

SPECIAL TOWN COMMISSION MEETING MINUTES
OCTOBER 19, 2020

Minutes of the Special Town Commission Meeting of the Town of Ocean Ridge held on Monday,
October 19, 2020 at 5:00 PM in the Town Hall Commission Chambers.

CALL TO ORDER

The meeting was called to order by Mayor de Haseth at 5:00 PM.

Mayor de Haseth read the following statement into the record:

Pursuant to Executive Order No. 20-69, and extended by Order No. 20-146, issued by the Office of Governor Ron DeSantis on March 20, 2020, municipalities may conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54(5)(b)2, Florida Statutes. The member of the Town Commission who appeared remotely for the meeting was Planning and Zoning (P&Z) Alternate Member Flanagan.

Town Clerk Armstrong informed that the agenda, the material for each item on the agenda, and the notice regarding the virtual meeting were made available on October 13, 2020. The Town Clerk explained the methods of participating in public comment and gave tips on participating virtually.

ROLL CALL

Town Clerk Armstrong led the roll call, which was answered by the following:

Roll Call for Town Commissioners:

Mayor de Haseth	Present
Vice Mayor Coz	Present
Commissioner Besler	Present
Commissioner Hurlburt	Present
Commissioner Wiescholek	Present

Roll Call for Planning and Zoning Commission:

Chair Mark Marsh	Present
Vice Chair Ric Carey	Present
Member Neil Hennigan	Present
Member David Hutchins	Present
Member Penny Kosinski	Present
Alternate Member Brit Flanagan	Present
Alternate Member James Leming	Absent

PLEDGE OF ALLEGIANCE

Mayor de Haseth led the Pledge of Allegiance.

ADDITIONS, DELETIONS, MODIFICATIONS, AND APPROVAL OF AGENDA

Commissioner Hurlburt moved to approve the agenda as submitted; seconded by Commissioner Wiescholek. Motion Carried 5-0.

ANNOUNCEMENT- MEETING DECORUM

Town Manager Stevens thanked all Commissioners and Planning and Zoning Commission Members present to discuss future policies. She introduced the new Town Attorney, Pamala Ryan, as well as the staff that was present for the meeting. She advised that this meeting is predominantly a workshop intended for the two Commissions to discuss issues, and provide staff direction on how to handle those issues. Town Manager Stevens read into the record the mission of the Town of Ocean Ridge, the goals, and procedures for the meeting.

SPECIAL TOWN COMMISSION MEETING MINUTES OCTOBER 19, 2020

Vice Mayor Coz suggested that the public be allowed to speak on certain Workshop Items, and Mayor de Haseth responded that the public may be asked to comment when needed.

Mayor de Haseth noted into the record the statistics of single-family and multi-family homes within Ocean Ridge. She stated that all discussion items should be centered on how they will affect all the homes in the Town, and the intention of the meeting is to provide clear direction to staff as to how to address the issues.

PUBLIC COMMENT

Mayor de Haseth called for public comment.

Steve Varga, 31 Sabal Island Drive, voiced his dissatisfaction with the Development Plan Review Process. He stated that the process started simple, but it became complicated, and requires a lot of money and time from the applicant. He asked that the boards look into streamlining the process.

JOINT WORKSHOP DISCUSSION ITEMS

1. Preserving Integrity of Neighborhoods

a. Construction Timeframes & b. Demolition & Partial Demolition

Mayor de Haseth stated that the Town already has regulations in regards to construction timeframes, and she asked Town Manager Stevens to advise the Commission on this item. Town Manager Stevens stated that the Town already references construction timeframes, but the code does not provide sufficient time to complete construction. She added that the Town should look into mirroring the construction time ordinance in Gulf Stream that would allow the applicant additional time to construct based on the size of the project and place a financial penalty if not completed within allotted time. Town Manager Stevens noted that she was also working with the Building Official on combining the demolition process to the building of a new structure, to which Vice Mayor Coz asked for clarification from the Town Manager. Town Manager Stevens responded that staff developed an ordinance that would require the applicant to have an approved new structure before they can demolish a home, or they would need to adhere to empty lot codes.

Mayor de Haseth stated that staff should look into the requirements of seeding or sodding and which would be more appropriate. She suggested combining items 1.a., Construction Timeframes, and 1.b., Demolition & Partial Demolition, because they tie into each other.

