

MEETING MINUTES
TOWN OF BEVERLY BEACH, FLORIDA
REGULAR MONTHLY COMMISSION MEETING
APRIL 3, 2017 – 6 P.M.

The regular monthly Commission meeting for the Town of Beverly Beach was duly noticed and held on Monday, April 3, 2017, in the Town Hall Conference Room at 2735 N Oceanshore Boulevard. A quorum was present.

ATTENDEES:

Stephen Emmett	Mayor
Larry Mathies	Commissioner
Sandra Siepietoski	Commissioner
Jeffrey Schuitema	Commissioner
Ernie Sund	Commissioner
Debra Wingo	Commissioner
Donna Francis	Town Clerk
Dennis Bayer	Town Attorney
Justin Caron	UF Law School/Code Revision Project

CALL TO ORDER – The meeting was called to order at **6:00 p.m.** by **Mayor Emmett**, who then led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mayor Emmett called for a motion to approve the Minutes of the regular Commission meeting held on March 6, 2017. Motion made by **Commissioner Wingo**, seconded by **Commissioner Schuitema**. There was no further discussion.

Motion Approved Unanimously 5-0 by Voice Vote

MAYOR’S REPORT AND ANNOUNCEMENTS

- a. **Mayor Emmett** read a **Proclamation recognizing National Public Safety Telecommunicators Week**. Sheriff Staley, Christina Mortimer, Bob Webber, and Jarrod Shupe were present to accept the Proclamation for the County Emergency Dispatchers. Sheriff Staley spoke briefly about the importance of the dispatchers and that only 22 of them handle over 200,000 calls annually. During Bike Week alone over 5,000 calls came in.
- b. **The Mayor** then read a **Proclamation recognizing April as Water Conservation Month**. The St. John’s River Water Management District requested the Proclamation.

STAFF REPORTS

- a. **Town Clerk**
 - i. The Clerk presented the **February 2017 financial reports**. Local Government Infrastructure was over budget due to receipt of the quarterly distribution in addition to the monthly. FPL Franchise Fees was lower than usual but the fluctuation is not unusual. Grant income of \$32,000 is pending reimbursement from the Tourist Development Council of Flagler County. The application was submitted to the TDC and the Town should be

receiving the funds soon. Under expenditures, the accounting expense was much higher than average because the final installment of the 2016 Audit payment to Reddish and White was included. Landscape maintenance is over budget due to erection of the safety fence along A1A to try to protect the remaining dune structure until FDOT decides when and how to repair the remaining damage from Hurricane Matthew in October 2016. There were no other significant line items to discuss and no questions from the Commission.

ii. **Code Violation Updates:**

- A Workshop was held on March 22 to address a resident request to modify the Ordinance regulating parking of **“recreational vehicles” in driveways**. The Commissioners spoke individually about the pros and cons of the request and discussed resident input, both pro and con, when making their decision. Commissioners unanimously came to the consensus not to take any additional action; however, they agreed to more aggressively enforce the existing regulations as uniformly as possible. Due to that discussion, the Town sent letters to each property owner in Osprey Point and along SR A1A (N Oceanshore Boulevard), notifying residents of the intent to increase enforcement. Any resident’s property in violation will receive a letter via Certified Mail notifying the owner of the violation and the steps to correct the violation.
- Another point made at the Workshop was that some residents are not comfortable with the fact that other property owners are **reporting violations** to the Town Hall or to individual Commissioners. They felt that it should strictly be the Code Enforcement Officer who reports. The Town Clerk explained that the CEO is “very” part-time, only about 20 hours per month, and cannot always be aware of violations at every given time. Therefore, the Town relies on Commissioners and others who may report a concern directly to the Town Hall or a Commissioner to stay apprised of possible violations. Concern was also expressed that the Town was selectively enforcing the Code. This claim was denied by the Commissioners, Mayor, and Clerk with the declaration that concerns are addressed as soon as the Town Hall is made aware of a possible violation, and that if it is not reported or noticed by the COE or a resident, that is the reason for lack of enforcement (being unaware of the infraction).
- The home at **2724 N Oceanshore Boulevard** (across from the Town Hall) was cited recently due to unrepaired hurricane damage that presented an “attractive nuisance” under the Property Maintenance section of the Code. The absentee owner lives in the Bronx and responded via phone. She has retained a property manager to oversee repairs to the home and plans to list it for sale. Roofers started working at the home and other repairs are scheduled.
- The **Gomez home** on A1A south of the Osprey Point entrance continues to be in violation of the Property Maintenance Code. The contractor reports that they are in contact with a subcontractor to repair the vinyl siding and will resume work on the rest of the repairs soon.
- A **vacation rental home** south of the Town Hall had a **pop-up trailer** in the yard. The property owner was contacted and reminded of the 72-hour parking limit as well as the ban on anyone sleeping overnight in the trailer.
- A Code violation of the ban on **Sunday construction activity** was reported regarding a home being constructed on the west side of SR A1A near the entrance of Osprey Point. It was the second time the contractor violated the restriction and the contractor previously received a written warning for the first violation. A violation letter levying a \$250 fine for second offense was sent via Certified Mail and the contractor paid the fine by the deadline.

