

MINUTES
TOWN OF SUNSET BEACH
Regular Called Meeting/Public Hearing/Work Session
December 7 2009
6:45 p.m.

Members Present

Mayor Ron Klein
Mayor Pro-Tem Len Steiner
Councilman Lou DeVita
Councilman Ron Watts
Councilman Bob Bobinski
Councilman Wilson Sherrill

Sworn In

Councilwoman Karen Joseph
Councilwoman Carol Scott

Others Present

Mike Isenberg, Town Attorney
Gary Parker, Town Administrator
Kim Cochran, Town Clerk

TOWN COUNCIL WORK SESSION/MEETING 6:45 pm

Parker thanked Councilman Watts and Councilman Steiner for their service and thoughtful considerations over the last few years and they in turn, thanked the citizens and town hall staff.

DeVita asked had the other council members given anymore thought to waiving permitting fees for sewer? And what were they going to do about the abandoned septic tanks? He suggested putting a proposal together for the county.

Steiner said the County has jurisdiction over the septic but had not stepped forward with suggestions.

DeVita asked about recycling. Parker stated we'd had no responses yet from the ad, but they had until the end of the month to respond.

Steiner expressed his gratitude to the town hall staff and congratulated Carol Scott and Karen Joseph on their election to Council.

7:00 pm

1 & 2. CALL TO ORDER AND PLEDGE.

Mayor Klein called the meeting to order and led the Council in the pledge of allegiance.

3. APPROVE OR AMEND AGENDA-NO CHANGES

4. PUBLIC COMMENTS ON AGENDA ITEMS ONLY:

Jay Enriquez-Open Space District

Mr. Enriquez, 960 Oyster Pt. Dr, opposed the rezoning of the courses. He felt it was conflicting and consuming. Recreation facilities and home being allowed was incorrect zoning if the intent was preservation. He felt it should be looked at again and asked Council not to act on it tonight.

Mayor Klein read a letter from Sea Trail Corp asking for the zoning to be tabled and sent to a workshop. See letter which is hereby incorporated by reference and made part of these minutes.

He also read a letter from Mary Ann Heckwolf and Dorothea Newman declaring support for the new zoning in order to “preserve Oyster Bay’s beautiful property and limit further encroachments in the native homes of many wood land creatures.” See letter which is hereby incorporated and made part of these minutes.

The Mayor read a letter from Counsel for Sandpiper owners stating they were not notified of the hearing. Isenberg, the town attorney, stated they were correctly notified. We notify by what is listed on the latest tax listing and they had their mailing address listed as Sandpiper Bay in Sunset Beach, and they are actually in another state. Council could act on this if they wished being legal notification was done correctly.

5. MINUTES FROM NOVEMBER 2, 2009.

Motion by Steiner to adopt minutes as presented, Seconded by DeVita. Motion Carried.

6. PUBLIC HEARING:

- a. Call for Public Hearing to Re- Zone Sea Trail Golf Course Areas from Mainland Residential -3 to Open Space-1 District; Re-Zone Sandpiper Bay Golf Course Areas from Mainland Residential -3 to Open Space- 1 District; and Oyster Bay Golf Course Areas from Mainland Residential -2 to Open Space-1 District.*

Charlie Nern, 647 Oyster Bay, approved of the rezoning. He stated others didn't realize the developers could come in now and construct condominiums.

Ed Gore, 435 Shoreline Dr W., stated he helped draft the letter from Sea Trail Corp. and was speaking for all the owners. He felt proper consideration was not given. The current law allows the owners to grant conservation easements to institutions to go back to forest woods for tax benefits. There was no language in there to include what is currently allowed to charitable entities and educational institutions. The Board was taking a lot of money from the owners and created more nonconformity than anything to ever done in this town. He asked the Council not to act and send it back to the Planning Board as a workshop with legal minds to help draft language.

Richard Tesch, spoke against this amendment and stated this draft was anything BUT open space. How was building on these properties conservation? The paperwork addressing the Open Space did not talk about building..... Did they want Open Space or development?

Richard Cerrato, 517 Twisted Oak Lane, asked who the architect of this change was. Developers? Citizens? He felt it needed to go back to the Planning Board to be worked on.

