

**FINAL MINUTES AND AGENDA
TOWN OF JUPITER
TOWN COUNCIL SPECIAL MEETING
TOWN COUNCIL CHAMBERS
TUESDAY, JULY 25, 2023**

Mayor Kuretski called the meeting to order at 6:00 P.M.

Roll Call: Mayor Jim Kuretski; Vice-Mayor Cheryl Schneider; Councilor Ron Delaney; Councilor Cameron May; Councilor Malise Sundstrom; Acting Town Manager Kate Moretto; Town Attorney Thomas J. Baird and Town Clerk Laura Cahill.

REGULAR AGENDA

PUBLIC HEARING

1. Consideration of Certificate to Dig No. 2-23 for the properties at 961 and 997 A1A, commonly known as the "Sperry" or "Suni Sands" property.

Mayor Kuretski reviewed the Town Code regarding meeting decorum. He also mentioned the meeting was to consider an appeal of the decision made by the Historic Resources Board (HRB) pertaining to an application for a Certificate to Dig (CTD). He also stated there would be no public comment because all the comments were taken at previous HRB proceedings.

Mayor Kuretski stated the history of the Suni Sands property was dated back 6,000 years and was important to the Town. He mentioned the Town took great pride in its history and heritage and recognized Florida Law required a balance of preservation of sites with the rights of property owners to develop their properties. He continued that the actions made tonight did not approve any development but an action to preserve two sites listed on the Florida Master Site File in the conditions of the rest of the property to protect any resources that might be unearthed if the property owner chose to develop the property in the future. The first level of protection would be in the decision to protect and preserve the two sites on the property in their entirety. The second level of protection would be to issue the CTD for the remaining portions of the property which would establish conditions that must be met by the property owners at the time they elect to proceed with any development. The requirements included notification of work that would disturb the site, monitoring of the work, stopping of the work when necessary, and documentation of findings. The conditions would apply to any current and future owners of the property.

Mayor Kuretski stated pursuant to Florida Statute, all activities must stop if any human remains were found and the Town, relevant agencies, the Seminole Tribe of Florida, and the State Division of Historical Resources must be notified and provide approval before any work could continue. If artifacts were discovered on the property, they must be documented and a copy of the documents of findings must be provided to the Town. He mentioned the Town could require the artifacts recovered to be donated or loaned to the Loxahatchee River Historical Society or the recognized Historical or Archeological Organization. After the issuance of the CTD, if any property owners elect to develop the property they must go through the normal development application process at the Town. The process includes a review by Town Staff, the Planning and Zoning Commission, and then the consideration by Town Council.

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Mayor Kuretski reviewed the last meeting where the Council heard arguments made by the Applicant, from Staff, and rebuttal from the Applicant. Council then moved into questions and deliberation to voice their opinion on the matter. Mayor Kuretski stated a motion was made framing a CTD that a majority of Council approved.

Mr. Thomas Baird, Town Attorney, noted pursuant to Council’s direction he prepared a CTD to preserve the 4.07-acre Shell Midden, Celestial Railroad, and Celestial Railroad Northern Terminus at the Inlet. The balance of the property is protected by conditions to the CTD. He explained that in condition four instead of 10 feet wide it should be 9.56 feet wide. He advised Council that no other changes were made and the document was presented to Council and Residents via the Towns website.

Mayor Kuretski agreed with the modifications.

Councilor Delaney noted by approving the CTD the Town will be placing the 4.07-acre Midden and Celestial Railroad track in to preserve in accordance with the Town’s Comprehensive Plan. He mentioned that the CTD did not mean that shovels would break ground tomorrow and any application would go through the normal stringent process. He said he had read 100’s of emails from residents and agreed with their sentiment. However, by action on HRB’s recommendation to preserve all 10 acres was a risky proposition for the Town and would likely result in litigation. He stated the Town would lose control of future development of Suni Sands. He mentioned he wasn’t willing to take that chance.

