

TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES FROM THE SPECIAL TOWN COUNCIL MEETING HELD ON FEBRUARY 19, 2003, REGARDING ZONING

I. CALL TO ORDER AND ROLL CALL

The meeting was called to order by President William Brooks at 9:30 a.m. on Wednesday, February 19, 2003, in the Town Council chambers.

On roll call, the following Elected Officials were found to be in attendance:

Mayor Lesly S. Smith
President Pro-Tem Norman P. Goldblum
Councilman Jack McDonald
Councilman Samuel C. McLendon
Councilman Allen S. Wyett

President William J. Brooks was absent.

Also attending for all or part of the meeting were:

Assistant Town Manager Thomas G. Bradford
Town Attorney John C. Randolph
Director of Planning, Zoning & Building Robert L. Moore
Assistant Director of Planning, Zoning & Building Veronica Close
Zoning Administrator Paul Castro
Planning Administrator Timothy M. Frank
Town Clerk Mary A. Pollitt

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Town Clerk Pollitt, and President Pro-Tem Goldblum led the Pledge of Allegiance.

III. PROOF OF PUBLICATION

Town Clerk Pollitt verified proof of publication was received.

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IV. APPROVAL OF AGENDA

Councilman Wyett made a motion to approve the agenda. Councilman McLendon seconded the motion which carried 5-0 on roll call.

V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC

Mr. Moore said normal procedure was to advise the public that comments could be made on any part of the ordinance as it was reviewed by the Mayor and Town Council.

VI. FIRST READING OF ORDINANCE NO. 1-03, ZONING AMENDMENTS, MODIFICATIONS AND ADDITIONS

Zoning Administrator Castro pointed out that the ordinance presented at this meeting is based on the Town Council meeting of January 6th, and staff has incorporated the changes/recommendations from that meeting into the ordinance. He noted the one specific change deals with air conditioning units where staff completely rewrote the language in an attempt to clarify the issue. He added modifications were incorporated in the Bulkhead and Groins ordinance where staff put in the Town Council's requirement to have appurtenances, docks, and boat lifts with a 25 ft. setback; although staff had recommended 15 ft. for the appurtenances and the Zoning Commission made that same recommendation.

Mr. Castro noted that the filing fees for zoning applications have been increased and landscape open space in the front yard that was inadvertently removed from the ordinance last year was added back in.

President Pro-Tem Goldblum asked for questions from the audience regarding any changes.

Bob Bradley, 250 Bradley Place, Lake Towers Condominium, said the condominium has a marina on the Lake with twelve slips. He expressed alarm that the marina would not conform to the new ordinance as presently constructed, and several new owners have expressed concern that eventually they would lose their property.

Mr. Bradley said the changes to the ordinance make it a 'one size fits all' ordinance which could apply to a one family home with one dock and one residence as contrasted to a condominium which has a marina in effect with a number of boats. He said he understood the reason was to improve safety with greater distances between docking facilities. He requested the ordinance be

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modified to include street width (the width of Atlantic Avenue) as part of the 25 ft. setback requirement between docks and appurtenances.

Mr. Bradley requested the few existing marinas along Lake Worth, that are separate from single family homes, be removed from this ordinance, and another ordinance be created for them or consider a variance application keeping an open mind regarding the condominiums.

Mr. Moore responded existing dock non-conformities will be created by the passage of this ordinance. He said the suggestion of using the width of a street is a good one, but if it is considered, only half of the street right-of-way should be used with the other property owner using the second half.

He continued the real issue related to the dolphin piles or the boat lifts rather than the T-head docks. He explained that neighbors are required to sign off for construction within 25 ft. of the property line, but not the appurtenances, the boat lift itself or the dolphin piles, just the hard construction of the hard dock. He suggested if changes are made, the Council might want to follow the procedure of the Corps of Engineers, and the variance procedure is in place to consider each case on an individual basis.

Mr. Bradley explained this issue came to his attention when Mrs. Frieda Heavey who owns the T-dock at Lake Towers, hired a contractor to replace her dolphin piles. He said the contractor was told he could not have a permit to replace the piles but could repair them.

Mr. Moore said the issue is not the main dock but the issue is the dolphin piles which is accessory to the main dock, and is grandfathered and permitted; however, if the dolphin piles are to be repaired more than 50% of the value of the accessory structure, then the dolphin piles must be brought into compliance. He said a variance is also an option.