P&Z Chair Marsh stated that he concurred with Town Manager Stevens that the time provided in the Code is not sufficient to complete construction, and he asked Building Official Guy a question regarding permit expiration, to which Building Official Guy responded that the Florida Building Code allows for the permit to continue to extend as long as the contractor called in for a valid inspection within 6 months. Chair Marsh stated that he did not prefer the Gulf Stream construction timeline because it was too long. He stated that he prefers 18 months, but staff should discuss and create a single timeframe for all projects. Vice Mayor Coz asked for clarification from P&Z Chair Marsh if he meant for the Town to have one set timeframe for all projects or timeframe to vary on the size of the project, and P&Z Chair Marsh responded that he is in favor of one set timeframe for all projects regardless of size. Town Manager Stevens stated that current Code only allows for one year to complete construction or the applicant would need to get one six-month extension from the Building Official, and any additional extensions from the Town Commission.

Member Hennigan stated that the issue within the Town Code is that there are items that have no way of being enforced. He voiced his concern that there are demolition or construction projects that begin, but the applicant abandons the project and leaves the Town with a condition of blight on that property. He stated that when homes are left in a state of disarray, it causes the Town to spend a lot of money and time trying to get the property owner to fix the issue. He is in favor of tying the demolition of a structure to an approved permit for a new structure, and that a construction bond be placed on projects in case the applicant abandons the project. Mayor de Haseth concurred with the concerns voiced by Member Hennigan. Town Manager

SPECIAL TOWN COMMISSION MEETING MINUTES OCTOBER 19, 2020

Stevens stated that staff is proposing an ordinance that requires an approved permit for a new structure before a demolition permit is issued; however, she stated that the previous Town Attorney, Brian Shutt, was not in favor of the Town requiring a bond, but rather preferred a penalty fee.

Commissioner Wiescholek concurred with the concerns discussed by P&Z Member Hennigan, and he suggested that a financial hardship would be to require the applicant to continue to pay the permit fee if they do not continue the construction within the timeframe provided. Member Kosinski stated that she is not in favor of fines because many do not abide by the fines, and there are homes within the Town that have blight and are currently incurring fines while the homeowner is doing nothing about it. Mayor de Haseth stated that she is in favor of the bond, and that the bond should be large enough to cover all the costs that would be incurred if the Town has to demolish or complete the project.

Member Hutchins asked if a bond would be a security, to which Mayor de Haseth responded that there are different types of bonds, and the Town would have to explore which would be better for construction. Town Attorney Ryan stated that in her experience she has seen both bonds and fines, but bonds are more effective because before imposing a fine, the Town has to provide the violator with due process. **There was consensus for staff to look into the possibility of requiring a bond from contractors.**

c. Construction Site Management, Construction Fences & Flood Mitigation

Vice Mayor Coz asked if vehicles are allowed on the right-of-way, to which Town Manager Stevens stated that two vehicles are allowed if they have an approved right-of-way permit from the Building Official.

Member Hennigan reiterated the importance of bonds for all types of permits because it would allow the Building Official to finish the work if the applicant fails to do so as in past occurrences. He added that there should be different bond amounts depending on the type of work.

Mayor de Haseth asked Building Official Guy what the process is if the contractor does not do the work needed, to which Building Official Guy responded that the only process allowed by the Town Code would be to send the violator to Code Enforcement. He noted that the Town Code references a right-of-way bond, and that staff could look into it for the right-of-way. He also mentioned that the previous Town Attorney, Brian Shutt, was against bonds because bonds could be seen as restrictive to the contractor. Mr. Guy stated that the Town should require sodding after a demolition, and recommended that seeding be removed as an option in the Town Code, and Chair Marsh concurred that the code should just require sodding. Vice Mayor Coz dissented with Building Official Guy and Chair Marsh, and stated that there are scenarios where seeding would be acceptable.

Mayor de Haseth stated that one of the issues for flood mitigation is empty lots or active construction sites that lack the proper engineering plans to be able to mitigate the run-off, and she recommended that staff look into requiring swales to be installed in the front and side of the property to help the property retain the water. **There was consensus for staff to look into what can be done to mitigate flooding on active construction sites.**

Alternate Member Flanagan asked if the Town was using Stop Work Orders, to which Building Official Guy stated that the Town uses Stop Work Orders all the time.

Mayor de Haseth summarized that Town codes in place need to be reviewed for conflict and strengthened. She stated that staff needs to pay closer attention to the flood mitigation during construction as there is nothing to address mitigation in the Town Code.

Commissioner Hurlburt asked Building Official Guy if there are any enforcement tools that would make it easier for him to approach these issues, to which Building Official Guy stated that the best tool would be

SPECIAL TOWN COMMISSION MEETING MINUTES OCTOBER 19, 2020

to have an option to issue citations for certain violations, and he stated that he is working with other staff on a tiered code enforcement procedure that the Town Code currently lacks.

