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Town Clerk Department
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Longboat Key, FL 34228

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TOWN OF LONGBOAT KEY

WORKSHOP AGENDA

JANUARY 17, 1989

1:00 P.M.

I. Items for the Consideration of the Town Commission:

1. 1:00 P.M. Beach Restoration - Attorney.
2. 1:10 P.M. New Pass Dredging.
3. 1:15 P.M. Proposed Ordinance 88-23, Storer Cable TV Franchise.
4. 1:30 P.M. Proposed Ordinance Regarding Navigation of Watercraft.
5. 1:35 P.M. Proposed Ordinance 88-33, Amending Chapter 37 Finance and Taxation.
6. 1:40 P.M. The Reserve, 1620 Gulf of Mexico Drive, Site Restoration.
7. 1:50 P.M. Discussion Award Bid Ambulance Chassis.
8. 1:55 P.M. Commission questions to Town Attorney, who will then be excused from the remaining portion of the meeting.
9. 2:00 P.M. Proposed Dedication of Lot #12, Bailey/Dobson Subdivision.
10. 2:05 P.M. Proposed Dedication of a Portion of Emerald Harbor Drive, Parcel "A".
11. 2:10 P.M. Sanctuary, Amended Site Plan.
12. 2:20 P.M. Clearing and Use of Town Owned Properties.
13. 2:30 P.M. Review of Ordinance 86-7 - Fire Code.

minutes entered

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14. 2:50 P.M. Police Department Manual,
Proposed Amendments to the Rules and
Regulations.

15. 3:50 P.M. Citizens Attitude Survey.

16. 4:15 P.M. Sandhamn, The Centre
Shopping Center, 5300 and 5400 Block,
Gulf of Mexico Drive.

II. Town Commission Comments

III. Town Manager Comments

IV. Public to be Heard

V. Press to be Heard

MINUTES OF THE REGULAR WORKSHOP OF THE LONGBOAT KEY TOWN COMMISSION,
JANUARY 17, 1989, 1:00 P.M.

Present: Mayor Pollock, Vice-Mayor Brown, Commissioners Fernald,
Stewart, Loiselle, Gally, Wurzburg

Also Town Manager Cox, Town Attorney Christiansen, Planning
Present: Director Brady, Police Chief McCammon, Purchasing Director
Drace, Special Services Representative Lovett, Town Clerk
Arends, Deputy Clerk Hall

I. Items for the Consideration of the Town Commission:

1. Beach Restoration - Attorney.

Karyn Erickson, ATM, stated the Commission had requested James
Humphrey, of Humphrey, Jones & Myers Law Firm, Ft. Myers, to meet
with the Commission. She said he was a highly recognized coastal
expert, and was recommended by ATM to work on the beach nourishment
project for Longboat Key.

Attorney James Humphrey stated he had presented the Commission with
background information. He said his firm had experience with beach
nourishment programs; he was County Attorney for Lee County from
1974-1978; special counsel for the Flood Insurance Program for other
coastal projects conducted by Lee County; presently counsel for the
City of Sanibel Island; presently General Counsel for the Lee County
Tax Collector and County Elections Supervisor. He said his
administrative staff included a planner. He said his firm had worked
with Captiva Island, were counsel to the Captiva Civic Association,
and for the South Seas Plantation project on the assessment program.

Mr. Humphrey stated his hourly rate would be \$130, and for his
associates \$80. He said his firm had reviewed the budget in the ATM
contract and felt costs could stay within the amounts included in
the proposal: \$14,500 plus approximately \$3,000 for non-legal
expenses for a total of \$17,500. Further, the firm would not charge
for the full time involved in traveling to and from Ft. Myers. He
said monthly statements could be furnished.

This item was forwarded to the 1-17-89 special meeting agenda.

2. New Pass Dredging.

Town Manager Cox stated the Town was offered a donation of \$1,000
from the Inn on the Beach Association for the purpose of conducting
a coastal engineering study to determine what steps might be taken
in order to have the dredged material from New Pass pumped back to
Longboat Key. He said the Town had exhausted efforts on a local
level, and he had asked the Town Attorney to discuss the situation
with Karyn Erickson.

