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MINUTES OF REGULAR MEETING OF LONGBOAT KEY TOWN COMMISSION, SEPTEMBER 6, 1978, 8:00 PM

Meeting called to order by Mayor Ochs at 8:00 PM

Present: Mayor Ochs, Commissioners Bell, Jenkins, McCall, Ridyard, Sedwick, Seegel

Also

Present: Town Manager Allgire, Town Clerk Hager

Absent: None

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

The Pledge of Allegiance to the Flag was given followed by the Invocation by Rabbi Ahron Opher of Temple Emanu-El.

1. MINUTES APPROVAL

It was moved by Seegel, seconded by Jenkins that minutes of regular meeting August 16, 1978 be approved. Mayor Ochs asked that the minutes be corrected as follows: Line six of Item 2 be corrected to read, "\$1.00 of capital expenditure per one thousand gallon capacity for plant construction." In line 14 of Item 3, after the word "down" add, "The Mayor stated he had suggested such action to the League of Cities and City of Sarasota Attorney Strode had recommended against such action." Motion was amended to approve the minutes as corrected. Amended motion carried unanimously.

2. CORRESPONDENCE

Mayor Ochs reported a letter had been received from Arvida Vice-President John Siegel confirming an extension of time for processing the application for Final Site Plan approval for Beachplace, through and including September 21, 1978.

The Mayor also stated that each Commissioner had received a copy of a notice of public hearing to be held in connection with a request by Colony Beach to connect an 18 inch pipe to an existing groin for taking care of storm water outfall. Further, that the Town's engineers will probably report on this matter.

Mr. Ochs stated a letter had been received from the Clerk of the Circuit Court of Manatee County including a copy of a resolution regarding taxable value of property in Manatee County that was sent to the School Board urging them to keep their tax rate down.

3. COMMITTEE REPORTS

Commissioner Ridyard reported the Investment Advisory Committee had held meetings April 25 and July 28 to review the Town's investments both in banks and with the State. Copies of minutes had been distributed to Commission members. Next meeting of the Committee will be called sometime in October.

Vice-Mayor Seegel reported that a special SMATS, MPO meeting was held August 30 concerning bridges. DOT's recommendation to the Federal Highway Commission for a New Pass replacement bridge to the west of the existing bridge is now being held up for completion of a study as to advisability of building one or possibly two bridges from Longboat Key to the mainland. Purpose of the study is to project extent

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of traffic in 1985-1990 and into the year 2000. If the study indicates there will be a need for one or two bridges to the mainland, this may completely change DOT's plans for a New Pass Bridge. The New Pass Bridge which DOT had recommended would have been four lanes, but if mainland bridge or bridges prove to be feasible the New Pass Bridge will be reduced to a two lane structure. The biggest problem, however, is that if any bridge to the mainland is recommended it will be 10 to 15 years before one can be hoped for. Plans for possible bridges to the mainland show one at the south end of the Key and the other about mid-Key in the vicinity of Bay Isles. Mr. Seegel stated he had taken the position that so far as the Town of Longboat Key is concerned they insist on a new New Pass Bridge, period. Mr. Seegel further related that at a SMATS meeting on August 21 Sen. Tom Gallen appeared with a group of clients from Lido Shores objecting very strongly to a New Pass Bridge to the west of the existing one. They did not, however, object to a bridge if it were on the east side. Because of the bridge to the mainland studies, commencement of construction of the New Pass Bridge will be delayed six months or a year as it is not anticipated the study will be completed before the end of the year or possibly not until April. In talking with Bill Trefz of the DOT, Mr. Seegel had ascertained that the DOT is unalterably opposed to a bascule bridge, over New Pass or anywhere else because of excessive maintenance costs. It appears that \$250,000 will be spent for "band-aid" repairs to the old New Pass Bridge and even then it could break down soon after. Mayor Ochs stated he had been holding off writing to Transportation Secretary Webb but now, having heard Mr. Seegel's report, he would get a letter off as to the Town's position. In answer to a question from Commissioner Sedwick as to whether there was any further word from the DOT about resurfacing Gulf of Mexico Drive, Mayor Ochs said he had written to Mr. Monts De Oca of the DOT some weeks ago about the resurfacing project, Gulf of Mexico drainage problems and getting changes in the traffic pattern to improve the passing lane situation but had received no reply. Commissioner McCall suggested that a delegation go to see Mr. Monts De Oca. Mayor Ochs replied that he, the Town Manager and Public Works Director had done that some months ago and had received promises of help with various problems but not much in the way of results had been forthcoming. He stated he would, however, keep pressure on the DOT for resolution of these matters.

Mr. Seegel stated he intended to bring up at the next SMATS meeting the announced plans of the DOT to resurface portions of Highway 41 during the height of the tourist season in order to try to get Bill Trefz to recommend that this be done other than at maximum tourist time.