Building Official Guy stated that he revised the Construction Site Management Handbook, and he asked for feedback from everyone present. Mayor de Haseth asked if the homeowner or contractor is required to sign the handbook, to which Building Official Guy stated that the handbook requires an acknowledgment signature.

Mayor de Haseth voiced her preference for having a tiered system to avoid sending owners to the Special Magistrate because it is costly for the Town and the homeowner.

d. Property Maintenance, Blight & Abandonment

Vice Mayor Coz voiced his disapproval for a home on Sailfish Lane that had blight, and that the Town reviewed the home and stated that the property did not have blight. He asked for the Town to re-review the property for blight once again because the Town has an ordinance for blight, to which Town Manager Stevens stated that the property in reference has rock in the front yard which is currently allowed by Town Code. Vice Mayor Coz stated that the property is diminishing property values for the surrounding neighborhood, and that is considered blight.

Commissioner Besler stated that the Town Code is broad in regards to blight and asked Town Attorney Ryan to advise the Commission on how to proceed, to which Town Attorney Ryan stated that Codes are supposed to be objective and not subjective and that the intent is to be as concise as possible. She stated that it cannot be assumed that a surrounding property's value is being reduced without hiring an appraiser to do a valuation on the home.

Mayor de Haseth stated that she likes that the Town references blight in the Town Code, but asked that the Town Attorney look at definitions of blight from other municipalities so that the Town can have a more solid blight definition to use for Code Enforcement or for citations. **There was consensus for the Town Attorney to review the definition of blight.**

e. Landscape/ Tree Ordinance/ Protecting our Canopy

Mayor de Haseth stated that there are a lot of components to landscaping and that it could be an entire workshop on its own.

Commissioner Hurlburt discussed the importance of having a tree inventory so that the Town knows what historic trees we have. This would allow the Town to deny the removal of certain trees throughout Town. She also asked staff to review the Code from the City of Lake Worth regarding trees because their code is objective.

Chair Marsh voiced his preference for shade trees and noted how other municipalities require shade trees for new construction. He stated that shade trees align with the goal and character of the Town.

Alternate Member Flanagan stated that the Construction Site Management Handbook has some grammatical errors which she highlighted. Mayor de Haseth asked that any technicalities be forwarded to staff one-on-one.

Commissioner Wiescholak asked if the Town could require homeowners to add specific shade trees or practice green construction, to which Mayor de Haseth dissented to, but argued that the Town could incentivize green construction by either offering cheaper permits or some type of other

incentive. She also commented that the Town could issue conditions for certain trees to remain during the demolition process.

Building Official Guy noted that there might be scenarios where all the trees will have to be removed from a property in order to elevate the ground due to the new FEMA elevation requirements. He further noted that once the tree inventory is in place that the Town would be able to require certain trees to remain on the property or require the homeowner to replace with the same tree, and Commissioner Hurlburt concurred and pointed out that the database is currently in the process of being finalized and all staff will receive access when completed. She commented that the Town Code should mirror the Florida Environmentally Friendly Landscaping that highlight native plants and provides recommendations. Chair Marsh stated that the Town could do more to encourage and could require mitigation of a tree once construction is completed if the tree has to be removed.

Member Hennigan asked Building Official Guy about the seagrape removal that happened on one of the properties on Island Drive, to which Building Official Guy responded that the contractor did have an approved permit to remove it; however, the contractor did an additional removal which was not permitted. Vice Mayor Coz commended the contractor of the referenced project because the contractor moved the seagrape to another property and did not completely remove the seagrapes out of Town. Member Hennigan stated that he liked that the seagrapes were just moved, but asked if the Town would have approved them if they were to be completely removed from out of Town, to which Building Official Guy stated that if the developer would have requested it then it would have been approved.

Building Official Guy concurred with Mayor de Haseth that the Building Department should incentivize those that use green construction and retain as many trees as possible.

f. Right of Way & Right-of-Way Encroachment

Town Manager Stevens stated that the Town has a Right-of-Way code that is strong moving forward, but that staff needed further direction on how to handle older cases of properties with items in the right-of-way. Mayor de Haseth stated that the current litigation facing the Town is for properties that have items in the right-of-way that were grandfathered in, and that the Town reserves the right to remove anything from the right-of-way if it possesses a safety issue. She further stated that it would be hard to require all the properties to remove items from the right-of-way when they have been there for so long so she asked that every case be treated on a case-by-case basis.

Vice Chair Carey stated that if everything is removed from the right-of-way, then the right-of-way could be used for drainage projects. He further stated that the issue the Town is having in regards to drainage takes priority over vegetation in the right-of-way.