Jay Houston, Engineer of Houston and Assoc., said he wanted to mention two words...”unintentional consequences”. He stated someone had spoken earlier about development and with no disrespect to anyone here, the property was already developed. It was developed as a golf course. He had not seen specifically what OS-1 allowed, but was told it would allow one unit per acre. When the Sandpiper Bay was originally developed, it was developed as a planned unit development, which is an overlay of the zoning that was under that. It talks about density, and the Land Use Plan and all those things. His understanding now was that since the town of Sunset Beach had come in, the best fit was still the MR-3 that was in place at this time. By rezoning this to anything less than that, in his opinion, they were taking the land from the owner and there needed to be compensation for that. With the zoning that was there currently, there was a provision for 35% open space. He stated that as an engineer, he felt the existing zoning was exactly where the town needed to leave it. He felt this change does nothing for anyone, including the Town of Sunset beach. He explained that it had value, and the town collected revenue from the use as a golf course. If they rezoned, it would render the land totally undevelopable, which in turn would cause no revenue to come from it, and in these economic times, it would cause taxes to go up.

Bill Blaich, 825 Shoreline Dr. W, asked what the future thoroughfare right-of-way was. In this zoning they talk about tennis Courts, recreation facilities, parking lots, etc. What kind of right of way were they referring to?

Parker suggested that in view of the contact from Sea Trail, Sandpiper Bay and others, they recess this until January to hold a workshop to allow representatives from those organizations to discuss this. He added further, that though the advertising was done legally and we had the right to proceed, it wouldn't hurt the town to listen to additional comments from others, despite that fact that this subject had been on the table for three months now, including the definition that was adopted back in September. Watts asked what we were trying to achieve and Parker stressed the the Planning Board was concerned about what had happened to golf courses in South Carolina being developed. They wanted to keep that sense of community with low density. So the Open Space 1 District was created to help preserve space.

Isenberg, Town Attorney, explained the General Statutes for advertising and that they were met.

Motion by Steiner to recess until January at the next council meeting, Seconded by Watts. Motion carried.

b. Amendment to Section #150.331 Maintenance of Docks, Piers and Bulkheads.

No comments

Public Hearing closed.

7. REPORTS:

- a. Administrator- None
- b. Police- no other reports
- c. Public Works -see reported.
- d. Building Inspections-see report
- d. Fire- see report

8. OLD BUSINESS:

- a. Call for Public Hearing to Re- Zone Sea Trail Golf Course Areas from Mainland Residential -3 to Open Space-1 District; Re-Zone Sandpiper Bay Golf Course Areas from Mainland Residential -3 to Open Space- 1 District; and Oyster Bay***

Golf Course Areas from Mainland Residential -2 to Open Space-1 District.

Consideration of this matter deferred until after conclusion of the public hearing in January.

b. Amendment to Section #150.331 Maintenance of Docks, Piers and Bulkheads

Motion by Watts to adopt amendment, Seconded by Steiner .Motion carried.

c. Fill ABC Board Vacancy and Chair position.

Mayor explained we had two applicants for the vacancy, Don Koser and Richard Bodner.

Motion by Watts to appoint Don Koser to the vacant position, seconded by Wilson Sherrill. Motion Carried.

The Chair position had been applied for by Betty Oakes and Councilman Bobinski. There was some discussion of the perception of a Council member being appointed. Wilson referred to the recommendation of the retiring Chairman to appoint Betty Oakes.

Motion by Sherrill to appoint **Betty Oakes** to the position. Seconded by Watts with discussion. Watts asked about a town official being appointed to another board. Sherrill stated he had looked into it and there were strict guidelines straight from the Attorney General. If a Council member was appointed, they had limited powers and activities. DeVita stated the documentation did not prohibit a Council member from being appointed. Sherrill replied no, but to remember the ABC Commission first prohibited a councilperson from sitting on the board, but the Attorney General overruled and said it was legal. It was not *wise*, but not illegal. Isenberg agreed that the statutes were skimpy, and there was nothing to prohibit it but there were limitations. Bobinski refrained from voting.

