

78-38

## MINUTES OF REGULAR MEETING OF LONGBOAT KEY TOWN COMMISSION, DECEMBER 20, 1978, 8:00 P.M.

Meeting called to order by Mayor Ochs at 8:00 P.M.

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

Also

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

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 the Rev. Father Edward Pick of St. Mary Star of the Sea Catholic Church.

1. MINUTES APPROVAL

It was moved by Sedwick, seconded by Jenkins, carried unanimously that the minutes of the regular meeting December 6, 1978 be approved with the following correction: Item 16, third line from the end, take out the word "had" from "It was moved by Sedwick, seconded by Seegel that the Commission had decided..."

2. CORRESPONDENCE

At the direction of Mayor Ochs, the Clerk read for the record a letter from the Longboat League stating that the League had adopted a resolution strongly supporting the efforts of the Town Commission to enforce the strictest possible interpretation of the coastal construction control line on new construction on the Key for gulf or bay access property.

Also, a letter from Sarasota County Commission Chairman Beverly Clay suggesting that all dual taxation litigation be dismissed and further problems arising in this area be settled through some mutually agreeable mediation rather than through continued litigation. Mayor Ochs commented that the Town Attorney had received a communication from the Supreme Court setting the hearing in the double taxation case with Sarasota County.

A letter from Tom Mayers was read asking for the Town's assistance in pursuing an official naming as Savarese Bayou of the bayou running from Broadway, in back of "Canada House" to Longboat Pass. (All three letters are on file in the Clerk's office.) The Town Attorney recommended the best way to proceed in securing such a naming would be through the Power Squadron and Vice-Mayor Seegel stated he would be glad to bring it up at their meeting.

3. COMMITTEE REPORTS

Mayor Ochs reported he had received a phone call from Jim Kennedy, DOT project engineer for replacement of New Pass Bridge, to assure that the Mayor was aware of an informational meeting to be held on January 16 at 10:00 A.M. in Courtroom E of the Sarasota County Courthouse. At that time the DOT will make some new presentations on the New Pass Bridge replacement to suggest a two lane draw-bridge to the east of the existing bridge. He urged that interested people attend that meeting, but it was pointed out by Commissioner Bell it is not a public hearing

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and people should not go expecting to be heard.

4. BUDGET AMENDING ORDINANCE (78-23)

At the direction of the Commission, Ord. No. 78-23 amending the budget for the fiscal year October 1, 1978 - September 30, 1979, appropriating excess fund balance in the Utility Fund to the Capital Improvement Fund and budgeting for a temporary fire station in the Capital Improvement Fund, was placed on first reading by title only. It was moved by Seegel, seconded by Ridyard that Ord. No. 78-23 be passed on first reading. Mayor Ochs stated the site for the temporary station will be on Town property to the east of the Library. Motion carried: Seegel, aye; Bell, aye; Sedwick, aye; Ochs, aye; Ridyard, aye; McCall, aye; Jenkins, aye.

5. TRAFFIC SIGNS ORDINANCE (78-21)

At the direction of the Commission, Ord. No. 78-21 authorizing existing traffic signs, making it unlawful to disobey any traffic sign lawfully placed within the Town of Longboat Key, 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 Ridyard, seconded by Jenkins that Ord. No. 78-21 be passed on second reading and finally adopted. Motion carried: Seegel, aye; Bell, aye; Sedwick, aye; Ochs, aye; Ridyard, aye; McCall, aye; Jenkins, aye.

6. NOISE ORDINANCE AMENDING ORDINANCE (78-22)

At the direction of the Commission, Ord. No. 78-22, amending Section 14-2 loud and unnecessary noise, of the Town Code was placed on second reading by title only. Pursuant to published notice, public hearing on the ordinance was opened. Ed Wojtasik asked a question about the ordinance. Russ Luce of Arvida Corp. asked questions about provisions of the ordinance and spoke against certain parts. Steff Stamper of the Chamber of Commerce expressed concern that certain parts of the ordinance might apply beyond what the Commission would consider pertinent. No one else wished to be heard and the hearing was closed. It was moved by Jenkins, seconded by Seegel that Ord. No. 78-22 be passed on second reading and finally adopted. It was moved by Seegel, seconded by McCall to amend the motion to adopt Ord. 78-22 with Section 1 deleted. Motion to amend carried: Seegel, aye; Bell, no; Sedwick, aye; Ochs, aye; Jenkins, no; McCall, aye; Ridyard aye. It was moved by McCall to amend the motion to adopt Ord. No. 78-22 as amended and with a further amendment that in Section 2 emergency permits may be granted for a period not to exceed thirty (30) days rather than three (3) days. The Town Attorney advised that if exemptions were to be added it should be done by separate ordinance. McCall's motion to amend failed for lack of second. Main motion that Ord. 78-22 be passed on second reading and finally adopted (as amended) carried: Seegel, aye; Bell, aye; Sedwick, aye; Ochs, aye; Ridyard, aye; McCall, aye; Jenkins, aye.

