

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

Thursday 7:00 PM

March 28, 2019

13400 Griffin Road

Present:

Mayor Doug McKay

Andrew Berns, Town Administrator

Vice Mayor Gary Jablonski

Russell Muñiz, Assistant Town Administrator/Town Clerk

Council Member Bob Hartmann

Martin D. Sherwood, Town Financial Administrator

Council Member Freddy Fisikelli

Keith Poliakoff, Town Attorney

Council Member Denise Schroeder

Regular 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 McKay at 8:34 PM. Attendance was noted by roll call and was followed by the Pledge of Allegiance.

**3. Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ended September 30th, 2018**

Town Financial Administrator Sherwood introduced Mo Arezza from Marcum, LLP the Town's external auditor. The Town's CAFR for Fiscal Year 2018 was presented with no material weaknesses in internal controls.

The following motion was made by Vice Mayor Jablonski, seconded by Council Member Hartmann, and passed by a 5-0 roll call vote. The vote was as follows: Council Members Fisikelli, Hartmann, Schroeder, Vice Mayor Jablonski, and Mayor McKay voting Yes.

**MOTION:** TO APPROVE THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) FOR THE FISCAL YEAR ENDED SEPTEMBER 30TH, 2018.

**4. Flamingo Road Land Use Plan Amendment**

CONSIDERATION OF AN APPLICATION TO AMEND THE TOWN OF SOUTHWEST RANCHES FUTURE LAND USE PLAN MAP TO CHANGE THE DESIGNATION OF 4.5 ACRES FROM RURAL RANCH TO COMMERCIAL, GENERALLY LOCATED AT THE SOUTHWEST QUADRANT OF FLAMINGO AND LURAY ROADS; AMENDING THE TEXT OF THE FUTURE LAND USE ELEMENT OF THE TOWN OF SOUTHWEST RANCHES COMPREHENSIVE PLAN TO ALLOW FOR COMMERCIAL LAND USE ALONG A PORTION OF THE FLAMINGO ROAD CORRIDOR.

**NOTE: ITEM WAS REMOVED FROM THE AGENDA AS PART OF MOTION TO DENY COMPANION ITEM THAT WAS HEARD DURING THE LOCAL PLANNING AGENCY MEETING EARLIER IN THE EVENING.**

## **5. Site Plan Modification SP-70-18 - New Horizon Church - Staff Requesting a Tabling to April 11, 2019**

The following motion was made by Council Member Schroeder, seconded by Council Member Hartmann, and passed by a 5-0 roll call vote. The vote was as follows: Council Members Fisikelli, Hartmann, Schroeder, Vice Mayor Jablonski, and Mayor McKay voting Yes.

**MOTION:** TO TABLE THE SITE PLAN MODIFICATION TO APRIL 11, 2019.

## **7. Public Comment**

The following members of the public addressed the Town Council: David Sears, Newell Hollingsworth, Cecil Grow, and Debbie Green.

### Quasi-Judicial Hearing

## **6. Appeal of Town Administrator's Denial of an application for relief pursuant to TSWR, Sec155-070 - Existing Structures**

Assistant Town Administrator/Town Clerk Muniz swore in the witnesses.

Raul Gastesi, Attorney for the applicant introduced himself.

Town Attorney Poliakoff advised that Mr. Gastesi previously indicated that he had no witnesses, but now had one witness Mr. Brad McBride. Town Attorney Poliakoff advised that the Town was amendable to this request.

Town Planner Jeff Katims advised that the request for the appeal stemmed from the applicant's desire to be afforded relief for a barn that does not meet setback requirements. He advised that the specific requirement in the Town Code could be found in Section 155-070 (B). He proceeded to read that section of the Code. He provided the definition of a Farm in the Right to Farm Act and provided the basis for the Town's determination to deny the applicant's application for relief.

Attorney Gastesi wanted Mr. Katims to clarify the Town's position regarding barns built prior to the Town's incorporation that did not have an Agricultural Exemption. Mr. Katims stated that if the barn was built prior to the property owner receiving a farm certification from the Town and they did not have an Agricultural Exemption then the barn would be in violation. The only other option that would be available for relief would be a variance.

Town Attorney Poliakoff clarified the Town's position was that the structure was legally allowed to be constructed without a permit within the confines of the Right to Farm Act outlined in FS 604.50. The Town's position is that the property owners were not allowed to violate the Town's zoning requirements when it was built in 1999. As a result, because there was no Agricultural Exemption or farm certification from the Town at the time it was built then there is nothing in the Town's Code that would allow them to be "grandfathered in."