Mr. Christiansen stated he had talked with Ms. Erickson, who was
investigating the issue. Ms. Erickson stated she had prepared a
letter to the Town Attorney summarizing ATM's findings. She said
they had reviewed the files of the Corps of Engineers, DNR, DER,
City of Sarasota, Sarasota County and property owners. However, she
said, she felt the Town should adopt a position of opposition to the

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dredging project as planned. She said because New Pass was commissioned as a navigation inlet it was a Federal matter, and the Town had no direct control over the dredging project. There were several issues concerning mitigation which included: 1) sand placement on the beach; 2) construction of a terminal groin to protect and tow in the fill along the beach to the north; or 3) hardening with construction of seawalls and bulkheads. She said it was the Town's responsibility to document for the Corps the projected impacts and subsequent real property damage anticipated as a result of the dredging activity. She recommended ATM continue their efforts and prepare a document summarizing the historical dredging activity, including dredge volumes, placement, increase in erosion rates subsequent to 1979, and also use previously noted impact and physical damage to adjacent shoreline properties as documented by a number of owners in the vicinity of New Pass. This document would be presented to the Corps of Engineers. Further, ATM would meet with DNR staff to discuss the dredging plan and the anticipated impacts.

Commissioner Fernald asked if there was a chance of holding an administrative hearing. Ms. Erickson stated that was normally a course of action when the Town was notified of an impending dredging prior to the permits. She said there was a 10-year permit issued in 1986, and she believed it was too late to hold the hearing. Mr. Christiansen stated the Town was presently documenting its position to assure that the State was adhering to the requirements of law to mitigate the negative effects of the project. Ms. Erickson stated the Town should substantiate and document the impact, because the fill on the south end could not be removed without having some impact on the profile landward of the cut. She said this was where the Corps was proposing a "settling basin" which was not a normal sedimentation basin.

Commissioner Stewart stated there was a general southward drift, and asked if there was any evidence in Corps files to show that the normal drift was accelerated by dredging the Pass. Ms. Erickson stated this was the intent of the forms ATM wished to prepare for the Town. She said the information needed to be carefully and thoroughly reviewed to substantiate the degree of impact the Town was addressing. Commissioner Stewart stated the Corps had stated they were not harming Longboat Key, and before the Town paid for aerial photos, etc., there should be some information that cutting the Pass was accelerating the normal southward drift. Ms. Erickson stated that was her proposal. She said the data had indicated the erosion rates were increased with the injection of sand in 1981 and 1982 on the south beach.

There was consensus to forward this item to the 1-17-89 special meeting agenda.

Commissioner Loiselle asked if additional cost would be paid by the Town for deviation in the plan already approved by the Corps of Engineers. Ms. Erickson stated one of the issues was a permit which allowed the Corps to deposit material on one of three sites, one being Longboat Key.

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Tim Boudreau, representing Inn on the Beach Association, stated the Association planned to poll other condominium associations in the area for financial assistance for the Town to continue its argument with the Corps. He said the Association felt their property and property values would be in jeopardy as a result of the dredging. The Association spent \$2,500 in 1987 to hire Rob Patton, coastal consultant, to conduct a study of the erosion in that area. He suggested this information would be helpful to Ms. Erickson.

Commissioner Fernald said Ms. Erickson's investigative work concerning the dredging would involve a special cost. She asked if it was the Town's policy to accept money from organizations to place in a special fund. Mr. Christiansen advised the Town could receive the money for a particular purpose.

3. Proposed Ordinance 88-23, Storer Cable TV Franchise.

Mr. Christiansen referred to Draft 6 of Ord. 88-23. He said he had set the term of the franchise with Storer at 5 years with an automatic conditional renewal of 10 years. There were two conditions for the renewal: 1) that Storer was not in default at the time of renewal at the end of 5 years, and 2) that the Town received a statement from an engineer certifying that the requirement for the system upgrade, as set forth in Sec. 12, had been completed, and also performance tested. He said if Storer complied with the conditions, there would be an automatic 10-year renewal for a total franchise of 15 years. Further, the Commission could reduce that period to 10 years.

Commissioner Gally asked if Mr. Christiansen had discussed the term with Storer. Mr. Christiansen stated while he had discussed the issue, Storer was not happy with the 5-year term and conditional 10 years, as opposed to a full 15-year term. Commissioner Stewart stated the material given to the Commission several months ago regarding cable TV law suggested such a procedure, and he felt it was a good idea to follow general procedures. He said he believed previous Commission discussions indicated a 10-year franchise, which was an option stated by the Town Attorney. Commissioner Loiselle stated he would support Draft 6 of the ordinance. Commissioner Stewart stated the TV law material pointed out it may be unwise for a municipality to offer a long term franchise due to new technology. Mr. Christiansen stated in Sec. 12(a), a specific upgrade was required. He said if Storer upgraded the system and it was installed within 5 years, the Commission would not have the right to renegotiate the franchise, as Storer would automatically receive an additional 10 years. He said if Storer had new technology available in 7 years, the Town could not demand installation until the end of the franchise term.