7. PORT-OF-CALL LITIGATION SETTLEMENT

Attorney John Meshad, with his clients Virginia and Ed Henderson of Port-of-Call Motel, 3008 Gulf of Mexico Drive, reviewed the status of two suits between the Town and the Hendersons. The litigation to cause them to have their sign brought into conformance with the Town's sign ordinance had been decided in favor of the Hendersons

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and the Town had appealed it to the Supreme Court. This was scheduled for hearing Friday, December 22. The suit to require them to connect to the Town's sewer system had been won in the circuit court by the Town and the Hendersons had appealed to the Supreme Court. No date for this hearing had yet been set. Since that time a settlement offer had been made by the Hendersons, rejected by the Town and a counter proposal made by the Town. Mr. Meshad stated that at this time they were asking to be allowed to maintain their septic tanks for a period of time and that back charges and penalties be waived. In turn, they would immediately make their sign conforming and acquiesce to dismissal of the appeal to the Supreme Court. After discussion, it was moved by McCall, seconded by Seegel that the settlement involves a settlement of both cases which are on appeal to the Supreme Court with a provision that the Hendersons be allowed two years or within 60 days of the sale and transfer of title of the property to connect to the sewer and to make the sign conforming with provisions for a lien in favor of the Town for the amount to make the connection and to make the sign conforming if they do not; that past charges in the stipulated amount of \$2500 (excluding what has been paid) and future charges be paid by the Hendersons; and a provision for enforcement of the settlement by the Circuit Court should the Hendersons not live up to it. The Town Attorney stated he wanted it made clear that if these things are not done within two years or 60 days after transfer of title, the Town would have a written agreement with the Hendersons, in addition to what is in the Code, that the Town will make the connection and the connection costs would be a lien against the property. Motion carried unanimously.

Mr. Meshad asked and was granted time to consult with his clients and the Commission proceeded with the order of business.

#### 8. COASTAL CONSTRUCTION CONTROL LINE VARIANCE REQUEST

Town Manager Allgire presented to the Commission a request for a variance to construct a single family residence at 6661 Gulf of Mexico Drive which would be 150 feet back of the Erosion Control Line but 23 feet inside the Coastal Construction Control Line. The Town Manager pointed out that this house could be built and meet all required setbacks and the Town Code states that a variance can only be granted where the structure cannot meet setbacks without a variance. Commissioner McCall stated he felt the ordinance should be changed to permit a variance in cases such as this. Mayor Ochs informed the applicants that the only answer which could be given at this time was that under the terms of the existing ordinance the Commission cannot grant the variance. The next step would be to discuss this matter at a workshop meeting and to ask the Staff to see whether there is a feeling the ordinance ought to be changed to allow a variance to be granted. Further, that if any variance provision is made it will surely require a showing of erosion conditions being stable and that there is no hardship involved. This was forwarded to the January 9 workshop and the Town Manager was asked to comment at that time on what the ordinance is and how it is interpreted.

#### 9. SEAPLACE BUILDING G8 TEMPORARY C.O.

Request had been received that Arvida Corp. be granted a Temporary Certificate of Occupancy for building G8 of Seaplace. Town Manager Allgire stated the Staff had checked it out and recommended that it be granted. It was moved by Ridyard, seconded by McCall to grant a Temporary Certificate of Occupancy for building G8 at Seaplace. Motion carried unanimously.

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10. BOARD OF ADJUSTMENT DISCUSSION APPOINTMENT

Vice-Mayor Seegel read a resumé of Frank C. Mockler whom he was recommending for consideration for appointment as a member of the Board of Adjustment. Mr. Mockler had been present earlier in order to be introduced to the Commission but had by this time left the meeting. The Mayor stated he would like for the Commission to meet Mr. Mockler and asked Mr. Seegel to invite him to the December 28 meeting.

7. (CONTINUED)

Attorney Meshad reported to the Commission that the Hendersons would accept the settlement offered by the Town.

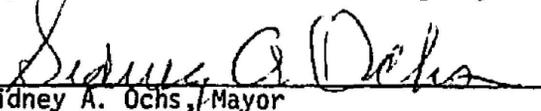
11. CONTINUATION OF APPOINTMENT OF ACTUARIAL AGENTS

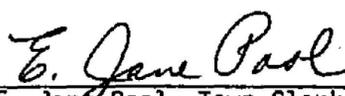
It was moved by Ridyard, seconded by McCall and carried unanimously, that the appointment of Ogle and Waters as Actuarial Agents to the Town be continued and approved.

12. ADJOURNMENT

It was moved by Jenkins that the meeting be adjourned.

Mayor Ochs declared the meeting adjourned at 11:00 P.M.

  
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Sidney A. Ochs, Mayor

  
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E. Jane Pool, Town Clerk

jbp