

MINUTES OF SPECIAL MEETING OF LONGBOAT KEY TOWN COMMISSION, JANUARY 21, 1981, 8:00 P.M.

Meeting called on written notice in accordance with Article II, Sec. 15 of the Town Charter.

Vice-Mayor Bell called the meeting to order at 8:00 P.M.

Present: Vice-Mayor Bell, Commissioners Fernald, Lewin, Ochs, Riter, Seegel

Also

Present: Town Manager Allgire, Town Attorney Whitesell, Town Clerk Pool

Absent: Mayor McCall

There being a quorum present, the meeting was in order.

The Pledge of Allegiance to the Flag was given.

✓ 1. COMMITTEE REPORTS

Commissioner Fernald stated he had previously reported on the schedule for the bus route from Seaview Shopping Center to Cortez Plaza. He had now found out the service is twice as frequent as he had been informed and he was trying to get a copy of the revised schedule to give to the press.

Commissioner Ochs reported he is still working on trying to get the State to purchase equipment for red tide fish kill cleanups and is getting very encouraging reports. He had received a letter from Sen. Pat Neal stating that he and Sen. Warren Henderson have gotten together to urge the Governor's budget director to give it favorable consideration.

✓ 2. MOTORIZED VEHICLES ON BIKE PATH ORDINANCE (81-5)

At the direction of the Commission, Ord. 81-5 providing for driving of motorized wheelchairs or bicycles on the bike path, was placed on first reading by title only. It was moved by Riter, seconded by Seegel that Ord. 81-5 be passed on first reading. Town Manager Allgire stated he had asked for the Police Chief's opinion and the Chief was opposed to the ordinance on the basis the path is too narrow to accommodate two of these vehicles when they meet. If one goes off the path and into the sand it would be likely to tip over and might result in personal injuries. Commissioner Ochs suggested that persons obtaining permits for this use sign a waiver relieving the Town of responsibility if there is an accident. The Town Attorney stated if the Town has the appropriate liability insurance it probably does not need the release. Mr. Ochs suggested the Town Manager be sure the Town has the appropriate insurance. Motion carried; Seegel, aye; Riter, aye; Fernald, aye; Ochs, aye; Lewin, aye; Bell, aye.

✓ 3. BRIDGE TO MAINLAND REFERENDUM ORDINANCE (81-3)

At the direction of the Commission, revised Ord. 81-3 providing for holding a referendum on the necessity for, and possible location of a bridge to the mainland, was placed on first reading by title only. It was moved by Seegel, seconded by Fernald that Ord. 81-3 be passed on first reading. Motion carried: Lewin, aye; Ochs, aye; Fernald, aye; Riter, aye; Seegel, aye; Bell, aye.

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✓ 4. ZONING ORDINANCE AMENDMENT - OPEN SPACE REQUIREMENTS - ORDINANCE (80-9)

At the direction of the Commission Ord. 80-9 amending the zoning code relating to open space dedication by properties zoned single family, and credit for private or public open space, was placed on second reading by title only. Pursuant to notices published in accordance with Town and State law, public hearing on the ordinance was opened. No one wished to be heard and the hearing was closed. It was moved by Seegel, seconded by Riter that Ord. 80-9 be passed on second reading and finally adopted. Motion carried: Seegel, aye; Riter, aye; Bell, aye; Fernald, aye; Ochs, aye; Lewin, aye.

✓ 5. FILING OF CONDOMINIUM DOCUMENTS ORDINANCE (80-12)

At the direction of the Commission Ord. 80-12 requiring filing of condominium or cooperative documents prerequisite to furnishing utility services, was placed on second reading by title only. Pursuant to published notice, public hearing on the ordinance was opened. No one wished to be heard and the hearing was closed. It was moved by Seegel, seconded by Riter that Ord. 80-12 be passed on second reading and finally adopted. Commissioner Ochs suggested some further amendments to the ordinance and was advised by the Town Attorney that such amendments should be incorporated into a separate ordinance and Mr. Ochs agreed to have the suggested revisions drafted into ordinance form for the Town Attorney to review and the Commission to consider. Motion carried: Lewin, aye; Ochs, aye; Fernald, aye; Bell, aye; Riter, aye; Seegel, aye.