In Favor of Oakes-Sherrill

Against- DeVita, Steiner, Watts

Motion failed.

Motion by Steiner to appoint Bob Bobinski to the Chair position, Seconded by DeVita.

In Favor- Steiner, DeVita, Watts

Against- Sherrill

Motion Carried and Bobinski was appointed to finish his term as Chair position on the ABC Board.

Mayor Klein presented Councilman Watts and Councilman Steiner with plaques of appreciation for their dedicated service to the town.

9. SWEARING IN OF NEWLY ELECTED OFFICIALS

Kim Cochran, Town Clerk, proceeded to swear in newly elected Councilwomen Carol Scott, Karen Joseph Councilman Lou DeVita, and Mayor Ron Klein.

Mayor Klein asked for the selection of the Mayor Pro-Tem.

Motion by Sherrill to appoint Devita as Mayor Pro-Tem, Seconded by Bobinski. Motion Carried.

10. NEW BUSINESS:

a. Discussion of SAFER Grant

Parker stated they had had many discussions on hiring additional firefighters. His recommendation was to hire the three firefighters with the grant or to hire them with our own funds, if we received no grant. Hiring them now would allow the town to train them for the 2nd fire station. They should wait to hire the additional 6 firefighters until 2015 when the freed up debt service dollars from CIP's would be available. If the SAFER grant was still going, then we could apply for the additional 6. It would be manageable and would allow the town to maintain a steady tax rate of 10 cents. If circumstances improve before then, we could consider moving up the timetable.

DeVita sated the 2015 was an arbitrary date. The justification for hiring was the increasing development. If we had no new development and the economy stayed flat, our current staff should be adequate.

Motion by Devita to hire three firefighters. Parker interjected that since we were still eligible for the 2009 grant cycle we should go ahead, apply, and help defray the cost for awhile and was also asking for authorization to apply. Bobinski reiterated their stand from a past Council meeting that if the 3 were hired, it would satisfy the requirements of two in, and two out.....two would be at the old station and two at the new. Council agreed that yes it would take care of the requirements.

Councilwoman Scott stated she had looked at this issue closely, and had been concerned about the expenditure of funds. There was nothing in the statutes that required four people on duty. We had mutual aid agreements with other stations. Despite the fact she would like to preserve our funds, she felt the other places in town had been short changed on response time. If we didn't hire the three firemen, it would put 2 in one station and one in another which was what would happen, and it would pose problems. Despite her concern about spending funds, she was in favor of hiring the new firefighters and hoped the explanation to the citizens would clarify. Mayor Klein reminded those that our fire district was not just within city limits, it was quite an area that extended down Hwy #904 and toward Ocean Isle.

Motion by DeVita to proceed with the SAFER Grant for the three firefighter's for the 2009 cycle. Seconded by Sherrill. Motion Carried.

b. Nomination to CRC

Scott stated she was not comfortable about who we were recommending, as she didn't know enough about him or where he stood on terminal groins, which was one of her concerns.

The Mayor and Parker reminded everyone that there were at least 15 other towns sending recommendations. This did not mean he would be elected, and that we had just received this paperwork, which left us little time. Mr. Rayfield was the only applicant and seemed well enough qualified.

Motion by Scott not to recommend anyone. Motion died for lack of second.

Motion by Bobinski to nominate Mr. Rayfield to the CRC, Seconded by Sherrill.

In Favor-Bobinski, DeVita, Sherrill, Joseph

Against-Scott

Motion Carried.

c. Renew Resolutions of Consideration of Annexation for Ocean Harbour Landing

d. Renew Resolution of Consideration of Annexation for the east side (Ocean Isle Beach side) of the town.

Motion by DeVita to adopt the bi-annual renewals of Resolutions of Consideration of Annexations for c and d, Seconded by Joseph. Motion Carried.

e. Consideration of Continuing the Effort to Acquire the Five-acre tract

Parker informed all that the Town did not receive the grant so the contract with Tidal Ventures had been terminated. He felt the Town should still try to purchase this land and the owners were willing to wait for grant notification in the summer. He was seeking to apply for grants with PRRTF, CAMA and Clean Water Management Trust by February 1st and felt it would be worthwhile to hire a grant writer. The CAMA deadline was April or May. Given the funding during these hard economic times, grants would be harder to get as the funds had been cut in half, but he felt the Town should still pursue. If they did not want to hire a consultant, staff would try to get it done by that date, but to keep in mind that would cause him to adjust the February Retreat.

