

TOWN COMMUNICATION WITH MS. CZIRAKY AND MR. JENNISON REGARDING PENDING ORDINANCE

CHANGE: First Reading of an Ordinance to Amend the Ocean View Code, Chapter 169, Property Maintenance, Article 1, Grasses, Weeds, and Other Vegetative Growth, Regarding Trees, Shrubs, and Other Vegetative Growth within the Town's Easements or Rights of Way. Synopsis: Town Council is being asked to amend Chapter 169.

From: Schrader, Dennis L. <DSchrader@morrisjames.com>

Sent: Saturday, October 16, 2021 10:52 AM

To: Elaine Cziraky <elaine.cziraky@outlook.com>; Kenneth Cimino <kcimino@oceanviewde.gov>

Cc: Donald Walsh <dwalsh@oceanviewde.gov>; John Reddington <jreddington@oceanviewde.gov>;

Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly

<TMaly@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>;

susan.canfora@coastalpoint.com; Donna Schwartz <dschwartz@oceanviewde.gov>;

jessica.watson@sussexconservation.org; jane.johnson@coastalpoint.com

Subject: RE: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Good morning, Ms. Cziracky –

I believe here is a misunderstanding that can be easily resolved if you would allow me to speak with your attorney.

Please have him/her contact me to discuss the topic.

From: Elaine Cziraky <elaine.cziraky@outlook.com>

Sent: Friday, October 15, 2021 5:16 PM

To: Kenneth Cimino <kcimino@oceanviewde.gov>

Cc: Donald Walsh <dwalsh@oceanviewde.gov>; John Reddington <jreddington@oceanviewde.gov>;

Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly

<TMaly@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>;

susan.canfora@coastalpoint.com; dschrader@morrisjames.com; Donna Schwartz

<dschwartz@oceanviewde.gov>; jessica.watson@sussexconservation.org;

jane.johnson@coastalpoint.com

Subject: Re: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Mr. Cimino,

Since you are not fully addressing all of my comments, please do not communicate directly with me on this issue any longer. I am referring this over to my legal council.

From: Kenneth Cimino <kcimino@oceanviewde.gov>

Sent: Friday, October 15, 2021 11:51 AM

To: Elaine Cziraky <elaine.cziraky@outlook.com>

Cc: Donald Walsh <dwalsh@oceanviewde.gov>; John Reddington <jreddington@oceanviewde.gov>;

Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly

<TMaly@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>;

susan.canfora@coastalpoint.com; dschrader@morrisjames.com; Donna Schwartz

<dschwartz@oceanviewde.gov>; jessica.watson@sussexconservation.org;

jane.johnson@coastalpoint.com

Subject: RE: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Ms. Czirzky,

The 10 foot easement is on the parcel that you own. Therefore, it is your property and should be maintained by you.

Again, the reserved dedication of the drainage easement on your parcel gives the entity that the easement was reserved for the ability to enter the property if it deems necessary for maintenance. Please note that the easement is inside of your property line and encompasses 10 feet around the perimeter of the parcel.

The plan note would not indicate that you are responsible as the easement is on the parcel. As the owner of this parcel of land, it would be the responsibility of the owner to maintain all land within the boundary of the parcel. See attached note and notice that the easement is inside the property line.

I hope this clears this up for you.

Regards,

Kenneth L. Cimino

Town of Ocean View
Director of Planning, Zoning & Development
201 Central Ave. – 2nd Floor
Ocean View, DE 19970
Office: 302-539-1208 ext. 113
Cell: 443-567-3061

From: Elaine Cziraky <elaine.cziraky@outlook.com>

Sent: Friday, October 15, 2021 10:38 AM

To: Kenneth Cimino <kcimino@oceanviewde.gov>

Cc: Donald Walsh <dwalsh@oceanviewde.gov>; John Reddington <jreddington@oceanviewde.gov>; Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly <TMaly@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>; susan.canfora@coastalpoint.com; dschrader@morrisjames.com; Donna Schwartz <dschwartz@oceanviewde.gov>; jessica.watson@sussexconservation.org; jane.johnson@coastalpoint.com

Subject: Re: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Mr. Cimino,

I am already aware of the documents you provided. In the easement plat for Ocean Way Estates phase IV item #2 indicates that the homeowner should not obstruct the easement with plantings, fencing or irrigation (which I have not done). It requires the homeowner to keep the easement free and clear for maintenance to be performed. It does NOT indicate that I am responsible for maintenance (especially given the fact that I have not planted anything in the easement).

The proposed amendment appears to be a blanket statement without taking into consideration other agreements.

If the Town provided more open forms of communication at its Town Council meetings, it could avoid confusion.

