two hour parking signs that the City took them down. She said years ago, there were meters on Ocean Drive, which would be nice to have again. On Saturday mornings, by 8:00 a.m. every space on Ocean Drive is taken and you can't park there. She would like to see the City Council come out on Saturdays and try to find a parking space. She said that Saturdays are their biggest shopping days and she finds it appalling to see Sexton Plaza is taken up from 8:00 a.m. to 6:00 p.m. She said if everyone implemented their own system and parked at Riverside Park and had someone who could take their workers back and forth, this would provide some parking spaces. This problem is not going away. By allowing Mulligan's to do what they did, they have to give that right to every restaurant and hotel on the beach. She thinks they did not interpret the Code correctly.

Ms. Graves said they are working on trying to solve the parking problems and they are being addressed, but it won't happen overnight.

Mrs. Betty Cochrane, owner of a shop on Azalea Lane and has been dealing with the parking issue for years. She commented that before they put in the Saturday parking limit, they should ask someone other than OBA doesn't speak for everyone having businesses on Ocean Drive. People come to this area to go to the beach, not to shop in their shops. She said that is okay and she is there because maybe someday, they are going to buy something after they go to the beach. She benefits from the parking on the street and the people coming to the beach. She said they need to have more peaceful coexistence here. They had the best season last year and that brings people. People come for their beach and not so much for shopping. The Tourism group (Chamber of Commerce) did a fabulous job bringing people here and now they have to deal with that.

Mayor Winger thinks it is really important on the Saturday parking that their newspapers have that on their front page so people know about it. That is his biggest concern.

Mr. O'Connor said the Police Department has sent out information and notified Neighborhood Associations that they deal with. Also, he has been meeting with the Chamber of Commerce and the OBA to discuss the parking issue.

3. ADJOURNMENT

Today's meeting adjourned at 12:35 p.m.

/tv