Bobinski felt we still should not let this property disappear. We should hire a writer and give it a shot. He felt we should go ahead and authorize Mr. Parker to hire a writer.

Scott stated we should take another look at whether we needed it. She had knocked on many doors during the election (approximately 200) and 90-95% of the people she spoke to were not in favor. People have a sewer assessment to pay for and we have other priorities that needed funding, such as parking for the island, landscaping, vehicles, and fire equipment. She felt the tax rate would definitely be higher than what was proposed and felt the value was too high. She suggested we NOT proceed, at least until after the retreat at a minimum, if not longer.

Sherrill was not in favor of moving forward especially at the asking price. He said appraisals were still falling, and we needed a local appraiser that knew the area. We had other issues in the town that they needed to make sure

were taken care of. One big issue that came to his mind was paving after sewer came in. Many places would be an issue of not just paving, but digging up, compacting, and making sure we didn't have to go back two years later and do it again.

Parker stated they already had an appraisal of 4.65 million and the owners had accepted an offer of 4.25 million. They would require another appraisal at the time of the grant application. In regards to the numbers he provided, he had put a lot of thought and research into this and he felt confident they could rely on these numbers, and if Council decided to proceed those numbers would hold up. The paving was already taken care of with capital improvement funds in place. Anything they did had a cost, and it came down to weighing the benefits against the cost. He reiterated he was confident that his numbers would hold up and allow us to purchase the 5 acres, hire nine firefighters and two additional police officers, all with an increase in the tax rate from 9 cents to 10 cents

Scott said that was assuming we're not in the position of having to allocate substantial funds for other priorities. Parker said that was correct. He felt it could be done assuming the annual operating increase cost of 3% due to inflation, the hiring of two police officers, 9 firefighters, purchasing the five acres, and initiating the recycling program.

After more discussion on financing, Scott firmly stated she recommended not proceeding.

Councilwoman Joseph asked to speak briefly on open space. She stated she knew there was a great deal of controversy over this issue, but she had spoken to a number of people who felt how important it was that this community pay attention to open space and did not want condominiums built on this property. Those that had read her campaign material knew where she stood on open space and that she was in favor. She knew there were a number of issues that need to be evaluated, but she did not want to see us lose the chance of receiving grant money. She stated that she takes a positive approach to things and no matter what the council decided to do, she was in favor of the Town pursuing the five acres in as positive a way as they could.

DeVita stated that if the owners were willing to wait, then that proves the value has lessened. His main concern is if the Town doesn't step up and try to get grants now; the original piece of property will be so far into the development cycle they will have to develop the first one as planned and that's the only one we'll have, or try for grants to bring the other acreage onboard with what we already have to make it more beneficial.

After more discussion, **Motion** by DeVita to authorize Parker to contract with a consultant to pursue grant writing and to have preliminary discussions with the owners of the five acres, Seconded by Bobinski.

In favor- Bobinski, Joseph, DeVita

Against- Sherrill, Scott

Motion Carried.

***f. Amendments to sections 151.117 (C) and 151.119 (II) (a).
Delete section 151.117(E) (Political and Campaign Signs***

g. Amendment to Section 151.394 Uses Not Permissible in a Mixed Use District

Motion by Sherrill to call for a public hearing on the above amendments f and g. seconded by Scott. Motion carried.

h. Discussion of the County's Proposed Sewer Grant Program

Parker explained the county had \$67,000 left from SBWSA they were making available to handicapped and low income families to help with the cost of hook up fees. Scott asked why they had handicapped. Some handicapped persons could have a good deal of income and that did not necessarily qualify them for a grant. It was the lower income people that needed the help. If the handicapped were low income, could we change it? Parker stated yes, that's why the county sent it. For the town to make any changes we felt necessary.

i. Move January's regularly scheduled meeting due to New Year's weekend

Motion by Sherrill to move the regularly called January meeting to the 11th, Seconded by Bobinski. Motion Carried.

j. Consideration of Retreat Agenda

Council agreed with preliminary retreat items and Scott asked that communications be added.

