

**MINUTES  
REGULAR TOWN COUNCIL MEETING**

**January 7, 2009**

*Orchid Island Golf and Beach Club  
One Beachside Drive, Orchid Florida 32963*

**Agenda Item #1 – Call to Order and Roll Call**

Mayor Dunlop called the meeting to order at 9:04 a.m.

**Present:**

Mayor Richard Dunlop  
Vice-Mayor Sue Joyce  
Councilmember Paul Johnson  
Councilmember Bud Oatway  
Councilmember Bill Troxell

**Staff in Attendance:**

Deb C. Branwell, Town Manager  
Terri Wallace, Town Clerk  
Anthony Garganese, Town Attorney via telephone  
Philip Redstone, Chief of Police

**Agenda Item #2 – Agenda Modifications, Additions and/or Deletions**

Mayor Dunlop asked if there were any modifications, additions or deletions and there were none.

**Agenda Item #3 – Approval of Minutes**

*Councilmember Johnson moved to approve the Minutes with Changes for the  
Regular Town Council Meeting of December 3<sup>rd</sup>, 2008.  
Councilmember Troxell seconded the motion.  
Mayor Dunlop agreed with exception.  
All Councilmembers agreed.*

## **Agenda Item #4 – Committee Reports**

**Piper Aircraft:** Mayor Dunlop stated that he asked Town Manager Branwell to compose a letter to Jason Brown, Budgeting Director for Indian River County, regarding Piper Aircraft's failure to meet required benchmarks to garner payment from the County and Municipalities. Ms. Branwell read her letter stating such and the Town of Orchid was respectfully withholding payment until proven otherwise.

Councilmember Oatway was uncomfortable in withholding payment and requested a transcript, from the December 3<sup>rd</sup>, 2008, Town Council Meeting, regarding Councilmember Oatway's Motion made as to the first payment to be made to Piper by the Town. Council decided to hold the letter until this transcript can be reviewed.

**Treasure Coast Regional League of Cities:** Vice-Mayor Joyce stated that FL League of Cities President, Carmine Priore, brought before the members that high school students don't have civic courses anymore. The League has drafted a Resolution that supports civic education, awareness and participation and encouraged all municipalities to support the initiative.

**Beach and Shores Preservation Advisory Committee:** Councilmember Johnson stated he would defer to the guest speaker Dr. Jonathan Gorham.

**The Leadership Conference Held at Pointe West:** Councilmember Troxell stated that this was an informative workshop and there will be a follow-up meeting on February 28<sup>th</sup>, 2009.

**Metropolitan Planning Organization (MPO):** Mayor Dunlop reported the I-95 widening has been placed on indefinite hold, because of budgeting constraints. The widening of SR60 will take place as scheduled, because the County is contractually obligated to do so through a funding arrangement with the State. Members of the MPO pressed to have the high bridge on 510 widened for sidewalks and foot traffic safety. The State will go ahead with road resurfacing plans.

**Interlocal Service Boundary Agreement (ISBA):** The Elected Officials and five municipalities met in Sebastian on December 15<sup>th</sup>, 2008. After discussion, the Working Group was charged with the task to make changes and bring back before the elected officials. Vice-Mayor Joyce thanked Mayor Dunlop for streamlining the meeting as the meeting seemed to have reached an impasse.

The Mayor informed Council that Chief Philip Redstone, Town Manager Deb Branwell, Town Attorney Anthony Garganese, and he will be meeting with Sheriff Loar to work on an extension of the Mutual Aid Agreement.

**Agenda Item #5 – Town Council Matter**

**A. E.A.R. (Evaluation and Appraisal Report) Discussion**

Town Manager Branwell gave a brief overview stating that, after reviewing materials, she believes Staff will be able to perform most of the tasks involved and noted some will have to be contracted.

**B. First Reading of Ordinance No. 2009-01 Pertaining to Capital Improvements Element Update to Town’s Comprehensive Plan**

*Councilmember Johnson moved to approve the  
First Reading of Ordinance 2009-01 Pertaining to  
Capital Improvements Element Update to Town’s Comprehensive Plan.  
Councilmember Troxell seconded the motion.  
A Roll Call Vote was taken.*

<i>Mayor Dunlop</i>	<i>Aye</i>
<i>Vice-Mayor Joyce</i>	<i>Aye</i>
<i>Councilmember Oatway</i>	<i>Aye</i>
<i>Councilmember Johnson</i>	<i>Aye</i>
<i>Councilmember Troxell</i>	<i>Aye</i>

**C. Resolution 2009-01 Pertaining to Support of the Florida League of Cities ‘Back to Basics Initiative’**

*Councilmember Johnson moved to approve Resolution 2009-01  
Pertaining to Support of the Florida League of Cities ‘Back to Basics Initiative.’  
Vice-Mayor Joyce seconded the motion.  
All Councilmembers agreed.*

#### **D. Beach and Shore Preservation Advisory Committee – Joe Connors and Jonathan Gorham**

Councilmember Johnson introduced Mr. Joe Connors, resident of the Town of Orchid, and Dr. Jonathan Gorham, Coastal Resource Manager for Indian River County.