Commissioner Wiescholak asked what items would be considered encroachments, to which Town Manager Stevens stated that any item in the right-of-way that would not belong to the Town, such as vegetation, fences, or decorative rocks would be considered encroachments.

SPECIAL TOWN COMMISSION MEETING MINUTES OCTOBER 19, 2020

Commissioner Wiescholek stated that the Town should reach out to the homeowners with items on the right-of-way and ask them to fill out an application with a Hold Harmless agreement, if there is not one on file. He stated that this would allow the homeowner to keep the item on the right-of-way as long as the Town didn't have any issues with it and would indemnify the Town. Mayor de Haseth dissented because she stated that per the Town Code the Town should not be approving any items to be placed within the right-of-way regardless of what it is. She further asked Town Manager Stevens what items were being approved, to which Town Manager Stevens stated that the Town receives mostly applications from homeowners wanting to place hedges within the right-of-way.

Member Kosinski stated that she asked the Town about placing hedges in the Town's right-of-way on Old Ocean, and that the Town allowed her to do so with the condition that she may need to remove it if the Town instructs her to in the future. She warned that if she was to move her hedges back out of the right-of-way that it would widen the street and could cause additional traffic.

Commissioner Besler stated that clearing the rights-of-way would be a hard undertaking because many properties have items in the right-of-way that pre-dates the current owner, and concurred with Vice Chair Carey that it would be great to use the right-of-way for drainage projects as long as the dunes in the right-of-way are protected at all times and other technicalities are considered.

Chair Marsh stated that the sight triangle should be considered; to which Town Engineer Tropepe stated that the Town already enforces the sight triangle and provided information about the sight triangle to the Commission.

Vice Mayor Coz asked Chief Hutchins if the Police Department enforces the sight triangle for hedges near the street, to which Chief Hutchins noted that the Town does not have an official ordinance regarding sight triangle, and he asked that an ordinance be passed so that the Police Department can start enforcing it. **There was consensus for staff to look into drafting an ordinance for sight triangles and for staff to look into different drainage projects that can be done within the right-of-way to alleviate issues.**

g. Light Nuisance

Mayor de Haseth stated that she was the initiator of the issue because the code is not very specific in regards to construction lighting and lighting at single family homes that impacts the neighbors, and Vice Mayor Coz recalled a personal story of a light nuisance situation. Chair Marsh stated that the code needs to be more specific for lighting at tennis courts. **There was consensus for staff to look into a light nuisance ordinance that addresses construction lighting and single family lighting, and for staff to look into the possibility of adding a time frame for the lights.**

(Town Clerk's Note: There was a five minute recess.)

2. Maintaining Character of Town While Respecting Private Property Rights
Unity of Title / Dunes

Commissioner Besler stated that Ordinance 2020-06 requires a unity of title when a homeowner applies to do construction within the dune, but that every dune should be tied to a property even if the homeowner is not doing construction on it. He further stated that it could be used as

commercial, to which Vice Mayor Coz concurred. Town Manager Stevens stated that Ocean Ridge ordinances do not allow for commercial use in any zoning district.

Mayor de Haseth recalled a resident that separated a dune lot from its single family structure and left the dune lot by itself, to which Commissioner Besler concurred that the Town should not allow for a dune to be separated from a structure and for the accessory structure, such as a crossover, to remain. There was further discussion about how the property came to be separated and there was concern from all the Commissioners that homeowners can separate their properties without any Town involvement. Town Clerk Armstrong notified the Commission that the previous Town Attorney made it clear that even property with a dune lot deeded to it would need unity of title because the unity of title would not allow them to separate the parcels without the Town's release.

There was consensus for staff to research a method to require those with a dune lot to obtain a unity of title prior to any construction and how to prevent owners from separating the dune lot from a lot with a primary structure.

3. Future Changes / Proposals & FEMA Regulations

a. **Point of Reference for Height vs. Finished Floor Elevations**

Mayor de Haseth asked Building Official Guy what the maximum height of homes is, to which Building Official Guy stated that the maximum height of a home is 36 feet from the finished floor.

Building Official Guy explained the change in elevation as required by FEMA and presented the Commission with an image that showed how a two story home would be impacted by the change.

Chair Marsh stated that he is concerned with the scale of the home with the new elevations. He stated that the Town of Palm Beach has a different way of measuring the height of the homes as opposed to measuring from the finished floor and he advised that staff look into implementing some other guidelines to limit the massing of a structure.

Mayor de Haseth thanked Town Engineer Tropepe for providing the visuals within the package to show how the elevation would impact the view of homes and she asked if the ordinance in place protects the neighbors from the high elevation, to which Building Official Guy stated that retaining walls were being required as the code mentions that all properties have to retain their water.