Attorney Gastesi presented his argument on behalf of his client and felt that the purpose of Town Code Section 155-070 was to grandfather these non-conforming structures.

Vice Mayor Jablonski indicated that the survey showed that the barn did not meet the setback requirements. Attorney Gastesi indicated that the barn was 48 feet 9 inches from the North property line and 47 feet 8 inches from the west Right-of-Way. Town Attorney Poliakoff corrected him indicating that the barn was actually 28.9 feet from the North property line and 35.6 from the West property line. Co-Counsel for the applicant Mark Gunderson argued the higher numbers were correct. Town Attorney Poliakoff corrected him indicating that he could not include the Right-of-Way in his calculation. Discussion ensued about the genesis of the complaint and Attorney Gastesi felt that his client was aggrieved while his neighbor to the south was unfairly being allowed to running a commercial business in a residential neighborhood.

Town Attorney Poliakoff clarified that Mr. McBride has never provided a survey indicating that he was erecting a fence on his own property.

Council Member Schroeder asked about the horse trail in front of McBride's property. She felt that the property was dedicated for a horse trail. Attorney Gastesi indicated that his client was willing to move the fence back "some" just not all the way back. Attorney Gastesi indicated that his client was willing to move the fence 16 feet from the road.

The following motion was made by Vice Mayor Jablonski, seconded by Council Member Hartmann, and passed by a 5-0 roll call vote. The vote was as follows: Council Members Fisikelli, Hartmann, Schroeder, Vice Mayor Jablonski, and Mayor McKay voting Yes.

**MOTION:** TO EXTEND THE MEETING TO COMPLETE THE AGENDA.

The following members of the public addressed the Town Council on this issue: Joan Kenny, Carlos Perez, Jason Curtis, Kathy Cox, Julie Aiken, Fred Cox, Jim Laskey, Jason Halberg, Fred Segal, Mary Gay Chaples, David Kuczenski, Steve Breitzkreuz, and David Sears.

The following motion was made by Vice Mayor Jablonski, seconded by Council Member Schroeder, and passed by a 5-0 roll call vote. The vote was as follows: Council Members Fisikelli, Hartmann, Schroeder, Vice Mayor Jablonski, and Mayor McKay voting Yes.

**MOTION:** TO APPROVE THE APPEAL OF THE TOWN ADMINISTRATOR'S DENIAL OF AN APPLICATION FOR RELIEF PURSUANT TO SECTION 155-070 OF THE TOWN'S CODE SUBJECT TO THE FOLLOWING CONDITIONS:

1. Owners shall immediately dismiss with prejudice Case No. CACE 18-021480, which it filed against the Town.
2. Owners shall erect its new southern fence, with proper permits, at least twenty (20) feet from the edge of pavement.
3. Owners' southeast fence that was erected without a permit may remain until such time that it either needs to be replaced or repaired.

4. Owners will enter into the Town's standard Maintenance, Indemnification, and Work Agreement ("MIW") relating to all of its fencing that is located outside of its property line.
5. In the event that any of the structures located within the Town's right-of-way ever need to be repaired or replaced, they shall be moved outside of the Town's right-of-way, and placed within Owners' property, as specifically delineated in Owners' new survey.
6. The barn shall be vested in accordance with the Town's Code through 2035, thereafter it shall be demolished.
7. In the event that the barn is destroyed or needs major repairs prior to 2035, it must be reconstructed, with proper permits, in accordance with the Town's Code.
8. Owners will submit permit plans to reconstruct its fence within thirty (30) days.
9. Owner has fifteen (15) days to accept the above conditions of approval, if not, the appeal is deemed to be denied in accordance with the conditions delineated in the Town Administrator's findings, and based upon all evidence and testimony received at the public hearing held on March 28, 2019.

## **8. Board Reports**

No Board Reports were offered.

## **9. Council Member Comments**

Council Member Hartmann invited everyone to come out to the Country Estates HOA barbecue on March 30th at the Country Estates Park.

Council Member Schroeder indicated her displeasure with the residents of Sunshine Ranches in the way they treated her daughter when she spoke earlier in the meeting. She felt her daughter was owed an apology.