On Oct 15, 2021, at 10:07 AM, Kenneth Cimino <kcimino@oceanviewde.gov> wrote:

Good morning Ms. Cziraky,

Thank you for acknowledging our response on Tuesday, October 12th prior to the regular meeting of Mayor and Council.

Upon a full review of your inquiry, please see our responses below in red font.

Regards,

Kenneth L. Cimino

Town of Ocean View
Director of Planning, Zoning & Development
201 Central Ave. – 2nd Floor
Ocean View, DE 19970
Office: 302-539-1208 ext. 113
Cell: 443-567-3061

From: Elaine Cziraky <elaine.cziraky@outlook.com>

Sent: Wednesday, October 13, 2021 7:43 PM

To: Kenneth Cimino <kcimino@oceanviewde.gov>; Donald Walsh <dwalsh@oceanviewde.gov>; John Reddington <jreddington@oceanviewde.gov>; Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly <TMaly@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>

Cc: susan.canfora@coastalpoint.com; dschrader@morrisjames.com; Donna Schwartz <dschwartz@oceanviewde.gov>

Subject: RE: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

I forgot to ask in my previous email... do you have a copy of the deed of easement which defines the agreement and maintenance responsibilities for the easements on Ogre Drive?

There is no deed of dedication it is a reserved dedication on the record plan, note 14 and note 15 (see attached record plan). The easement is also noted on each as-built survey for the individual lots (see attached as-built for reference).

Sent from [Mail](#) for Windows

From: [Elaine Cziraky](#)

Sent: Wednesday, October 13, 2021 11:53 AM

To: [Kenneth Cimino](#); [Donald Walsh](#); [John Reddington](#); [Bruce White](#); [Frank Twardzik](#); [Tom Maly](#); [Carol Houck](#)

Cc: susan.canfora@coastalpoint.com; dschrader@morrisjames.com; [Donna Schwartz](#)

Subject: RE: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Good morning,

Thank you for your response.

In reviewing your answers to my questions (from your email dated October 12th, 2021) and in listening to the Town Council meeting from October 12th, 2021 there appears to be some misunderstanding on the Town's part regarding my questions. In addition, the Town did not address all of my questions.

Yes, we appreciate your attempt to clarify what you are seeking.

Let me try to provide additional context for the record.

Recently, there were trees removed along a drainage ditch adjacent to South Horseshoe Drive in the Country Village Community. Funding for this work was covered in the FY 22 Capital Improvement Budget.

This was an advanced clearing project that is part of a larger drainage improvement project in two communities. It is funded through our Capital Improvement Program.

Assuming the proposed amendment to OV code for property maintenance (Chapter 169, Article 1) is approved, who will be responsible for paying for such tree removal in the future? Will this expense continue to be paid for by the Town or will it be the responsibility of the residents and or HOA to fund such tree removal?

This is an expenditure that is paid for out of the operating budget. Depending on where and what the trees are being trimmed or removed for, the line item for street maintenance or drainage improvements would be utilized. No costs will be passed on to the property owner unless shrubs, trees or landscaping placed in the right of way or drainage easement without prior approval from the Town of Ocean View is impeding the conveyance of water.

In addition to the above, there are several easements/bioswales along Ogre Drive in the Ocean Way Estates community (phase IV) which serve as a point of water conveyance as seen in the attached Storm Water management plan for Ocean Way Estates phase IV.

Again, there is a 10 foot drainage easement around the perimeter of each individual lot in Ocean Way Estates. These are the only drainage easements that the town has.

In speaking with Jessica Watson of the Sussex Conservation District (SCD), since these easements/bioswales are a point of water conveyance **any** revisions to these easements require approval from the SCD.

Cleaning and maintaining a drainage swale or drainage easement to ensure positive drainage **is not a revision** to the swale or easement. For the easements that the Town of Ocean View has a reserved dedication there is not a need for the Town to seek permission from SCD to maintain these easements. We do however communicate with the Conservation District on a regular basis.

Assuming the proposed amendment to OV code for property maintenance (Chapter 169, Article 1) is approved, who will be responsible for maintenance to these easements/bioswales?

Any swale or drainage feature within the town right of way is the responsibility of the Town to maintain. If it is in the right of way it is Town property. Any swale on private property, even if it is within a drainage easement is the responsibility of the property owner to maintain. The drainage easement allows for the Town and/or it's contractor to enter the property to complete maintenance of the swale if the Town deems necessary. Again, with this change to Chapter 169, Article 1, **it is not** the intent of the Town to shift financial burden to the property owner.