iii. **Business Tax Receipt Applications:**

- **Palm West Home Realty, Inc.** applied for a BTR to conduct a real estate business in space rented from Camptown at 2815 N Oceanshore Boulevard (Sid Patel). **Commissioner Wingo moved for approval; seconded by Commissioner Schuitema.**

Motion Approved Unanimously 5-0 by Voice Vote

- Surfside Estates resident **Pete Millard** of 85 Merrimac Drive applied for a new BTR as a **handyman**. He previously had a BTR but had not been actively working for a period of time. Work has become available due to post-hurricane storm repairs and he wants to ensure he is in compliance. **Commissioner Schuitema moved to approve, Commissioner Sund seconded.**

Motion Approved Unanimously 5-0 by Voice Vote

b. **Town Attorney – Dennis Bayer**

- i. The **Town Attorney** initiated the **second and final reading** of Ordinance 2017-01, known as the Floodplain Management Ordinance. There were very minor corrections made to the language since the first reading in December 2016, following consultation with a state representative. Law school student **Justin Caron** has been working on the Ordinance along with his professor, Mr. Bayer, and a representative from the state to ensure that the language complied. Justin was called upon to report on the process. The Town Clerk read from the Minutes of the December meeting to clarify the motion and vote at the first reading. Mr. Bayer stated that the state had “given it their blessing.” **Commissioner Schuitema** asked if the wording affected the wording regarding freeboard. Mr. Bayer confirmed that it did; the updated language changed the measurement from two feet above base flood elevation to one foot. **Mayor Emmett** asked if the Ordinance now put the Town in compliance and Mr. Bayer confirmed that it did. **Commissioner Schuitema moved to approve the second and final reading of Ordinance 2017-01; seconded by Commissioner Siepietoski.**

- **Commissioner Wingo** had a question regarding the Town Clerk being named as the “floodplain manager” in the Ordinance and whether the Town can enter into an Interlocal Agreement with the City of Flagler Beach to use the services of their staff floodplain manager. **Mr. Bayer** confirmed that is correct. The Town Clerk will not be required to deal with the technical issues of the Ordinance, but has the authority to delegate those duties to other qualified individuals. One of the issues the Town has had in the past is when building permits for new construction were issued, the copy received by the Town often did not have an elevation certificate. That would be one of the main tasks for which the Clerk would be responsible. It will be an ongoing question as to whether the Town is complying with the records management aspect. The Clerk stated that the Town does not yet have an Interlocal Contract in place with Flagler Beach for the floodplain management technical services. **Commissioner Wingo** asked about fees related to the service. Any fees would be incorporated into the building permit fee paid by the contractor or owner and would be retained by the Building Department at Flagler Beach under the permitting and inspection Interlocal Agreement.
- **Commissioner Wingo** stated that maps and plats were referenced throughout the Ordinance and wanted to know if the Town would incur any cost to have any maps redone. **Mr. Bayer** said that the state is finishing up their mapping project and it should be ready in June or July. Preliminary maps were received at Town Hall a few months ago and everyone is now just waiting for the final edition to be issued. He confirmed that there will be no expense to the Town.