Mayor Smith said she would not call dolphin piles an accessory structure and thought the piles should be repaired as part of the maintenance of the slip.

Mr. Moore replied the Town Council has the option of modifying the ordinance.

Attorney Randolph said the ordinance is being interpreted by Mr. Moore and Mr. Bradley. He said Mr. Bradley's interpretation is to look at the entire dock and its appurtenances and make a determination whether the replacement is greater than 50% of the entire dock, and if it is not, the piles could be replaced. He continued that is not the interpretation the Building Department has given as they are looking at the dolphin pilings as separate from the dock, as an accessory structure, and if the accessory structure is removed, that is not maintenance, and the pilings should be replaced.

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Mr. Castro said the intent of the non-conforming section of the Code is to remove non-conformities when the opportunity arises, and by changing the Code to allow the dolphin piles to have a 25 ft. setback, if the applicant removes that piling, they have lost the non-conformity. He confirmed that the dock and all appurtenances including dolphin piles, boat lifts, and signs would have to be replaced if they are not 25 ft. from the lot line.

Councilman Wyett said he did not think it was the Council's intention to impose upon the residents undue hardships. He suggested altering the language or insert an interpretation in the Code explaining that pilings are part of the dock.

Frieda Heavey, 250 Bradley Place, said she has a State lease which clearly states that the docks should be maintained, and the pilings in the marina are over 40 years old and are completely rotten. She continued that the pilings are a health and safety factor.

Mrs. Heavey said she is one of nine owners of the docks at 250 Bradley Place and all want to maintain their docks as required by the State lease. She said the Town is not allowing that, because no permits are issued for that without compliance to the new Code change.

Mayor Smith said she thought that was wrong.

Councilman McDonald said he thought the Council should either carve out an exception to the Code in this case to allow dock owners to replace the pilings or modify the ordinance.

Mr. Castro replied the staff could administratively control that if the Council so wished.

President Pro-Tem Goldblum said he did not think boat lifts should be included; however, pilings should not be an accessory to the dock but part of the dock.

Councilman Wyett made a motion to accept that.

Councilman McDonald said the motion should be clear that the placement of pilings would not require a variance and that would be an administrative interpretation of the Code.

Mayor Smith asked if that would be part of the Ordinance since administrations can change.

Mr. Castro said he could write a letter to the file, clearly stating that the pilings would be considered part of the dock and unless half of the entire dock was removed, piles could be replaced.

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Town Attorney Randolph responded consideration could be given to placing a notation or an asterisk in the Ordinance itself which will reflect that interpretation so that on first reading, this Ordinance will be amended to reflect that pilings shall be considered as part of the dock for purposes of grandfathering and may be replaced as long as they are not greater than 50% of the dock.

President Pro-Tem Goldblum said the boat lifts should not be included.

The motion was seconded by Councilman McDonald and carried 5-0 on roll call.

Attorney Randolph said boat lifts often get to the point where they cannot be repaired as they become rusty, and they need to be replaced.

President Pro-Tem Goldblum said boat lifts are part of the docks

Mr. Moore said he understood that the lifts are part of the docks and unless 50% or more of the dock has been damaged or destroyed, they would be exempt from the variance.

Town Attorney Randolph read Ordinance No. 1-03 by title:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 134, ZONING, AND CHAPTER 62, MARINE STRUCTURES OF THE CODE OF ORDINANCES AS FOLLOWS: SECTION 134-2 DEFINITIONS AND RULES OF CONSTRUCTION TO ADD A DEFINITION FOR BUILDING HEIGHT OF HOUSES ON THE WEST SIDE OF SOUTH OCEAN BOULEVARD BETWEEN VIA AGAPE AND SLOAN'S CURVE IN THE R-AA ZONING DISTRICT; SECTIONS 134-1109, 134-1159 AND 134-1209, SPECIAL EXCEPTION USES, TO PROVIDE MAXIMUM DENSITY REQUIREMENTS FOR SINGLE FAMILY AND MULTI-FAMILY DWELLING UNITS IN THE C-TS, COMMERCIAL TOWN SERVING, AND C-WA AND C-OPI ZONING DISTRICTS; SECTION 134-1259, SPECIAL EXCEPTION USES BY PROVIDING A MAXIMUM NUMBER OF UNITS PER ACRE FOR TIMESHARING AND HOTEL USES IN THE C-PC ZONING DISTRICT; SECTION 134-1304, SPECIAL EXCEPTION USE BY PROVIDING A MAXIMUM NUMBER OF UNITS PER ACRE FOR HOTEL AND TIMESHARING USES IN THE C-B DISTRICT; SECTION 134-654 BY MODIFYING THE MAXIMUM DENSITIES ALLOWED IN THE PLANNED UNIT DEVELOPMENTS IN THE TOWN; SECTION 134-1607 BY MODIFYING THE ALLOWANCE OF

