

**WORKSHOP MEETING MINUTES OF THE TOWN COUNCIL**  
**Southwest Ranches, Florida**

Thursday 7:00 PM

April 16, 2015

13400 Griffin Road

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Present:

Mayor Jeff Nelson

Vice Mayor Freddy Fisikelli

Council Member Steve Breitreuz

Council Member Gary Jablonski

Council Member Doug McKay

Andrew Berns, Town Administrator

Keith Poliakoff, Town Attorney

Martin Sherwood, Town Financial Administrator

Russell Muñiz, Assistant Town Administrator

Jeff Katims, Town Planner

Also present were members of the Town's Comprehensive Plan Board:

Chair Newell Hollingsworth

Vice Chair Bob Hartmann

Secretary, George Morris

Ken Cimetta

Mike Schroeder

Workshop Meeting of the Town Council of Southwest Ranches was held at 13400 Griffin Road in the Southwest Ranches Council Chambers. The meeting, having been properly noticed, was called to order by Mayor Nelson at 7:10 PM. Attendance was noted by roll call and was followed by the Pledge of Allegiance.

**3. Discussion – Town Code of Ordinances relative to Farms and Farm Structures**

Town Attorney Keith Poliakoff provided the basis for the meeting. He indicated that Section 604.50 of the Florida Statutes was created in early 2000 to allow farmers to build non-residential farm buildings and farm structures without a permit. However, the statute failed to define what a "farm" was. As such many municipalities passed their own "farm ordinance" to help define what a farm was. In 2011-2012, the Legislature amended Florida Statutes Section 823 and unintentionally broadened the definition of a farm. To narrow the definition of a farm, the Legislature met to seek new legislation. The Town filed a local bill seeking to be exempt from 604.50 which was rejected by the Broward County Legislative Delegation. In 2013, the Legislature amended the law to define a farm as a property that has an "Agricultural" tax classification, or capable of obtaining an "Agricultural" tax classification.

The implication of this law change is that the Town now has many farm structures built between 2000 and 2013 that were built without permits, that may violate the zoning code setbacks, and as a result of the legislative changes cannot be "grandfathered" in. Therefore, these structures are no longer in compliance with state law.

Soon after the state law was passed the Comprehensive Plan Advisory Board was tasked with trying to address the zoning code to comport with state law. The direction included trying to keep the rural nature of the Town in mind by keeping many facets of the original Town "farm ordinance." For well over a year the Comprehensive Plan Advisory Board worked to modify the

regulations related to zoning. However, another issue was created. In the new ordinances authored by the Comprehensive Plan Advisory Board, they allowed the ability to "grandfather" in structures that may be in violation of certain provisions of the zoning code. The Town Council and the Comprehensive Plan Advisory Board sought to remedy this situation by creating an amnesty provision. Another legal issue arose from this provision. If a municipality knows that someone has an illegal structure it creates liability for them if they don't enforce compliance of the structure.

He spoke about how other municipalities were dealing with this issue. Some of them had created an indemnification process that would require residents to self-report and hold the municipality harmless for not requiring the residents to get a building permit. He felt this could be a possible solution for the Town to consider.

Town Planner Jeff Katims, summarized the previously approved "farm ordinance." He spoke about the 1 year amnesty period and explained that the property owner would have to execute a deed restriction acknowledging that there were limitations to the relief they would get.

Mayor Nelson asked the Council how they felt about the indemnification proposal discussed by Town Attorney Poliakoff. Council Member Breitzkreuz wanted to explore the issue of ownership change and how this would be affected. Council Member McKay concurred with Council Member Breitzkreuz.

Town Attorney Poliakoff indicated that if the property is conveyed to a new property owner then the "grandfathered" status does not continue with the property. This was not in the code right now, so the question for Council to consider was at what point did they want these non-conforming structures to come into compliance.

Council Member McKay asked if there would be an inspection as part of the compliance enforcement. Town Attorney Poliakoff indicated in the affirmative. He further explained that the Town would inspect to verify that the structure in questions was an agricultural structure.

