

MINUTES OF WORK SESSION OF THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, FLORIDA HELD AT TOWN HALL ON JANUARY 6, 2009 AT 5:30 PM

PRESENT: Mayor Gary Katica
Commissioners
Stephen Fowler
Tom Shelly
Karla Rettstatt
Stephanie Oddo

Town Manager Micah Maxwell
Town Attorney David Ottinger

Quorum present on roll call with Mayor Katica presiding; the meeting was called to order at 5:45 pm.

CITIZENS' COMMENTS

There were no citizens' comments.

CHANGE OF AGENDA ORDER

Mayor Katica announced that the order of the agenda would be changed to accommodate residents in attendance to speak about the Seaside Marina issue; stated that discussion of the marina issue would be next on the agenda.

DISCUSSION OF SEASIDE MARINA

Mayor Katica outlined the procedure to follow for the discussions; stated that each side of the issue would be allowed opening remarks and each speaker would be allowed three minutes to speak.

Elizabeth Daniels, counsel for the Homes Association, provided a brief outline of her involvement in the matter; stated that she was very familiar with the history and background on the issues; provided a brief description of the duties and responsibilities of the Homes Association in the RPD; commented on the notebook of information that was delivered earlier in the day for the commission and staff members; expressed concern over continued violations of town laws with regard to the docks at Seaside Marina being owned by other than those who were RPD residents and owners; provided brief history of Ordinance 126 that established the RPD; that each site plan for each building in the RPD was done by amending Ordinance 126; provided a brief review of Resolution No. 92-7 regarding the development of Seaside Condos and property amenities; stated that petitions with approximately 426 signatures of concerned residents of the RPD had been submitted to the town; stated that the amendment for the docks for Seaside were approved in a previous resolution by the commission to allow for the development of the same property by York-Trillium; that the development proposed by York-Trillium failed and the developers of Seaside purchased the property for development; that the proposed docks were included in the original development plan as an amenity for the Seaside condos and RPD residents; stated that she was asking that the commission enforce Resolution 92-7 as written; that consideration be given to the petitions signed by 426 residents of the RPD in support of Resolution No. 92-7.

DISCUSSION OF SEASIDE MARINA (Continued)

Tom duPont, 430 St. Andrews Drive, stated that he was president of the Belleview Biltmore Homes Association; that he had been before the commission several times with regard to the marina issue; that on behalf of the Homes Association members he was requesting enforcement of Resolution No. 92-7; that members of the association board had reviewed the circumstances surrounding the marina and realized there was a great deal of controversy and lack of knowledge of the actual facts regarding the sale of the marina slips; that with the assistance of legal counsel the board drafted a proposed resolution amending Resolution No. 92-7 and submitted it to the town; that they also proposed that the Marina Association participate in the association activities to include a fee to cover use of the roadway and guard services and security and other such expenses as all members of the RPD pay; that the Marina Association had initially agreed to that suggestion; that at the scheduled work session in May a request was made to delay further discussions until such time as residents of the RPD were able to review the information; discussed the inclusion of "right of first refusal" language in the drafted resolution; stated that the original zoning of the RPD did not include the use of the marina by those other than RPD residents as the infrastructure was not designed to accommodate use by any other than those residents of the RPD; that they were requesting enforcement of the resolution.

Carlton Ward, 1253 Park Street, Clearwater, stated that he was counsel for the Marina Association; that he concurred with the history presented by Ms. Daniels; commented on the variances granted for the development of Seaside; commented on the manner in which the marina slips were sold; commented on the difference of opinion regarding the "right of first refusal" proposal; stated that the Belleair Country Club had 30 slips and there were 24 slips at Seaside; that in summary the Marina Association felt that the "right of first refusal" was an equitable solution.

Commissioner Shelly inquired about restrictions for commercial use of the marina slips.

Bob Boos, 312 Eastleigh Drive, stated that he did own a slip at the marina but that he also owned property in the RPD; expressed his thoughts on the "right of first refusal" and the procedure for notification of the proposed sale of slips when they would become available; stated that the Marina Association had agreed to pay a pro-rata share of the expenses mentioned by Mr. duPont; asked that the commission consider the proposed amended resolution submitted.