4. CYSTIC FIBROSIS WEEK PROCLAMATION

At the request of Mayor Ochs, Town Clerk Hager read a proclamation declaring the week of September 17-23 as Cystic Fibrosis Week in the Town of Longboat Key and September 23 as Bike-a-Thon Day to benefit Cystic Fibrosis. Mayor Ochs presented the proclamation to Debbie Dahlke, organizer of the Bike-a-Thon.

5. INTERDEPARTMENTAL FUNDS TRANSFER RESOLUTION (78-25)

Town Manager Allgire explained that a resolution had been prepared which would make certain interdepartmental funds transfers as provided for in Article V, Sec. 9 (d) of the Charter. Commissioners had received copies of proposed Resolution transferring funds previously appropriated for Future Purposes to increase the amount anticipated for legal expense by \$7700 and the amount for Fire Department Automotive equipment by \$3,000 toward purchase of an ambulance. It was moved by Sedwick, seconded by Seegel that resolution No. 78-25 be adopted. Motion carried unanimously.

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6. 1978-79 BUDGET ORDINANCE (78-9)

At the direction of the Commission, Ordinance No. 78-9 adopting a budget for the fiscal year beginning October 1, 1978 and ending September 30, 1979 was placed on first reading by title only. Mayor Ochs announced that public hearing on the ordinance will be held September 20. It was moved by Ridyard, seconded by Jenkins that Ord. No. 78-9 be passed on first reading. Commissioner Sedwick stated he would upon second reading of the ordinance, move to amend it to eliminate expenditures for a motorcycle patrolman. Motion carried: Seegel, aye; Bell, aye; Sedwick, aye; Ochs, aye; Ridyard, aye; McCall, aye; Jenkins, aye.

7. MILLAGE RATE ORDINANCE (78-10)

At the direction of the Commission, Ordinance No. 78-10 levying .925 mills to pay principal and interest on GO Water and Sewer Bonds, and 2.343 mills for General Revenue purposes, for a total of 3.268 ad valorem tax on real and personal property, was placed on first reading by title only. It was moved by Jenkins, seconded by Seegel that Ordinance No. 78-10 be passed on first reading. Commissioner Sedwick stated he will suggest an amendment at the time of second reading and public hearing. Motion carried: Seegel, aye; Bell, aye; Sedwick, aye; Ochs, aye; Ridyard, aye; McCall, aye; Jenkins, aye.

8. REVENUE SHARING FUNDS USE PUBLIC HEARING

The Town Manager stated that the Town is proposing to use future Revenue Sharing Funds for Public Safety Equipment. In the past squad cars have been purchased from Federal Revenue Sharing Funds, and they can also be used for the Fire Department or other Public Safety equipment. These uses are reflected in the proposed budget. In compliance with requirements to be eligible to receive Federal Revenue Sharing Funds estimated to be \$36,000 or \$37,000, and pursuant to published notice, public hearing was opened on the proposed use of Federal Revenue Sharing Funds for Public Safety equipment. No one wished to be heard and the hearing was closed. It was moved by Seegel, seconded by Ridyard that authorization be given to designate Federal Revenue Sharing Funds for Public Safety equipment. Motion carried unanimously.

9. MINIMUM ELEVATION VARIANCE

The Commission had received an engineering report from Edward A. Redington, consulting engineer, stating technical reasons for requesting a variance from 12 feet to 9 feet as minimum elevation for a single family dwelling to be constructed on Lot 11, Block G, Country Club Shores, Unit 4, Part 2, owned by Col. E. W. Ogram. The Commission had requested such technical justification when this request had been discussed before, and the consensus was that it was within HUD requirements for granting a variance. It was moved by Ridyard, seconded by McCall to approve the minimum elevation variance to 9 feet. Motion carried unanimously.

10. AMBULANCE FEE REIMBURSEMENT REQUEST

Request had been received from City of Sarasota Finance Director Haylett for the Town of Longboat Key to reimburse the City of Sarasota in the amount of \$304.00 which the City had found to be uncollectible for ambulance services to three residents of Longboat Key. It was moved by Seegel, seconded by Ridyard that the Town of Longboat Key compensate the City of Sarasota for uncollectible ambulance fees incurred during the year 1978 on the condition that the Town make every effort to communicate with the people who owe the charges to try to get them to repay the Town of Longboat Key. If they do not do so, that the matter be referred to the Town Attorney with instructions that he institute small claims procedures to collect from them, subject to the

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condition that the claims be transferred to the Town of Longboat Key. Motion carried unanimously.