Council Member Jablonski asked where the distinction would be made as to what was an agricultural structure. Town Attorney Poliakoff indicated that the determination would be made by the Town's Building Official. Council Member Jablonski also asked how the Town would enforce the Hold Harmless agreement. Town Attorney Poliakoff indicated that the agreement would need to name the Town as an additional insured.

Bob Hartmann asked about the transfer of ownership of the property. He wished that the Hold Harmless be conveyed to the new property owner upon sale. Town Attorney Poliakoff stated that the main issue was the structure needed to be brought into compliance. When the property would be brought into compliance was a policy issue to be determined by Council. Bob Hartmann, suggested 20 years from adoption of the new ordinance. Town Attorney Poliakoff suggested 20 years from conveyance of the property.

Newell Hollingsworth went over suggestions he submitted on behalf of the Comprehensive Plan Advisory Board. He asked about residents who built non-conforming structures after the state law change. Town Attorney Poliakoff indicated that no relief could be offered to them legally. Those residents who followed the law prior to the law change would be offered the indemnification process. Mr. Hollingsworth asked the Council if they supported Bob Hartmann's suggestion.

Council Member Breitkreuz had concerns about older structures that would be granted an additional twenty years if the property were to be sold and felt that an inspection might be necessary to determine the viability of the structure before granting the additional time. Town Attorney Poliakoff felt that a provision could be included requiring the building official to inspect the structure upon conveyance to a new property owner and grant a period of up to twenty years.

Board Chair Hollingsworth asked if the indemnification process would be required of all people upon adoption, or only as the Town becomes aware of the non-conforming structure.

Council Member McKay asked if a non-conforming structure was demolished in a storm could they rebuild it without a permit. Town Attorney Poliakoff indicated in the negative. The structure would have to be rebuilt to Code.

Council Member Breitkreuz considered three scenarios. The first is for the resident to self-report. The second is when a non-conforming structure is reported by someone else. He wondered whether at that point the indemnification process should begin. The third scenario would occur when a property is sold. He was concerned that disclosure would not be made by the seller unless it was mandated.

Board Chair Hollingsworth sought direction from the Council. Did the Council support twenty years from the first conveyance; twenty years from the date of the new state law (2013); or to have the non-conforming structure removed or corrected at the time of conveyance?

Town Attorney Poliakoff reminded Council not to get "bogged down" in the language. He wanted Council to set the policy direction and let the Advisory Board come back with proposed language. He attempted to summarize Council's discussion thus far as: those residents cited could begin the indemnification process, and residents could self-report, but was unclear on what Council's position was on other areas. The Council consensus was that the indemnification process could begin with those who self-report, or those who are cited. As it related to the sale of the property the direction was not yet set.

Town Attorney Poliakoff proffered that verbiage could be placed in the Code requiring the seller to disclose the non-conforming structure, and that a building permit must be obtained.

Discussion ensued about the length of time before the non-conforming structure would need to come into compliance. The majority of Council Members felt ten years was acceptable. The Council felt that the process for the first two scenarios would be as follows:

*Once reported, the property owner must fill out a hold harmless agreement and pay an inspection fee. The Town's inspector will perform an inspection of the structure and provide an estimate of how long they believe the non-conforming structure (between 0-10 years) will last.*

The following members of the public addressed the Town Council: Bob Busch, Mike Hanley, Kathy Cox, and Gay Chaples.

Council Member Breitzkreuz was concerned about the Town's liability and the health and safety of the residents and felt that the inspection was necessary.

Town Attorney Poliakoff felt that enough direction was provided for the Comprehensive Plan Advisory Board to come back to Council with a recommendation to address the conveyance of property issue.

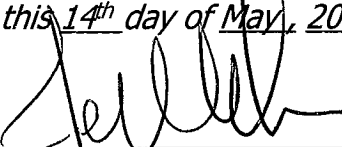
Board Chair Hollingsworth requested that the Town Attorney send the language he wants to use, and the farms he wants to use, so the Board can have it for their next meeting.

**4. Adjournment – Meeting was adjourned at 8:59 p.m.**

*Respectfully submitted:*

  
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Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk

*Adopted by the Town Council on  
this 14<sup>th</sup> day of May, 2015.*

  
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Jeff Nelson, 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.