

SPECIAL MEETING MINUTES OF THE TOWN COUNCIL
Southwest Ranches, Florida

Thursday 7:00 PM

June 29, 2023

13400 Griffin Road

Present:

Mayor Steve Breitkreuz

Andrew Berns, Town Administrator

Vice Mayor Jim Allbritton

Russell Muñiz, Assistant Town Administrator/Town Clerk

Council Member Bob Hartmann

Keith Poliakoff, Town Attorney

Council Member Gary Jablonski

Council Member David S. Kuczenski

The Special Meeting of the Town Council of Southwest Ranches was held in the Grand Oaks Conference Room located at Town Hall. The meeting, having been properly noticed, was called to order by Mayor Breitkreuz at 7:14 PM. Attendance was noted by roll call and was followed by the Pledge of Allegiance.

Town Attorney Poliakoff stated the nature of the meeting was to discuss the mediated settlement agreement that resulted from a mediation session held between the Town, the City of Pembroke Pines, and Certified Mediator Jamie Cole. He advised that this meeting was also noticed so that any other matters could be discussed as well.

He advised that in the Morales vs. Town of Southwest Ranches case, Mr. Morales has accepted the settlement agreement. As part of that settlement agreement, he will pay the Town approximately \$60,000 before October 1, 2023. He summarized the case and why the judge reduced the Town's fines in this case. The Judge opined that if the Town cites someone then they must allow them to cure the violation. In this case, because of the Town's policy that does not allow the issuance of a permit when there is an open violation, Mr. Morales was prevented from correcting the violation and therefore continued to accrue fines.

Town Attorney Poliakoff expressed that the home-based business regulations cases create the biggest issues for the Town. He referred to the John Steven Garate dog boarding case where the Town agreed that he could use a portion of his house to board dogs and a specification of 35 square feet per dog was used to calculate the number of dogs he could kennel. He felt that the Town Council should establish a prescribed standard square footage per dog for these types of uses.

Related to the Pembroke Pines case, Town Attorney Poliakoff stated that the Town lost a very important case and while he still disagrees with the jury's verdict there were some positive things that resulted from this action. First, the Town was able to secure the former CCA property which it is now in the midst of developing via a Public-Private Partnership (P3) agreement. Secondly, the Town received a District Court of Appeals opinion that states that Pembroke Pines must provide Water and Sewer to the subject property and any other properties in the Town so long as Pembroke Pines has capacity. Third, it prevented the de-annexation of the Bergeron property and annexation into Pembroke Pines. Fourth, it resulted in Pembroke Pines building a road for the Franklin Academy campus to connect to Griffin Road and not try to work with the Town on

right-of-way that existed and then excluded our residents access by building gates to prevent usage by Town residents. When the case ended Pines filed a motion with the Court seeking just over \$800K in legal fees. They reported to the newspaper that the Town was going to be responsible to pay Pines \$2 million in legal fees. The Town's billing consultant experts concluded that there was an issue with the amount demanded because there were two separate legal cases. One case, regarding the provision of water and sewer had a legal fees provision, and the other case concerning Pines interference, did not. The expert concluded that Pines had comingled billing on both cases when they were only eligible to recoup fees on one. He stated that prior court decisions would split the fees in half under similar circumstances. As such, the Town's exposure should have been approximately \$400K, but the expert estimated the cost to be approximately \$350K because Sam Goren, City Attorney for Pines appeared to have been double billing. Town Attorney Poliakoff further advised that in a recent discussion with Town Administrator Berns, Pines City Manager Charles Dodge expressed that the Town should expect to be presented with a demand in the area of \$900K to \$1 million for legal fees. Town Attorney Poliakoff reminded that they had only asked for \$800K in court. At the onset of the mediation Pines indicated they were seeking in excess of \$900K and as a result of the mediation process resulted in an offer to settle of \$725K under the condition that the Town Administrator and the Town Attorney recommend the settlement.

Mayor Breitzkreuz asked why the cost had increased from \$800K to \$900K. Town Attorney Poliakoff stated that Pines' position was that they had spent an additional \$100K trying to collect the original \$800K.

Town Attorney Poliakoff explained that he, Town Administrator Berns and Assistant Town Administrator Muñiz had a scheduled meeting with representatives from BBX the following day and they were fully prepared to move forward with consummating the Town's P3 agreement for the development of the former CCA site. He stated that this was relevant because the closing of that deal will offset the cost of the of the attorney's fee award to Pines. In addition, the Town prevailed in the gate case against Pines. He advised that since the Town prevailed, the Town has heard from several Pines residents who expressed disappointment with their Commission's actions and wished for the gate to remain closed. He offered that the Town could potentially counter the mediated settlement amount in exchange for allowing Pines to keep the gate closed during the Franklin Academy school pickup and drop off hours to all Town and Pines residents.

Council Member Jablonski suggested an alternate settlement offer, suggesting that we offer the gate closure and \$200K. Town Attorney Poliakoff suggested that this could be a counter-offer or fall-back position.