Judith Schroth, 150 Belleview Blvd., inquired about the property owned by Mr. Boos that was located in the RPD.

Bill Smith, 6 Belleview Blvd., Unit 306, stated that the marina slip owners should buy a condo in the RPD; that he would like a more level playing field.

Lou White, 220 Belleview Blvd., Unit 605, stated she felt the Marina Association was attempting to take something away from her; that they knew of the restrictions when the slips were sold; that Resolution No. 92-7 should have been enforced by the town; spoke against the "right of first refusal" proposal.

DISCUSSION OF SEASIDE MARINA (Continued)

Ron Perrot, 2 Seaside Lane, Unit 503, read from a letter from town attorney David Ottinger dated May 5, 2008 regarding enforcement of Resolution No. 92-7; spoke about the proposed “right of first refusal and that the current owners have the right to maintain their slips as long as they own them and they have to sell them back to the RPD; that if the “right of first refusal” is given the situation would continue; that he would hope Resolution No. 92-7 would be enforced.

Rob Swinehart, 1 Seaside Lane, stated that his attorney Kevin Mekler would speak on his behalf.

Kevin Mekler of the law firm of Zimmet, Unice & Salzman spoke on the behalf of Mr. Swinehart; stated that they were in support comments presented by Ms. Daniels; asked for the enforcement of Resolution No. 92-7.

Discussions ensued regarding the enforcement of Resolution No. 92-7.

Bonnie Leach, 8 Belleview Blvd., spoke about strangers in her neighborhood and who do pay for any upkeep; asked for enforcement of Resolution No. 92-7.

Ed Sharp, 2 Seaside Lane, stated that he did own one of the marina slips; that he bought the slip to protect the value of his property; that he would like to see the “right of first refusal” implemented; that he did not feel residents of the RPD would purchase the slips.

Sandy Hutton, 4 Belleview Blvd., read a statement from Bernice Pickett of 4 Belleview Blvd.; stated that the comments were asking that the commission give back to the residents of the RPS what was already theirs and ignored by previous administrations; spoke about enforcement of laws in town; that she would like to comment on remarks made by Mr. Boos regarding the Marina Association.

Clark Lea, 4 Harborside, commented on the “right of first refusal” stating his support; that there was no demand for purchase of the slips for RPD residents.

Donna Carlen, town clerk, read letter received from George Mariani, Jr. into the record; the letter contained brief history of the situation and expressed support for “right of first refusal”.

Tom duPont, 430 St. Andrews Drive, stated his confusion by some of the rhetoric in discussions of the situation at hand; stated that the issue at hand was one of enforcement and not of economics; restated request for enforcement of Resolution No. 92-7.

Ms. Daniels distributed copies of document regarding the sell of submerged lands around the RPD.

Mayor Katica stated that none of the current elected officials were in office at the time of the original sell of Seaside and the marina slips; that only four slips were sold at that time; that the town was not privy to information regarding the sell of the slips.

DISCUSSION OF SEASIDE MARINA (Continued)

Mr. Ward provided an explanation outlining the procedure used for purchase of the marina slips; that there was no fee simple title to the slip and it was not like the purchase of a condo; that the association was set up more like a non profit club where a membership right in the club was purchased giving the purchaser the right to use an assigned boat slip; that the original thought process was that it would all be private transactions; that originally only one tax bill was sent to the association and later the property appraiser determined that each individual with membership should pay the taxes on the slip they owned; that there were no deeds recorded in public record.

Discussions ensued regarding the original purchases of the marina slips; regarding the town's enforcement of a law violated by the developers; regarding maintenance of the slips; regarding access to marina by slip owners that are not RPD residents; regarding notification of resale of slips and notification to the town; regarding the proposed resolution submitted by the Marina Association for commission review; regarding discussions at the May, 2008 meeting; regarding comments on the right of first refusal.