11. PUBLIC COMMENTS: *(This is an opportunity for citizens to make comments on a matter on the agenda, or on any matter of concern, but there is no dialogue with Council at this time, nor is it an opportunity to engage in questions and answers. If you wish to have an item placed on the agenda for discussion, please contact the Town Clerk)*

Ron Watts, resident, stated there were strong personalities now on the board; two very intelligent women and everyone would need to work together. He commented that out of his four years as Councilman, he had missed one meeting, which was the vote on the five acres, and if he had been here, the proposed park would have been dead long before now. He also stated that the CRC was a very important committee, and that Council had interviewed candidates for the ABC board so he could not understand why they would forward a name for the CRC without conducting interviews. He asked everyone to listen to each other and wished Councilwoman Scott and Joseph good luck.

Charlie Nern, resident, stated he was retired security and commented that everyone had to be alert for crime, especially this time of year in this economy. He then stated that if the owners were willing to wait on the five acres receiving grant money, maybe we shouldn't be in a rush. He stated a consultant would cost many thousands of dollar. Mr. Parker had stated "several" and to him several was two or three thousand, not seven.

Marc Kaplan, Pier Operator, congratulated the newly elected Councilmembers, and praised the police dept. for their exemplary job in helping catch a thief that had robbed the pier. He felt they were well trained, continued to be trained and deserved more praise than they usually got.

Richard Cerrato, resident, had two requests, one was better audio equipment , as he was hearing impaired and could not understand or hear much of what was said. His other concern was the cost of sewer and the impact on low income families. See comments attached.

Jim Thomas, resident, opposed any boat ramp or park being purchased. He felt it was burdening the town and was pointless. He commented the urgency about disappearing property was unfounded and a study was needed to see if it's even suitable, and now we have spent 2 million dollars on the current property that may not be buildable. No one had discussed the thousands of dollars that would be spent on the upkeep. Mayor Klein informed Mr. Thomas that the Fish and Wildlife department would build, design, and keep up the maintenance on this ramp, including dredging. Mr. Thomas then stated that after all the work that needed to be done on parking and turn around spaces. etc., was completed, there would be little space left for a park.

Richard Tesch, resident, congratulated Scott and Joseph and said we would now have new perspectives on issues on Sunset Beach. He stated he agreed with Cerrato about the sewer cost not being equal and asked the new Council to review the fact that everyone was paying the same. He felt the cost of it being built on the island would cost a great deal more. He felt the homeowners on the mainland were subsidizing the island. The cost idea of "equal pay" for everyone was not fair...the islanders had multimillion dollars property on the beach. He stated if it was true that the boat ramp may not come to fruition, he could not believe we spent 2 million dollars on a boat ramp that couldn't be built and someone should be held accountable. He requested Council not purchase the five acres.

Mayor Klein informed everyone that they (Council) were fully aware that there was a process to get the variance on the boat ramp. They were fully informed and it was just a process they had to go through.

Parker stated he felt they acted correctly when they purchased the property. They were fully aware of the process and prior to purchasing, they had met with State Officials with decision making power in the process and they too, felt it was a wise choice. They were very impressed with the property and assured the

Council this was just a process we had to go through and there would be no problem. The town Council was fully aware that the agency that was concerned with the primary nursery areas being dredged would deny the dredging at that step, but then recommend a variance be approved for a single ramp at least. The town was aware they could not get that answer up front, and felt they had to take the risk.

Charles Nern spoke again and stated Mr. Tesch and Mr. Cerrato were sadly misinformed about the rentals on the island and the cost being a drain on the town. He stated the renters paid taxes, purchased things and spent their money here. Therefore, the town was making money from visitors and felt that in truth the island was subsidizing the mainland.

No other public comments.

13. ADJOURN

Motion to adjourn by Sherrill, Seconded by Scott. Motion carried.

Adopted this 11th day of January, 2010.

TOWN OF SUNSET BEACH

Mayor Ron Klein

Kim Cochran, Town Clerk