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AIR CONDITIONING EQUIPMENT ON THE ROOF TO ACCOMMODATE REQUIRED ELEVATED STANDS; SECTION 134-1728, AIR CONDITIONING AND POOL EQUIPMENT, BY FURTHER CLARIFYING AND REGULATING THE PLACEMENT OF AIR CONDITIONING UNITS AND POOL HEATING EQUIPMENT ON A PROPERTY; BY AMENDING SECTION 134-1729, GENERATORS AND POOL EQUIPMENT, BY RESTRICTING THE PLACEMENT OF GENERATORS AND REGULATING THE PLACEMENT OF SWIMMING POOL EQUIPMENT; SECTION 134-1697 BY ELIMINATING THE REQUIREMENT THAT DOCKS MEET THE SAME SETBACK AS AN UNENCLOSED ACCESSORY STRUCTURE AND REFERENCING REQUIREMENT TO MEET THE PROVISIONS IN SECTION 62-75 OF THE CODE; SECTION 62-75, CONSTRUCTION SPECIFICATIONS, BY INCREASING THE SIDE SETBACK REQUIREMENT FOR LANDING DOCKS, PIERS AND GROINS ON LAKE WORTH; SECTION 134-38, FILING FEES FOR REZONING, SPECIAL EXCEPTION USE, VARIANCE, APPEAL OR OTHER MATTERS REQUIRING PUBLIC HEARING, BY INCREASING THE FEES FOR DEVELOPMENT APPLICATIONS; SECTION 134-793, 134-843, 134-893, 134-948, 134-1004 AND 134-1059, LANDSCAPE OPEN SPACE, BY ADDING THE REQUIRED MINIMUM FRONT LANDSCAPE OPEN SPACE REQUIREMENT INTO THE R-AA, R-A, R-B, R-C, R-D(1) AND R-D(2) RESIDENTIAL ZONING DISTRICTS; SECTION 134-893, LOT, YARD AND AREA REQUIREMENTS – GENERALLY, BY ADDING A PROVISION FOR GREATER FRONT SETBACK REQUIREMENT ON DEEPER LOTS IN THE R-B DISTRICT; SECTION 134-142, EXERCISE OF TOWN COUNCIL POWERS AND SECTION 134-261, TOWN COUNCIL ACTIONS; SUBMISSION TO ZONING COMMISSION FOR RECOMMENDATIONS AND REPORT; HEARINGS, BY ALLOWING THE MAYOR TO BREAK A TIE VOTE ON ZONING MATTERS AND BY EXTENDING ZONING SEASON AND DECREASING THE TIME LINE FOR SUBMITTING APPLICATIONS FOR ZONING SEASON; SUBMISSION TO ZONING; PROVIDING FOR A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREOF; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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Councilman Wyett made a motion to approve the first reading of Ordinance No. 1-03. The motion was seconded by Councilman McDonald and carried 5-0 on roll call.

VII. ANY OTHER ITEMS

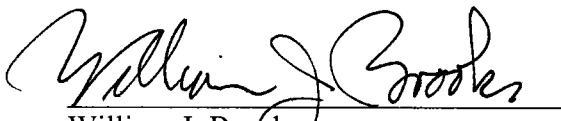
Mr. Moore announced the next meeting for the second reading of Ordinance No. 1-03 will be Wednesday, March 5th at 9:30 a.m.

Mr. Moore added that on Thursday, February 27th, from 3:00 p.m. to 5:00 p.m. and again from 7:00 p.m. to 9:00 p.m. workshops will be held for residents of the 'Sea' streets to cover the issues related to an overlay zoning district.

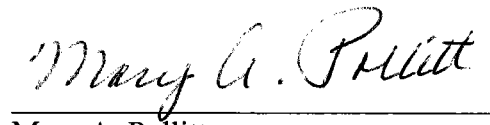
VIII. ADJOURNMENT

The meeting was adjourned at 9:58 a.m.





William J. Brooks
Town Council President



Mary A. Pollitt
Town Clerk