Vice Mayor Jablonski announced that the Sikh Society 5K would be held on Saturday, March 30th, and urged everyone to participate. He also mentioned the Country Estates HOA barbecue that would occur later that same day. He indicated that the Annual Easter Egg Hunt would take place on Sunday, April 7<sup>th</sup> at the Rolling Oaks Barn and was open to all Town residents. He also advised that the DMV FLOW program would be held at Town Hall on April 25<sup>th</sup> and Volunteer Day would be celebrated at Town Hall prior to the Town Council Meeting on April 11<sup>th</sup>. Lastly, he discussed the new procedure for over the limit bulk waste. He discussed that if the pile was over the twelve (12) cubic yard limit it will not be picked up, but rather tagged for follow up. A supervisor will receive reports on all over the limit piles and will visit the locations the next day. Pictures will be taken to document the pile and the Town's General Services Manager will be notified and referred to Code. Bulk piles in excess of twelve (12) cubic yards a few days after the bulk day will be picked up and the property owner will be billed at \$17.50 per cubic yard over the limit.

## **10. Legal Comments**

Town Attorney Poliakoff offered no further legal comments. In response to Mayor McKay's question Town Attorney Poliakoff advised that Pembroke Pines has filed an appeal which would be heard on April 9<sup>th</sup> in West Palm Beach to overturn an earlier court decision that Pembroke Pines would not be granted Sovereign Immunity in their case involving Corrections Corporation

of America (CCA). He believed that the Court will uphold the decision that Pembroke Pines does not get Sovereign Immunity based on their deliberate action.

### 11. Administration Comments

Town Administrator Berns reminded everyone that on April 11<sup>th</sup> prior to the Town Council Meeting a reception would be held to recognize Town volunteers.

#### Ordinance – 1<sup>st</sup> Reading

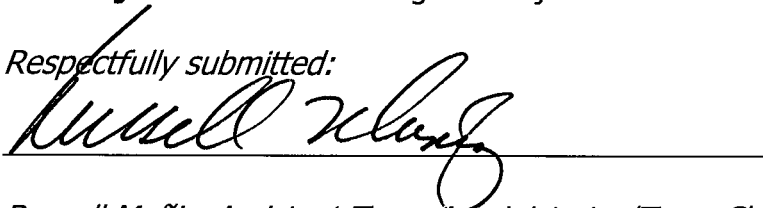
**12.** AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA PERTAINING TO THE REGULATION OF NEW COMMERCIAL PLANT NURSERIES AS A SPECIAL EXCEPTION USE; AMENDING THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE ("ULDC") BY AMENDING SECTION 10-30, "TERMS DEFINED;" AMENDING ARTICLE 45, "AGRICULTURAL AND RURAL DISTRICTS," SECTIONS 045-030, "GENERAL PROVISIONS" AND 045-050, "PERMITTED AND PROHIBITED USES;" AMENDING ARTICLE 60, "COMMUNITY FACILITY DISTRICT," SECTION 060-030, "PERMITTED AND PROHIBITED USES;" AMENDING ARTICLE 100, "APPLICATION SUBMITTAL AND NOTICE PROCEDURES," SECTIONS 100-020, "GENERAL APPLICATION REQUIREMENTS," 100-030, "MINIMUM REQUIRED CONTENT FOR ALL PUBLIC HEARING NOTIFICATIONS," AND 100-060, "MAIL NOTICE REQUIREMENTS FOR PUBLIC HEARINGS;" CREATING ARTICLE 112, "SPECIAL EXCEPTION USES;" PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE. {Second Reading to be held April 11, 2019}.

The following motion was made by Council Member Hartmann, and seconded by Council Member Schroeder, and passed by a 5-0 roll call vote. The vote was as follows: Council Members Fisikelli, Hartmann, Schroeder, Vice Mayor Jablonski, and Mayor McKay voting Yes.

**MOTION:** TO TABLE THE ORDINANCE UNTIL MAY 23, 2019 AT 7 PM.

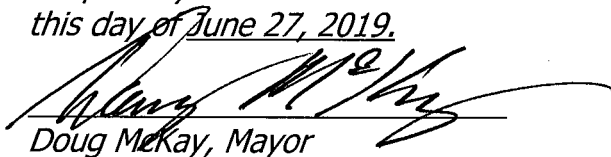
**13. Adjournment** - Meeting was adjourned at 11:58 PM.

*Respectfully submitted:*



*Russell Muñiz, Assistant Town Administrator/Town Clerk*

*Adopted by the Town Council on  
this day of June 27, 2019.*



*Doug McKay, 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.