Commissioner Fernald stated this franchise was not binding with Storer, and the Town could negotiate with another company. Commissioner Gally asked if there could be a renewal condition after 10 years. Mr. Christiansen replied he believed it would be difficult to place that condition in the agreement. Commissioner Wurzburg stated he supported the current draft, but if there was new

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technology that Storer did not install, the Town should have an option to cancel at the end of ten years.

Vice-Mayor Brown stated he supported the current draft of the ordinance. Commissioner Stewart stated he did not understand why the Town could not have a franchise with a renewal at the end of 5 and 10 years.

Rod Dagenais, Storer Cable, stated the Commission had hired a consultant to review the franchise agreement, and he believed the Town Attorney had incorporated most of the consultant's comments in the franchise. He said the consultant had discouraged a successive 15-year franchise. Further, the Town had protection in Sec. 20, Paragraph 4, and in Sec. 12. Mr. Christiansen stated 15 years was included in the agreement. Mr. Dagenais stated Storer felt it was a 5-year franchise, which meant 2 years from this date he would again be negotiating with the Commission. Mr. Christiansen stated he did not agree with that interpretation. He said there was an automatic conditional 10-year renewal. He stated "Renewal of Franchise" in Sec. 2 referred to 5 years with an automatic conditional 10 years; however, the word "again" was inserted before "renew the franchise".

Mr. Dagenais referred to Page 4, regarding an independent audit, and stated he had thought this was resolved by Storer making their books available to the Town, therefore, reference to an independent audit should be deleted. Mr. Christiansen stated the Commission had decided to leave the word "independent" in the ordinance, but if the Commission now wished to make the change, it could be deleted from the agreement. Commissioner Stewart stated he agreed with the Town Attorney, as the Commission took the position Storer's auditor took certain certificates within the firm and spot checked several cities. He said the Town was asking that Storer's auditor get a stamp from their independent auditor, which should not involve a cost. Mr. Dagenais stated the books were audited, but to perform an audit specifically for Longboat Key would be costly. Mr. Sullivan stated he had offered the information in the agreement originally, and he felt the staff were not experts in the cable field, and it would be costly for the Town. He felt since Storer had an annual audit, their independent auditor could document that the Town had received a correct amount from Storer. Mr. Dagenais stated Storer would provide the necessary information to the Town. Commissioner Fernald asked if Storer's audit would be sufficient information for the Town. Mr. Sullivan asked if CPA's reviewed books for Storer. Mr. Dagenais stated Storer did have CPA's review the books, but to have an outside CPA review records only for Longboat Key would be costly. Mr. Christiansen stated the Town was requesting that after Storer's independent auditors had completed their usual audit, that they submit a statement showing the Town had received whatever amount was due. He said the agreement stated "after completion of the Grantee's annual independent audit."

Mr. Christiansen stated the word "change" was replaced with "charge" on Page 4. He said in Sec. D, Page 5, "may be provided" was changed to "shall be scheduled by Grantee". On Page 10, in Sec. 6, there was rewording regarding use of overhead facilities "for more than six

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months", and "or that no aesthetic purpose would result from requiring underground installation" was added to the paragraph. Commissioner Stewart stated he raised this issue due to precedent and fairness. He said there was a stalemate in Country Club Shores where FP&L wished to install new wires, and the Town had stopped the replacement. Mr. Cox stated it was not the fact the company could not replace on a renewal basis one on one, but if they tried to upgrade the system, then it would have to be underground.

Mr. Christiansen stated on Page 19 there was language that allowed the Town, at the end of the initial 5-year period, to purchase the system. Mr. Dagenais stated Storer was somewhat in disagreement with the purchase procedures. He said the agreement at the last meeting was Storer and the Town would each hire an arbitrator to determine a fair price; if the two arbitrators could not come to terms, then the Town would hire the third arbitrator. He felt this was unfair and had proposed the Town and Storer mutually agree on a third arbitrator. Commissioner Stewart commented if the way in which it was stated in Draft 6 was used in other states, this should not be changed.

Mr. Christiansen stated (H) Grantor Expenses, Page 20, was added to the agreement to require that Storer would pay all reasonable consultant fees and attorney fees incurred by preparation of this ordinance.

This item was forwarded for second reading at the Regular Meeting of 2-6-89.

The Mayor called a recess at 2:15 P.M. and the workshop reconvened at 2:20 P.M.