Town Attorney Poliakoff acknowledged that this was not an ideal situation for the Town to be in but wanted to be done with this case. Mayor Breitzkreuz also expressed his desire to settle this issue and felt that this ongoing battle has cost the Town the ability to work with Pines on other opportunities. He felt that the time to get past this is now. He was comfortable with either of the proposals.

The following motion was made by Council Member Kuczenski, seconded by Council Member Jablonski and passed by a 5-0 roll call vote. The vote was as follows: Council Members, Hartmann, Jablonski, Kuczenski, Vice Mayor Allbritton and Mayor Breitkreuz voting yes.

MOTION: TO APPROVE THE MEDIATED SETTLEMENT AGREEMENT WITH A COUNTER-OFFER TO ALLOW FOR THE GATE AT SW 207TH AVENUE TO REMAIN CLOSED DURING SCHOOL HOURS IN LIEU OF PAYING PINES' ATTORNEY FEES.

Town Administrator Berns also wished to discuss the legal fees concerning the John Steven Garate case. He advised that he had met with Mr. Garate who advised that the Town was moving forward with a foreclosure action on his home. Town Administrator Berns reminded the Town Council that Mr. Garate had been offered a 30% reduction initially with the condition that he sign a Non-Disparagement Clause as part of the settlement agreement which he refused. While Mr. Garate acknowledged that he had lost his legal case against the Town and the court ordered that he pay the code enforcement fine amount of \$32,100, he indicated that the Town Attorney had failed to ask for legal fees appropriately until the very last phase of the process. Mr. Garate sought consideration to only be required to pay the code case amount and the initial legal fees in the amount of \$1,500 for a total of approximately \$33,600 which was less than the 30% reduction that was originally offered to him, which he refused. At this point the amount owed to the Town is \$32,100 for the code case + \$31,465 in legal fees for a total of \$63,565. Town Attorney Poliakoff explained that the \$31,465 in legal fees is made of two different tranches of money, one for the Circuit Court and one for the Appellate Court. He advised that Mr. Garate believes that the fees for the Circuit Court are not owed, but they are diminimus anyway, the Appellate Court costs are owed. After further discussion the following motion was made.

The following motion was made by Vice Mayor Allbritton, seconded by Council Member Jablonski and passed by a 5-0 roll call vote. The vote was as follows: Council Members Hartmann, Jablonski, Kuczenski, Vice Mayor Allbritton and Mayor Breitkreuz voting yes.

MOTION: TO APPROVE AN OFFER TO SETTLE THE MATTER FOR THE TOTAL CODE CASE FEES OF \$32,100 + THE TOTAL LEGAL FEES ASSOCIATED WITH THE APPELLATE COURT CASE LESS A 10% DISCOUNT CONDITIONED UPON THE SIGNING OF A NON-DISCLOSURE AGREEMENT WITH A NON- DISPARAGEMENT CLAUSE.

Town Attorney Poliakoff also provided an update on the following legal matters. He advised that Robert Kubot had filed suit against the Town. Town Administrator Berns advised that Mr. Kubot lives in District 3 and was required to build the roadway to his house and never did it. He was remanded to the Code process to induce him to build the road.

Town Attorney Poliakoff also provided an update on the Bruno Happy Dogs code case and felt it was likely that would be heading to litigation as well. Mayor Breitkreuz also asked about the Vidal case in Rolling Oaks regarding the landscaping business. Town Attorney Poliakoff indicated that could also end in litigation.

The Town Council discussed general code enforcement matters in Town and felt that perhaps the Town’s Code Enforcement policy could become “proactive” on a wider variety of issues than it currently is. Mayor Breitkreuz felt that whatever Code Enforcement policy changes the Council makes must be enforceable. If not, it’s ineffective and feeds the sentiment that neighbors are being pitted against neighbors. Town Administrator Berns advised that he was currently working with Code Enforcement on developing a list of additional “proactive” code enforcement items that he would bring to Council for their consideration in August.

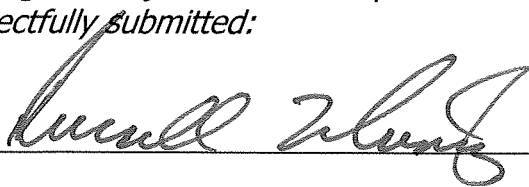
Town Council discussion then turned to social media and criticism and slanderous statements made against the Town Council and staff.

Lastly, the Town Council discussed the pending public safety agreement with the Town of Davie. Council Member Jablonski and Mayor Breitkreuz discussed the various payment options over the ten years. After lengthy discussion on the payments options and the future public safety building, the Town Council agreed that this would be decided at the August 10, 2023 Town Council Meeting.

Adjournment

Meeting was adjourned at 8:45 p.m.

Respectfully submitted:



Russell Muñiz, Assistant Town Administrator/Town Clerk

Adopted by the Town Council on this 24th day of August, 2023



Steve Breitkreuz, Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.