Councilor Sundstrom said she believed every elected official had an obligation to go into detail and deliberate on the record. She noted her reasoning for her vote was due to her concerns with the vote being overturned if she went with the HRB’s decision or public opinion without having a clearly legal and factual basis. She discussed Moroso Raceway and the ground swell of public support for position; the County voting for that position; and the prompt reversal by the Magistrate. She discussed how Council could not vote on a full denial, due to it not having a legal and factual basis and could be overturned. She stated Code Section 27.2443 directed the HRB shall issue a certificate to dig which was legal language making it mandatory. She noted the numerous times the HRB’s Attorney and Staff mentioned the Code section.

Councilor Sundstrom went on to reviewed the last five minutes of the Staff’s presentation for the HRB justification for denial which included public comment giving by the Seminole Tribe, the American Indian Movement, and the former Mayor Golonka. She noted the Town did not own the property and was not in complete control. She stated characterizing the HRB’s decision as an open and shut case was not accurate and was irresponsible.

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Vice-Mayor Schneider stated it was supposed to be a limited hearing focused on whether or not there was sufficient evidence in the record to support HRB’s decision to designate all t10 acres of the Suni Sands parcel as archeological and historically significant, thereby protecting it from future development. She said it was unusual for Council to hear an appeal of this nature with such a narrow focus. She noted for typical items Council had a broad discretion under the Town Code to determine any factor a Councilmember deems important. She stated in this case, Council was not bound by the information or options presented to it. She continued that this proceeding had turned from a limited appeal where the majority of the Council had substituted their own judgement and substitute evaluation of the evidence for the expert opinions of the HRB and the Town’s archeological consultant. She felt the majority disregarded a mountain of evidence that protected the registered and unknown sites on Suni Sands. If the hearing had been conducted as it was advertised Council would only consider what was within the scope of the HRB’s authority under the Town’s Code. If the HRB did not have the authority to consider it in the first place, then Council should not have introduced it on appeal and should not have relied on it to reach a determination in the hearing. Vice-Mayor stated the majority of Council seemed to believe the HRB had made an error because in their view there was not sufficient evidence in the record to support protecting the six acres. She asked what had changed since the Town Attorney, after guiding all of the hearings, preparing all the HRB orders and deemed it to be legally sufficient. The majority of Council only want to protect the registered sites, even though the HRB had the authority to protect previously unknown areas as well. The majority disregarded the testimony of the Native Americans explaining the cultural and historically significant of the other acres. She asked why those acres were deemed less than the areas surrounding the Celestial Railroad.

Vice-Mayor Schneider stated there was no analysis of how the HRB could make a reversible error and said she did not understand how the majority of Council could not appreciate the implications of removing the six acres from the protection of the archaeological and historic significance designation. She explained by removing the designation from that portion of the property, the acres would be treated as regular residential/commercial property subject to development, the acres would be subject to the Town’s waiver and special exceptions processes and other rules, and the shoreline adjacent to the unprotected property would be subject to development and harm the sea grass beds and marine life in that estuary. She mentioned that would be contrary to the strategic initiative to protect and foster seagrass growth. Vice Mayor Schneider noted that she supported the findings of the HRB.

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Councilor May agreed with Vice-Mayor Schneider. He added that growing up in Jupiter he had seen the Town being built out and would like to preserve the areas that were left. He explained that digging on any area around what was already been deemed historic, would be disrespectful of the Native American ancestors. Councilor May said he would like to proceed with the opportunity to purchase the area to preserve it as an educational site and then thanked Vice-Mayor Schneider for her comments. He said he supported the findings of the HRB and experts.

Councilor Sundstrom motion to approve the Certificate to Dig No. 2-23 for the properties at 961 and 997 A1A, commonly known as the “Sperry” or “Suni Sands” property; seconded by Councilor Delaney; motion passed.

Kuretski
Yes

Schneider
No

Delaney
Yes

May
No

Sundstrom
Yes

REPORTS

TOWN ATTORNEY-NONE

TOWN MANAGER-NONE

TOWN COUNCIL – LIAISON REPORTS AND COMMENTS-NONE

ADJOURNMENT- 6:27 P.M.

Laura Cahill, Town Clerk