From: Kenneth Cimino <kcimino@oceanviewde.gov>

Sent: Tuesday, October 12, 2021 2:58 PM

To: Elaine Cziraky <elaine.cziraky@outlook.com>; Donald Walsh <dwalsh@oceanviewde.gov>; John Reddington <jreddington@oceanviewde.gov>; Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly <TMaly@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>

Cc: susan.canfora@coastalpoint.com; dschrader@morrisjames.com; Donna Schwartz <dschwartz@oceanviewde.gov>

Subject: RE: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Good afternoon,

Attached are our responses in red font. Your letter will be read into the record at the meeting tonight by the Town Solicitor at which time he may respond to your inquiry.

The meeting will be broadcast on YouTube (see attached agenda with link). Questions and comments will be taken by email at comment@oceanviewde.gov.

From: Kenneth Cimino <kcimino@oceanviewde.gov>

Sent: Friday, October 8, 2021 8:12 AM

To: Dick Jennison <jennisonra@yahoo.com>; John Reddington <jreddington@oceanviewde.gov>; Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly <TMaly@oceanviewde.gov>; Donald Walsh <dwalsh@oceanviewde.gov>

Cc: Carol Houck <chouck@oceanviewde.gov>; dschrader@morrisjames.com

Subject: RE: Opposition to proposed ordinance to Amend the Ocean View Code, Chapter 169, Property Maintenance, Article 1

Mr. Jennison,

Thank you for your comments.

Your comments will be made part of the record.

Regards,

Kenneth L. Cimino

Town of Ocean View
Director of Planning, Zoning & Development
201 Central Ave. – 2nd Floor
Ocean View, DE 19970
Office: 302-539-1208 ext. 113
Cell: 443-567-3061

From: Dick Jennison <jennisonra@yahoo.com>

Sent: Friday, October 8, 2021 8:10 AM

To: John Reddington <jreddington@oceanviewde.gov>; Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly <TMaly@oceanviewde.gov>; Donald Walsh <dwalsh@oceanviewde.gov>

Cc: Kenneth Cimino <kcimino@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>

Subject: Opposition to proposed ordinance to Amend the Ocean View Code, Chapter 169, Property Maintenance, Article 1

To Whom It May Concern,

I am writing to convey my opposition to the Town's proposed ordinance to Amend the Ocean View Code, Chapter 169, Property Maintenance, Article 1 to be read at the upcoming October 12, 2021 public hearing! As written, the amended ordinance lacks transparency and appears to unfairly shift a core financial responsibility of the Town directly onto residents.

Regards,

Dick Jennison

From: Kenneth Cimino <kcimino@oceanviewde.gov>

Sent: Wednesday, October 6, 2021 8:32 AM

To: Elaine Cziraky <elaine.cziraky@outlook.com>; Donald Walsh <dwalsh@oceanviewde.gov>; John Reddington <jreddington@oceanviewde.gov>; Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly <TMaly@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>

Cc: susan.canfora@coastalpoint.com

Subject: RE: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Good morning,

Thank you for your inquiry.

I'll respond to your questions prior to the next meeting with Mayor and Council scheduled for October 12, 2021.

Regards,

Kenneth L. Cimino

Town of Ocean View
Director of Planning, Zoning & Development
201 Central Ave. – 2nd Floor
Ocean View, DE 19970
Office: 302-539-1208 ext. 113
Cell: 443-567-3061

From: Elaine Cziraky <elaine.cziraky@outlook.com>

Sent: Tuesday, October 5, 2021 7:47 PM

To: Donald Walsh <dwalsh@oceanviewde.gov>; John Reddington <jreddington@oceanviewde.gov>; Bruce White <BWhite@oceanviewde.gov>; Frank Twardzik <FTwardzik@oceanviewde.gov>; Tom Maly <TMaly@oceanviewde.gov>; Carol Houck <chouck@oceanviewde.gov>; Kenneth Cimino <kcimino@oceanviewde.gov>

Cc: susan.canfora@coastalpoint.com

Subject: FW: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Resending to include Don Walsh and remove Berton Reynolds...

Sent from [Mail](#) for Windows

From: [Elaine Cziraky](#)

Sent: Tuesday, October 5, 2021 7:43 PM

To: [John Reddington](#); [Bruce White](#); [Frank Twardzik](#); [Tom Maly](#); [Berton Reynolds](#); chouck@oceanviewde.com; [Kenneth Cimino](#)

Cc: susan.canfora@coastalpoint.com

Subject: Inquiry regarding Pending Ordinance, Chapter 169, Property Maintenance, Article 1

Good evening,

Please review attached letter of inquiry concerning Pending Ordinance, Chapter 169, Property Maintenance, Article 1.

Kindly provide feedback prior to the public hearing on Tuesday, October 12, 2021.

Sincerely,
Elaine Cziraky