Ron Perrot, St. 2 Seaside Lane, commented on the problem of enforcing Resolution No. 92-7; stated that re-sale of the slips should go back to where it belonged, with the RPD residents.

Bill Smith, 6 Belleview Blvd., commented on the remarks made by Mr. Ward.

Mr. Ottinger stated that in 1992 the plan was that the marina and boat slips were to be an amenity to the owners of Seaside and RPD residents; that apparently no thought was given to the current scenario.

Tom DuPont, 430 St. Andrews Drive; stated that it was not a legal question but rather an issue of enforcement of the resolution.

Commissioner Oddo commented on remarks made by Mr. Perrot; asked if the right of first refusal would benefit as RPD owners with regard to the value of the boat slip; commented on the slips remaining as an amenity to owners of the RPD; commented on the possibility of the Homeowners Association purchasing slips and leasing them to residents of the RPD; that she was looking at both sides of the issue; expressed appreciation for the history of the issue that was provided.

Mr. Ward commented on the establishment of the Homes Association in 1996 was a result of the ordinance requiring the Homes Association that had never been established; provided further comment on the establishments of Homes Association and amenities for residents of the RPD; commented on the right of first refusal and how he felt the marina would remain as an amenity to those residents.

DISCUSSION OF SEASIDE MARINA (Continued)

Commissioner Rettstatt stated that she understood both sides of the issue and read from a letter prepared by Mr. Ottinger; that she was opposed to changing the law to allow for commercial enterprise activities that the town code does not currently address; that she was in favor of the proposed resolution amendments submitted by the Homeowners Association as asked by the commission.

Commissioner Shelly commented on the enforcement of Resolution No. 92-7; stated that action should be taken soon based on resolutions from the RPD.

Mayor Katica stated that the commission would be fair; that both sides were very passionate about the issue.

Commissioner Fowler expressed apologies for former commissions for not taking the responsibilities of enforcing the resolution; that he felt the proposed amendment submitted by the Homeowners Association was fair to all people; that the current owners could maintain ownership and at the time they wish to sell the slip it would be appropriate that the procedure be followed as outlined in Resolution 92-7.

Commissioner Oddo stated that it was difficult for her to go against the numbers that it was to support the few; that she did not think the right of first refusal would hurt anyone; that she had given the issued much thought and research; expressed her concern for future maintenance of the slips; that she really wanted the marina to remain as an amenity to residents of the RPD.

Mr. Maxwell stated that Mr. Ottinger and he needed some direction from the commission; that he felt the direction was to go forward with some form the amendments to the resolution provided by the RPD.

Mr. Ottinger stated that there were two proposed amended resolutions; that each proposal contained some good points; that he was concerned about the logistics of administering the changes; that there was not a lot of thought given with the original resolution and that thought be given to amendments.

Commissioner Rettstatt suggested that Ms. Daniels and Mr. Ottinger discuss and draft an amendment for consideration; that there were two slips currently for sale and that the owners needed to be notified of resolution regarding such sale restrictions.

Discussions ensued regarding language to be included in proposed amendments.

It was the consensus of the commission to have the amended resolution drafted for review in 90 days.

Recess was called at 7:45 pm; the meeting reconvened at 7:55 pm.

TOWN MANAGER'S REPORT

Mr. Maxwell stated that all phone lines to town hall were out due to damage caused by Progress Energy; that the curbside pick up for solid waste would begin on Monday, February 2nd; that the employee of the month was Rachel Schnider of the Recreation Department for her hard work with the Santa delivery program.

TOWN ATTORNEY'S REPORT

Mr. Ottinger stated that he would review and try to clean-up Resolution No. 92-7; that with regard to the Belleview Biltmore Hotel issue there might be a decision forthcoming this week; that both he and Attorney Tom Reynolds had called the judge to inquire about the status of the suit.

MAYOR AND COMMISSIONERS' REPORT

Mayor Katica commented on the success of the gift delivery program; stated that he would be out of town next week; that there would not be a finance board meeting for the month.