Member Hennigan stated that there are communities where the architecture of homes are strictly enforced, such as New Orleans, and contractors are limited on what can be built and how. He suggested for large lots to have additional setbacks to help mitigate the massing. He added that there should be a compromise where the Town can be preserved while also not impeding on the contractor. He also suggested for the roof ordinance to be re-reviewed to allow for flat roofs as that may help reduce the height.

Commissioner Hurlburt proposed that the Commission discuss implementing a design guideline that would help guide the applicant of what the Board suggests.

Member Hutchins stated that he would like to have further discussion about what can be done with builders as it would give an additional perspective. Mayor de Haseth stated that builders could always participate in any meeting regarding any item during public comment, to which Member

SPECIAL TOWN COMMISSION MEETING MINUTES OCTOBER 19, 2020

Hutchins stated that he would like builders to participate more than just in public comment since public comment has a time limit. Chair Marsh stated that he welcomed all public comments from builders or owners and stated that he did not favor design guidelines, but that how the Town handles elevation needs to be addressed as it will also impact the roads. He mentioned that roads may possibly need to be raised.

Vice Mayor Coz concurred with Member Hennigan. There was further discussion on changing the flat roof requirement to help the perception of the homes with the new high elevation.

Commissioner Wiescholek and Chair Marsh discussed ways that the home can be measured from that would work with the new elevations, such as measuring from the tie beam or the beginning of the roof. **There was consensus for Commissioner Wiescholek and Chair Marsh to develop an exploratory committee with staff that would draft an ordinance to be sent to P&Z.**

Member Hennigan asked what can be done in the meantime because it would take some time before an ordinance is enacted. He further asked if the Town could place a moratorium, to which Mayor de Haseth stated that she is not in favor of a moratorium. He asked staff for another suggestion that would halt new development until the code is changed. Chair Marsh asked Town Attorney Ryan about zoning in progress, to which Town Attorney Ryan commented that the Town could do a zoning in progress resolution that could be adopted with one reading. **There was consensus for Town Attorney Ryan to look into a Zoning In Progress resolution while the exploratory committee drafts an ordinance regarding height and elevation.**

b. District Regulations (Code Section 64-1)

Member Hennigan stated that he proposed this item because he noticed that there were many single family homes constructed in the RMM district. He is concerned that the single family homes can be demolished and turned into condominiums. Town Manager Stevens stated that she will continue to work with him on this item.

c. Existing Non-Conformities & Special Exceptions

Chair Marsh suggested this item because he would like for the Town Attorney to work on drafting a change to allow residents to apply for a Special Exception instead of a variance. He stated that there are a lot of instances where there is no real hardship, but a Special Exception could consider abnormal lots. **There was consensus for the Town Attorney to work with Chair Marsh on the possibility of furthering the Special Exception ordinance.**

d. Streamlining the Development Plan Review Process

Mayor de Haseth commented that there were complaints from residents and contractors on the process as it can be extensive. She yielded the floor to the Town Clerk. Town Clerk Armstrong explained the Development Plan Review process and gave some suggestions to reduce the timeframe of applications.

Chair Marsh stated that some items from the application can be removed and only be left with items that show the zoning and the design of the home. Vice Chair Carey concurred and stated that staff could handle drainage reviews internally without the Board reviewing it. Commissioner

SPECIAL TOWN COMMISSION MEETING MINUTES OCTOBER 19, 2020

Wiescholek concurred with Vice Chair Carey and stated that drainage plans can be required at the Development Plan Review stage, but won't impact the applicant from going before the Board.

Chair Marsh started listing the items that he would like to see on the checklist, to which Town Clerk Armstrong stated that she would put the checklist as an item on the P&Z agenda to get further direction on what to remove. **There was consensus for Town Clerk Armstrong to put the Development Plan Review checklist as part of a future P&Z agenda to be reviewed to remove certain items.**

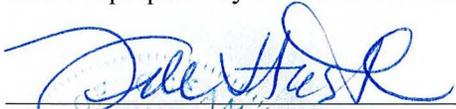
(Town Clerk's Note: The items below were not discussed.)

4. Ordinances for Possible Re-Review
 - a. Palm Tree / Coconut Trimming
 - b. Sheds
 - c. Signs
 - d. Synthetic Turf

ADJOURNMENT

Meeting Adjourned at 7:52 p.m.

Minutes prepared by Town Clerk Armstrong and adopted by the Town Commission on December 7, 2020.



Kristine de Haseth, Mayor

ATTEST:



Karla M. Armstrong, Town Clerk