- **Commissioner Sund** asked about inconsistencies in floodplain elevation surveys. **Mr. Bayer** said passage of this Ordinance applies to new construction unless it applies to a home that has more than 50% of the value of the property was destroyed, then the repair would have to comply with the new Code. He also stated that it could be more of an insurance issue should a 50% or more damage occur. **Commissioner Schuitema** added that FEMA is requiring, as a condition of financial assistance through low-interest SBA loans, that you have an elevation survey of your home. **Mayor Emmett** stated that the Town needs to contact the **Flagler Beach City Manager, Larry Newsome**, and begin the process of entering an Interlocal Agreement for this purpose. **Commissioner Schuitema** asked when the regulations go into effect because it will impact new homes currently scheduled for installation in Surfside Estates (regarding the freeboard regulation and height requirements). **Mr. Bayer** confirmed that the Ordinance would go into effect immediately upon adoption after the pending vote at the meeting. The new freeboard regulation will save money for homeowners by not having to incur the expense of raising the home higher, at their discretion. Homeowners have a choice to use the new one-foot regulation or go higher.
- **Property owner Ted Barnhill** stated that his lender was requiring new flood insurance, on one of his properties (south of Town Hall on the beach side). The cost of a new elevation certificate was going to be \$350. He said that FEMA had reclassified the property's flood zone rating, and it changed his flood insurance premiums from \$600 to \$4,500. He feels that FEMA made a mistake since his property is about 19' above flood elevation, and that if his property floods, it will flood all the way to I-95. He encouraged the Commission to try to ensure that FEMA treat all property owners in Town fairly. **Mr. Bayer** stated that the state was requiring all coastal communities to update their Ordinances related to floodplain management. The local municipalities essentially do not have any control over FEMA's decisions as to flood zone designations.
- After no further discussion or comment, **Mayor Emmett** called for a vote on the motion.

Motion Approved Unanimously 5-0 by Voice Vote

- ii. **Mr. Bayer** reported that he spoke with **Carl Mauney**, owner of the property adjacent to the north side of Si Como No Inn. The property has been in disrepair for a lengthy period. **Mr. Bayer** provided **Mr. Mauney** with the name of a demolition company to remove the dilapidated structure that is on the property, and thought they would have had it done by now. He will follow-up again with the property owner, since **Mr. Mauney** verbally indicated he would voluntarily have the building demolished and clean up the property.
- iii. **Mr. Bayer** asked former Mayor **Jim Ardell** to report on the meeting he had with **Justin Caron** regarding the **Code rewrite project**. **Mr. Ardell** complimented the law students involved in the project, saying that, "Their diligence and attention to detail were phenomenal." He went on to say that the student team took the model he prepared (95 pages long, compiled from incidents that occurred during his time as Mayor, which presented issues) and worked hard to clarify and correct discrepancies. Not only did they use that model, but came up with many other perspectives that will clarify and enhance the Code. **Mr. Ardell** said that the Code is not intended to be an all-inclusive body of work but an instructional manual of what residents can anticipate from the Town and the actions of the Commission. **Mr. Ardell** again complimented the students as well as **Mr. Bayer**. **Mr. Bayer** noted that the student team had invested more than 100 hours of time in the project, saving the Town a tremendous amount of money as opposed to paying an attorney to do the work.

He said the **Town needs to schedule a Workshop later in May or June to discuss some “policy issues”** before passing an Ordinance adopting the Code changes. The Town Clerk will consult with Commissioners and set a date for a Workshop. Pending decisions made at that Workshop, the Clerk will advertise the first and second readings of the necessary adoption Ordinance. Once adopted, she will work with Municode to get the new language incorporated, the books updated, and the online Code updated.