4. Proposed Ordinance Regarding Navigation of Watercraft.

Mr. Cox stated this ordinance prohibited the operation or navigation of watercraft in certain areas. Staff had asked the Florida Marine Patrol for additional assistance.

Commissioner Stewart stated he believed the Commission asked the Town Attorney to change the draft ordinance to include language such as "all motor watercraft". Mr. Christiansen stated if there was a watercraft that presented a special problem, then the Town had a right to regulate that vehicle based upon that special problem. He said the problem was the Town was discussing different regulation for jet skis than for boats. Further, to the extent the Town could show the jet skis caused an additional problem, they could be regulated differently from boats, but if the Town could not show that difference, then he found difficulty sustaining an ordinance which regulated jet skis more than boats.

Commissioner Fernald referred to Sec. 93.9(B), which stated "the Chief of Police is hereby authorized to designate areas describing water activities that may be conducted therein, and reasonable regulations for the conduct thereof, the Chief of Police may, in the interest of safety, prohibit boats and other watercraft from operating within the designated areas". She asked the Commission to

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direct the Police Chief to investigate any businesses that rent the jet skis. Chief McCammon stated there were no provisions in the Code to prohibit the rental of the craft. Commissioner Fernald stated he could point out to the owners the regulations for jet skis in the area. Chief McCammon stated this was a proposed ordinance, compiled from ordinances from several other communities, which stated what he wished to include in the Code. He agreed with the Town Attorney concerning regulating all watercraft to prevent any legal conflicts.

Mayor Pollock stated there was a problem with the enforcement. Chief McCammon stated enforcement would continue to be a problem when the Town was trying to regulate "watercraft" with land-based police officers.

Joseph Mennen, 3240 Gulf of Mexico Drive, member of Sarasota Power Squadron, stated he agreed with the Police Chief.

Mayor Pollock asked if there were legal implications if "no wake" signs were installed. Chief McCammon indicated there were many signs on hand which could be installed, however, there was no ordinance to back up enforcement.

Commissioner Wurzburg proposed enforcement of "no wake" was particularly needed in the Perimeter Channel. He suggested people living on the Channel could assist in reporting registration numbers of those in violation, so that a warning letter could be sent.

Mel Levi, 5555 Gulf of Mexico Drive, said he was particularly concerned with a danger posed to swimmers from speeding power boats coming too close to shore. He suggested warning notifications be sent to any agencies renting watercraft.

Robert Dreher, 791 Emerald Harbor Drive, stated he believed jet skis were destructive to seawalls, therefore, speed limits should be set for bayous and canals.

Chief McCammon stated he thought the problem may be more perceived than actual, based on statistics in his department.

Commissioner Stewart proposed some citations be issued to get the word out that Longboat Key was watching this situation. He said he had talked with the Chief regarding the possibility of monitoring speed with radar. He said the first step would be to set speed limits and to try several ways to control the situation without getting into a big program. Chief McCammon said he disagreed with the use of radar, and the only person to be legally cited was the operator, not the owner, of watercraft. Mr. Christiansen said speed limits were addressed in the Code and another provision covered reckless operation.

Chief McCammon said he had discussed the possibility of using a Marine Patrol boat and their off-duty officers from time to time.

It was agreed to table this item without further action at this time.

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5. Proposed Ordinance 88-33, Amending Chapter 37 Finance and Taxation.

Finance Director Sullivan indicated this ordinance was drafted because of changes in State law which reduced the percentage of taxes collected from insurance companies for fire and police pension funds. He said property values had increased enough to bring in sufficient revenue. Mr. Christiansen advised that the State levied and collected this tax and rebated a part to municipalities for their fire and police pension funds.

Ord. 88-33 was forwarded for first reading at the Regular Meeting of 2-6-89.

6. The Reserve, 1620 Gulf of Mexico Drive, Site Restoration.

Mr. Cox stated the Commission had directed staff to get a second legal opinion on this issue.

Mr. Christiansen stated the ordinance provided when someone wished to build a project, they were required to post a bond of insurance with the Town. This bond was used if the project was discontinued so that the site could be restored. He said since pilings were left on The Reserve site, Town staff had properly gone through the procedure to collect the money from the bonding company in the amount of \$157,000. However, he said, there was a question of potential liability if the Town removed the pilings from the property. He said Attorney Nancy Stroud had advised that the Town had passed a defensible ordinance; the Town had followed its ordinance, had completed all the procedures to collect the money, and could restore the site. However, he said, to avoid litigation the Commission may wish to notify the owners to attempt to rectify the situation. The concern of the Town was the aesthetics of the property.