11. COASTAL CONSTRUCTION CONTROL LINE VARIANCE

The Town Manager stated that, as discussed at work session, a request had been filed by General Construction of Sarasota, Inc. on behalf of Mr. and Mrs. Albert W. King for a variance from the State Coastal Construction Control Line for a lot across Gulf of Mexico Drive from Seaview Shopping Center, immediately north of the Whitney Beach Conservancy property. The State Coastal Construction Control Line in this location runs approximately parallel to the state road right-of-way line. The proposed residence would be about 45' seaward of the Coastal Construction Control Line but about 170' landward of the Erosion Control Line established for the beach nourishment project in this area. This request is to build a single family dwelling in a multi-family zoning area and the Staff has recommended granting the variance. It will also be necessary for them to get a variance from the State. It was moved by Seegel, seconded by Sedwick to grant the requested variance from the State Coastal Construction Control Line conditioned upon the State granting a variance also. Motion carried unanimously.

12. HIDEAWAY BAY TENNIS COURTS AUTHORIZATION

The Commission had discussed at work session a request from Tim Field for permission to build two tennis courts and 4 to 6 parking spaces on a lot which is part of Hideaway Bay Subdivision located immediately adjacent and to the east of the Town-owned warehouse complex, at the entranceway from Gen. Harris St. to Hideaway Bay Subdivision. Under Hideaway Bay Association documents, the lot has been designated for recreational purposes for the Hideaway Bay residents' use. The zoning is partly R-1 and partly C-1. The Town Manager stated that the zoning ordinance does not contain any definite language to encourage or prohibit this accessory use. Therefore, the Staff recommendation with concurrence of the Town Attorney is, since there is no clear prohibition, that it be allowed. It was moved by Seegel, seconded by Jenkins to authorize building of two tennis courts and four to six parking spaces as discussed above. Motion carried unanimously.

13. TREE REMOVAL PLAN, DUKE-BENEDICT, INC.

The Manager stated that, as discussed at work session, a request had been received for a permit to remove 12 Australian Pines from property of Duke-Benedict, Inc., adjacent to The Islander Club condominium, in order to construct a swimming pool and tennis court. A letter had been received from Attorney George Dietz stating that the property owners will be willing to replace the 12 trees with other varieties and would like to suggest several gold trees, royal poincianas and/or citrus trees. It was moved by Seegel, seconded by Bell to approve the tree removal permit for 12 Australian Pines providing they be replaced by trees as set forth in the letter from Attorney Dietz. Further, that the letter be incorporated into the motion and attached as part of the minutes. Motion carried unanimously.

14. TEMPORARY C.O. - SEAPLACE, M-2 BUILDING

Mayor Ochs stated the consensus of the Commission at the workshop meeting was that a request for a Temporary Certificate of Occupancy for building M-2 of Seaplace should be approved providing the Staff has the list prepared of requirements that will be met to complete the project. It was moved by Jenkins, seconded by Ridyard

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that the requested Temporary Certificate of Occupancy be approved subject to completion of all punch list items. Motion carried unanimously.

15. TREE REMOVAL PLAN - FIRST PHASE, BAY ISLES CIVIC COMMERCIAL CENTER

As discussed at work session, it was moved by Jenkins, seconded by Ridyard that the tree removal plan for the first phase of the Civic Commercial Center of Bay Isles in reference to the parking area, be approved subject to conditions set forth during the previous day's work session. Motion was amended by Seegel to require replacement of trees as represented to the Town Commission at the workshop. Amended motion carried unanimously. Russ Luce of the Arvida Corp. asked for clarification, as to whether the situations talked about at the workshop and mentioned in the motion were those already included in the resolution as far as the landscaping plan etc., which have to be submitted before a building permit is obtained, not prior to taking the trees out. Mayor Ochs confirmed that this was correct.

16. POLITICAL SIGN REQUEST

Request had been received and discussed at work session from Sal and Margaret Chiefari for a variance to the sign ordinance to place a sign for a political candidate in their yard. Vice-Mayor Seegel stated that in response to a letter received from the American Civil Liberties Union, he thinks the opinion previously given by Town Counsel as to the Town's sign ordinance is valid, and the ordinance is being redrafted to eliminate that portion which Mr. Whitesell believes to be unconstitutional in prohibiting political signs on vehicles. That the rest of his opinion is completely accurate also and that, in the absence of Mr. Whitesell, he could see no reason to make any changes to the opinion given by Mr. Whitesell. It was moved by McCall, seconded by Sedwick to deny the request for a variance to permit a political sign in a private yard. Motion carried unanimously.