OLD BUSINESS

- a. **March 22 Workshop Update** – **Mayor Emmett** reiterated that the Commission conducted a Workshop to address a resident request for change of the Ordinance regulating the parking of recreational vehicles (specifically boats and boat trailers). The Commission did not find compelling evidence of a need and no change will be made.
- b. **Reconstruction of Walkovers #3 & #4** – **Commissioner Mathies** reported that both were complete, inspected, and that we have submitted our request for grant reimbursement. The project was over budget by just \$500 due to a change in the structures requested by FDOT. When Mr. Mathies gave the final report at the Tourist Development Council meeting they requested that a representative of the Town appear before the County Commission with a follow-up report. Mr. Mathies attended that meeting on April 3. The Commissioners praised the Town for its interest and progressive attitude toward providing this service for tourists and residents. **Commissioner Wingo** thanked Mr. Mathies for all the hard work he had put in for all three reconstructed walkovers, noting that they are “beautiful and getting a lot of use.”
- c. **Conversion of Walkover #1** – **Commissioner Schuitema** noted that the project was under way and that every effort is being made to finish prior to turtle nesting season. When complete, the walkover will be 100% ADA/Handicapped compliant and wheelchair accessible. The same contractor won the bid for the project (Charles Burgan). **Mayor Emmett** announced that the owner of Camptown had granted permission to Surfside Estates residents to use his southernmost beach walkover while the Town’s is being reconstructed.

NEW BUSINESS

- a. **Walkover Signage** – By consensus, the Commission approved a request by contractor Charles Burgan to affix small signs to each of the three walkovers his company rebuilt (#’s 1, 3 and 4). Each indicates that the walkover was built by Charles Burgan Construction LLC. **Commissioner Schuitema** mentioned that the contractor also repaired cracks in the seawall next to #1 prior to starting the work on the walkover to ensure stability. The cost was \$1,800.
 - b. **Appointment of Vice Chair** - **Commissioner Siepietoski** nominated **Commissioner Mathies**, stating that he has already served as Vice Chairman of the Commission and is experienced. **Commissioner Sund** seconded.
- Motion Approved Unanimously 5-0 by Voice Vote**
- c. **Appointment of Town Clerk** – **Commissioner Schuitema** moved to re-appoint Town Clerk Donna Francis for the next year. **Seconded by Commissioner Siepietoski.**

Motion Approved Unanimously 5-0 by Voice Vote

COMMISSIONER COMMENTS

- **Commissioner Schuitema** asked the Clerk to make sure Surfside is made aware of the new freeboard regulation. She will provide a copy of the Ordinance.
- **Commissioner Mathies** asked if copies of the floodplain maps could be distributed. The hard copy maps are too large for copying but if you go to the Flagler County Property Appraiser’s web site

(flaglerpa.com) you can view the proposed new flood zone designations (indicated on the left side of the web page by a check box labeled new 2016 flood maps).

- **Mayor Emmett** asked the Town Attorney if passage of the new Floodplain Ordinance “committed the Town to joining the state CRS.” **Mr. Bayer** confirmed that it did not. It makes the Town eligible but it is not automatic.

PUBLIC COMMENTS

- Surfside Estates resident and Board Member **Mike Vendetti** asked that the Ordinance not be provided individually to the Surfside residents, but to the office and Board, and said, “We need as much information as we can get,” as to how they are impacted. **Commissioner Schuitema** explained that it is part of the permitting process. The “basic floodplain elevation” is six-feet for Beverly Beach, which is subject to change. Previously the Beverly Beach Code dictated an additional two-feet of “freeboard” but the new Ordinance reduced the basic requirement for freeboard to only one-foot. **Commissioner Schuitema** will attend the Board Meeting at Surfside to answer questions.
- **Jim Ardell** announced the quarterly beach cleanup for Saturday, April 29, from 9 – 11 a.m. Volunteers should meet in front of the Town Hall. Gloves, water, and bags will be provided.
- There was a brief discussion about the impending turtle nesting season and its impact on walkover construction. **Mr. Bayer** said that he believes permitting is being addressed on a case-by-case basis. Some people thought there might be a variance in place and others said it was not in writing. Contractors need to research before any work is done.

ADJOURNMENT

There being no further comments or questions, the Mayor called for a Motion to adjourn; so moved by Commissioner Schuitema, seconded by Commissioner Sund.

Motion Approved by a 5-0 Unanimous Voice Vote; Meeting adjourned at 6:54 p.m.

Respectfully Submitted,

Donna M. Francis

Donna Francis, Town Clerk