Mr. Connors informed Council that a permit application had been filed with the Florida Department of Environmental Protection last summer and the County is hopeful that beach restoration will take in the Fall of 2009. Mr. Connors stated that he and Dr. Gorham are before Council for the following reasons; 1) to give an update on beach restoration funding and the status of the beach before and after the restoration, 2) to ask the Town to write a letter to FDEP supporting the restoration project, and 3) to ask the Town to file for a Field Permit.

Mr. Connors introduced Dr. Gorham. Dr. Gorham began by stating that the County is currently in the permitting process for approximately seven miles of beach restoration – from the north of Treasure Shores Park to the North of John’s Island. The Town of Orchid is located in the center of this restoration project and is considered by the State to have ‘critically eroded’ beaches that are becoming compromised. The County is hopeful to have all permits in place by the summer of 2009 to begin construction November 2009 and completed May 2010.

Dr. Gorham stated it would be beneficial for the Town of Orchid to write a letter to the Florida Department of Environmental Protection (FDEP) in support of this project. It will also help expedite the permitting process. The State has committed to pay for fifty percent of this \$22M - \$24M project. Due to State income shortfalls, the permit may be in place, but the funding may not be there to begin the project.

Dr. Gorham observed that the Dune Restoration Project that Orchid had put in place, after the 2004 hurricanes, is holding quite well - with the exception of one area just south of Sanderling. Their seawall is causing an erosion ‘hot spot.’ Technically the owners of Sanderling are responsible for their seawall causing this erosion ‘hot spot’ and should bear some, if not all, of the cost to fix this problem. Also, this erosion will compromise the integrity of their seawall. Dr. Gorham estimates this will cost approximately \$40,000 to repair the hole. Councilmember Troxell inquired if it was permissible to place boulders covered with sand where the dune used to be. Dr. Gorham said, from an engineering standpoint, that was a good idea. From an environmental standpoint, it is not permissible. Dr. Gorham said it would be a good idea to obtain a Field Permit to fix this ‘chronic’ problem. The County explored the idea of Sanderling paying for the mitigation of the erosion, but the County attorneys determined that more money would be spent in litigation than in sand replacement. Mayor Dunlop asked if a ‘Pep Reef’ is a good idea. Dr. Gorham said it has been determined a ‘failure’ by the State.

Councilmember Oatway inquired as to whom was responsible for permitting and paying for the prior beach restoration. Mr. Robert Tench said the Property Owners

and the Club obtained the 'emergency' permit and paid \$1M for the dune restoration over the length of the Town of Orchid. Mr. Oatway stated he believes this might be a project for the Property Owners. It was stated that the Town could obtain a Field Permit faster than the Condo Owners' Association or the Property Owners' Association. Then, this makes the Town the owner of whatever construction project was taking place under this permit. Which means the Town is liable. Dr. Gorham and Town Attorney Garganese did not know if the permit is transferrable. The County should know by August 2009 if the project will be funded this year.

After further discussion, Council unanimously agreed that the Mayor, on behalf of the Town, would write a letter of support to FDEP. Also, it was decided to not pursue a permit until after August 2009, if the Sector 3 funding does not materialize.

Vice-Mayor Joyce asked who granted Sanderling their seawall permit. Dr. Gorham replied that it was FDEP. Mrs. Joyce then asked if the FDEP was obligated to protect Orchid, since they granted the permit. Dr. Gorham replied that the State transfers liability to the structure owner.

Council thanked Dr. Gorham for his presentation.

#### **Agenda Item #6 – Public Comment**

There was no public comment.

#### **Agenda Item #7 – Adjournment**

The meeting was adjourned at 10:34 am.

Approved at the \_\_\_\_\_ February 4, 2009 \_\_\_\_\_ Regular Town Council Meeting.

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**Terri Wallace**  
**Town Clerk**