17. LEGAL REPRESENTATION AUTHORIZATION

Mayor Ochs stated it is intended that the General Election ballot in November will carry a referendum to amend the Florida Constitution. Included in a basic group or package of 34 proposed amendments is a proposal to eliminate Article VIII, Sec. 4 and thereby permit counties to take over various municipal services without approval of the municipalities. The Sarasota League of Cities had petitioned the Constitutional Revision Commission through special counsel for a hearing on the proposal to eliminate Article VIII, Sec. 4 but did not obtain a public hearing, although it had been the practice of the Revision Commission all through the year to hold hearings on the various proposed amendments. This particular amendment came before the Revision Commission when they were finalizing the proposed amendments and no public hearing was ever held on it. Therefore, the Sarasota County League of Cities is proposing legal action to try to prevent this from being placed on the ballot and has asked that each member city authorize Welch Whitesell as attorney to represent the League. Payment will be by pro-rata share, according to city size, of the legal costs. Mr. Ochs stated that another action is being taken by the Sarasota County Charter Review Board to present by a separate ballot for voters of Sarasota County an amendment to the Sarasota County Charter to include in that Charter a restatement of Article VIII, Sec. 4. Then, if the voters approve eliminating this provision from the State Constitution, a similar provision could be added to the Sarasota County Charter to take its place. It was moved by Seegel, seconded by McCall that the Town Attorney be authorized to represent the Sarasota County League of Cities in the necessary legal action to have Article VIII, Sec. 4 taken out of the ballot that will be submitted to the voters

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in November to revise the Florida Constitution. Motion carried unanimously.

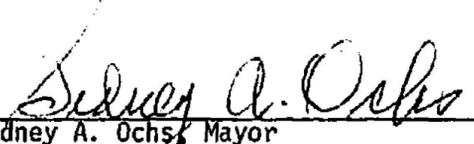
18. OPEN TO PUBLIC

A man from the audience who did not identify himself inquired about the Town's paying the ambulance bills to the City of Sarasota. The Commission explained that the Town of Longboat Key had agreed to pay the City of Sarasota for ambulance service to Town residents when the City was unable to collect. Every effort will be made, however to obtain reimbursement to the Town from the individuals involved.

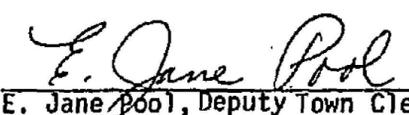
Charles Lacey inquired as to the status of the Town's legal action to seek relief from dual taxation. Mayor Ochs informed him that the Town Attorney was in Tallahassee where the case against Manatee County would be heard the following day by the Florida Supreme Court. Mr. Lacey further inquired whether, if the case is won, it would have a tendency to reduce millage. Mayor Ochs stated this could not be promised, for even if the case is won it is not known at present where the County would get the money and this problem would have to be resolved by the court, but if upheld a sizeable sum will be owed Longboat Key by the County.

19. ADJOURNMENT

It was moved by Jenkins that the meeting be adjourned. Mayor Ochs declared the meeting adjourned at 9:25 P. M.



Sidney A. Ochs, Mayor



E. Jane Pool, Deputy Town Clerk

jbp

LAW OFFICES

WILLIAMS, PARKER, HARRISON, DIETZ & GETZEN

PROFESSIONAL ASSOCIATION

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AREA CODE 813

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WILLIAM T. HARRISON, JR.
GEORGE A. DIETZ
WILLIAM E. GETZEN
MONTE K. MARSHALL
JAMES L. RITCHEY
A. LAMAR MATTHEWS, JR.
RUSSELL S. KOSS
HUGH MCPHEETERS, JR.
WILLIAM G. LAMBRECHT
JOHN T. BERTEAU
JOHN V. CANNON III
CHARLES D. BAILEY, JR.
J. MICHAEL HARTENSTINE

5th
September
1978

Mr. G. Wayne Allgire, Town Manager
Town of Longboat Key
Post Office Box 107
Longboat Key, Florida 33548

Re: Application for Tree Removal by Duke & Benedict, Inc.

Dear Wayne:

We are writing this letter on behalf of Duke & Benedict, Inc., owner of the property located at 2251 Gulf of Mexico Drive, Longboat Key, relative to the above subject matter.

In response to the several questions raised by the Commissioners at the Work Session Tuesday afternoon, we wish to advise as follows:

1. The total number of Australian pine trees to be removed in connection with this project will be twelve (12). This includes trees located either within the area proposed for construction of the tennis courts and swimming pool or immediately adjacent thereto.
2. The property owner will be more than happy to replace these trees with other varieties and would like to suggest several gold trees, Royal Poincianas and/or citrus trees.

We trust that this will meet with the Commission's approval and will appreciate your advising as to whether or not it will be necessary to

*Approved by Town Commission
9/6/78*

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Mr. G. Wayne Allgire

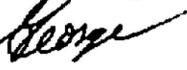
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September 5, 1978

make a further appearance before the Commission to complete arrangements for the removal of the Australian pines.

Thanks very much for your assistance in this matter.

Yours very truly,



For the Firm

GAD:bbp

cc: Mr. F. E. Benton

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