Commissioner Rettstatt commented on the success of the "Rumble Stumble" fund raiser for the recreation department; stated that after expenses about \$13,200 was raised; that the funds would be used for the game room and that about \$3,000 would be used for other improvements for the department; that letters had been sent out for football league sponsors; that they were currently working on a strategic plan for the Doyle Endowment Plan.

Mr. Maxwell stated that all of the improvements to the game room and play equipment were accomplished with donated funds; that no tax monies were used for the improvements.

Commissioner Rettstatt commented on the "Belleair Classic", formerly "Run for the Rec", was scheduled for March 7th.

Discussions ensued regarding the age appropriateness of games for the game room; regarding other updates to the game room.

Commissioner Shelly stated that he received information from Florida League of Cities regarding transportation; that he would provided copies for distribution; stated that a Fire Suppression Committee meeting was to be scheduled prior to submitting the preliminary budget due in March.

Mr. Maxwell stated that the meeting would include discussion of and possible renegotiation of the fire suppression agreement that would expire at the end of the year.

Commissioner Fowler stated that there would not be a planning and zoning board meeting in January; that Clearwater Marine Aquarium was planning a Saturday night event to promote the center.

MAYOR AND COMMISSIONERS' REPORT (Continued)

Commissioner Oddo stated that the land under the Pinellas Trail was owned by the town and she thought that would be of interest when discussing the proposed owner by Pinellas County; commented on the safety of people using the trail at the Wildwood/Woodlawn area; stated that she had discussed the issue with County Commissioner Karen Seel and the possible installation of lights in that area.

POLICE CHIEF'S REPORT

Chief Edwards commented on success of the gift delivery; expressed appreciation to the Johnson's for the refreshments furnished at their home on the evening of their delivery; commented on the placement of the AED units throughout town; reported on burglary suspects and other victims; spoke about Dr. Sanchez and his vandalism case; stated that suspects had been identified in other burglary cases in town.

DISCUSSION OF APPOINTMENT OF BOARD MEMBERS - POLICE PENSION BOARD OF TRUSTEES

Commissioner Shelly stated that he had contacted Mr. David Becker but had not had a response from him; that he would like to table the issue until a later date.

Discussions ensued regarding conversations with Mr. Becker and a possible appointment to the board; regarding the resumes to be submitted and other possible appointments; regarding appointment of Mr. Tom Olson at the next commission meeting.

DISCUSSION OF WILDWOOD WAY - SPEED LIMIT AND SPEED TABLES

Mr. Maxwell stated that the first speed table was installed today; that the delay was due to recent inclement weather and the closing of the asphalt plant over the holidays; that a traffic report would be provided to the commission after the installation of all of the speed tables.

Discussions ensued regarding the proposed tower by Pinellas County; that representatives from Pinellas County would like to schedule a meeting with each of the commissioners on an individual basis.

Commissioner Rettstatt stated that she may not be in attendance at the next meeting due to a scheduled surgery.

ESTABLISHMENT OF AGENDA FOR JANUARY 20, 2009 REGULAR MEETING

Mayor Katica announced the following items scheduled for public hearing on January 20, 2009 at 7:30 pm:

ESTABLISHMENT OF AGENDA FOR JANUARY 20, 2009 (Continued)

1. Mowing Resolution.
2. Approval of purchase of Town property by Biltmore Construction.

On motion duly made and seconded the following agenda was established for the regular commission meeting scheduled for January 20, 2009 at 7:30 pm:

CITIZENS' COMMENTS

CONSENT AGENDA

1. Approval of Minutes - Special Meeting - December 2, 2008
Work Session - December 2, 2008
Regular Meeting - December 16, 2008.

GENERAL AGENDA

Consideration of:

1. Resolution No. 2009-01 - Authorization of destruction of records.
2. Resolution NO. 2009-02 - Appointing members to Police Pension Board of Trustees.

ADJOURNMENT

There being no further business to come before the commission the meeting was adjourned in due form at 8:25 pm.

Town Clerk

APPROVED:

Mayor

APPROVED: 02/17/2009