✓ 6. AIRPORT LOCATION HEARINGS & OFFSHORE DRILLING SITES DISCUSSION

Commissioner Ochs stated the Town had received word hearings are to be held on possible relocation of the Sarasota-Manatee airport and suggested the Commission consider some kind of statement to be made at one of the hearings. The Commission consensus was that it was beyond the province of the Commission to take a stand but that any Commissioner could individually express his opinion. Mr. Ochs indicated he had meant only that it should be brought before the public's attention so they can all comment, and that he hoped the news media would publicize it.

He further commented that a letter from the Southwest Florida Regional Planning Council concerning selling of offshore drilling sites should be brought to public attention.

✓ 7. SPECIAL TAX DISCUSSION

Commissioner Lewin stated he had been wondering whether the Commission might want to consider the possibility of a tax base with a higher rate for living units on higher floors since these are the ones which necessitate purchase of expensive firefighting equipment as now being contemplated by the Town. Commissioner Seegel pointed out that tax assessments are made by the County, not the Town. Mr. Lewin said he was thinking in terms of a special tax. Vice-Mayor Bell directed that discussion of Mr. Lewin's thoughts be forwarded to the January 27 workshop agenda.

✓ 8. PARK DEDICATION ACCEPTANCE

Town Attorney Whitesell informed the Commission he had the deed from Arvida Corp. to convey to the Town the park in front of the Town Hall and everything seemed in order. It was moved by Seegel, seconded by Fernald that the Town accept dedication of the park with thanks to Arvida Corp. for the dedication. Vice-Mayor Bell also expressed thanks to Arvida. Motion carried unanimously.

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9. KING WILLIAMS LITIGATION DISCUSSION

The Town Attorney had distributed copies of a Stipulation for Entry of Final Judgment concerning the litigation between the Town and King Williams. Mr. Whitesell explained that the lawsuit had proceeded to the point of being ready for trial and the process of discovery depositions for Town employees and the former Town Attorney had been scheduled for early January. He had asked the Town's engineers, Smally, Wellford & Nalven to follow instruments in the abstract the Town had acquired to verify what had been dedicated to the Town and what had been retained. They did a very thorough job, in effect taking a clear overlay of each plat and overlaying it over a survey of the area. When the Town improved Bayside Drive, Public Works Director Cox had been of the opinion the Town had a very narrow right-of-way and that the improvement was to be almost from the easterly right-of-way to the westerly right-of-way and that the Town did not have a full dedicated 50 foot right-of-way along Bayside Dr. The Town's engineers confirmed Mr. Whitesell's opinion the Town had a 50 foot and perhaps a 60 foot dedicated right-of-way along Bayside Dr. The stipulation which he had distributed shows a 50 foot right-of-way predicated on Mr. Cox' opinion that 50 feet would be all the Town would need for Bayside Dr. As to Russell St., the engineers found Mr. Whitesell's previous opinion had been incorrect and the prior grantor to the Williams actually retained title. Therefore, at the time there was a purported dedication to the Town of Russell St. all the way to the water, the title had actually been conveyed to the Williams. Mr. Whitesell recommended that the Town stipulate there be a 50 foot right-of-way along Bayside Dr. and the Town has no right, title and claim to any of the property from the 50 foot right-of-way to the water and to the right-of-way as it continues across Russell St. to the water. He said his recommendation was based upon the abstracts he had examined and the engineering and legal descriptions verifying that there is a 50 foot dedication and that the property at the end of Russell St. was not dedicated. Further, that he did not think the Town would get any more if it went to trial so the stipulation recommended that the matter be concluded at this point. Commissioner Ochs inquired if the people of the Village might have a prescriptive right to the property to the water and Mr. Whitesell stated if they did it would have to be documented by a fee simple owner conveying that right.

It was moved by Riter, seconded by Lewin to authorize settlement of the litigation with clarification of the 50 foot right-of-way on Bayside and an easement across the end of Russell St. Motion carried unanimously.

Tom Pierce in the audience disagreed with Mr. Whitesell's opinion of the situation. Mr. Whitesell stated that if the people in the surrounding area wished to file a civil suit he would advise them to do it as soon as possible. Commissioner Ochs noted he did not want the settlement to prejudice the rights of the people of the Village to establish prescriptive rights.

10. ADJOURNMENT

Vice-Mayor Bell declared the meeting adjourned at 8:55 P.M.

*Claire C. Bell*

Claire C. Bell, Vice-Mayor

*E. Jane Pool*

E. Jane Pool, Town Clerk

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