Mayor Pollock asked if the pilings could be salvaged. Commissioner Gally stated he did not believe they could. Mr. Cox stated it was possible the pilings could be used for something other than pilings. Commissioner Fernald stated she was interested in the suggestion by Mr. Christiansen that the area be mounded up and covered. Mr. Christiansen stated he was not sure if that would be a feasible solution, but the Town should determine alternate solutions to the problem to present to Dr. Klauber for consideration.

Commissioner Loisel asked if Mr. Christiansen was suggesting the Commission table the bid to restore the property. Mr. Smally stated the contractor had indicated he was ready to begin removing the pilings. Mr. Cox referred to the Town Code regarding site restoration. Mr. Christiansen stated he felt the ordinance was an aesthetic ordinance, and saw no liability to a third party.

Commissioner Stewart stated it would be practical to set a time limit of 30 days to allow the banks and all parties involved to find a solution. Commissioner Fernald suggested the Commission allow 60 days.

There was consensus to extend the time period for 30 days for The

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Reserve.

7. Discussion - Award Bid Ambulance Chassis.

Purchasing Director Drace stated this specification was for a sole source purchase of an ambulance chassis. He said there were several factors for this purchase: 1) the Town could not purchase the chassis at a lower price than Aero Products offered, and 2) there was a major problem with the 15-year structural warranty applicable to this particular unit. He said the warranty continued only if Aero Products performed the work. He stated staff was requesting the Commission to allow Aero Products to conduct the change-out, and Aero would keep the current chassis as trade-in. The total amount of the transaction would be \$31,820.

This item was forwarded to the Special Meeting of 1-17-89.

8. Commission Questions to Town Attorney.Vroom Case

Commissioner Fernald questioned the status of the Vroom suit appeal to the Supreme Court and the probability of a hearing. Mr. Christiansen stated Vroom's attorney had filed a Statement of Jurisdiction which asked the Supreme Court to take jurisdiction over the case; the Town was required to file a response by the end of this month. He said he had talked with Nancy Stroud, who felt it was not probable the Supreme Court would accept the case.

5811 GMD.

Mr. Christiansen stated as part of the settlement in the 5811 GMD case, the plaintiff was required to deed to the Town a piece of property on the Bayside. He said he had received the deed and would record the document.

The Town Attorney left the meeting at this time.

The workshop recessed at 3:05 P.M. and reconvened at 3:20 P.M.

9. Proposed Dedication of Lot #12, Bailey/Dobson Subdivision.

Mr. Cox stated he had received a letter from Jerry Ansel, owner of Lot 12, Bailey/Dobson Subdivision, advising he wished to dedicate this parcel to the Town. He said the property was assessed by the County in 1987 at \$70,000, and the taxes on the property were \$1,200.40.

Commissioner Stewart stated it had been the policy of the Town Commission to not accept any restriction when accepting land. He said when Arvida had donated approximately 20 acres at the south end they wished to place certain restrictions on the land, but the only restriction the Town agreed to was the property would be used for Town purposes.

Mayor Pollock stated although this was a generous offer, he did not wish the Town to submit to any restrictions. Vice-Mayor Brown stated he had asked Mr. Cox for an opinion from the Town Attorney on whether an individual could donate property for a designated purpose. He said Mr. Christiansen advised the property could be

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donated "for any Town purpose". Commissioner Fernald stated previously the Inn on the Beach Association, as well as another entity, had donated money to the Town for a specific reason, and she felt this was similar. Commissioner Stewart stated the Town would be proceeding with the New Pass dredge study whether through taxpayers' money or donations.

This item was forwarded to the 2-6-89 Regular Meeting agenda.

Commissioner Fernald suggested the Commission send a letter to Mr. Ansel thanking him for the donation. Commissioner Stewart asked the Town Manager to ask Mr. Ansel if he would donate the property without restriction.

10. Proposed Dedication of a Portion of Emerald Harbor Drive, Parcel "A".

Mr. Cox stated Emerald Harbor Flotilla had requested the Town accept dedication of the dead-end portion of Emerald Harbor Drive. He said some time ago Emerald Harbor had donated a majority of their streets to the Town. Commissioner Wurzburg stated since the Town owned the other streets, this dead-end portion should also be dedicated to the Town.

Robert Dreher, 791 Emerald Harbor Drive, stated when the Town repaved the street in 1986, the Association paid for the paving. He said he did not believe the barrier at the end of this street would meet Town standards. Further, he felt the Town should accept this parcel and own all streets anyone traveled on to protect the public. He said there were some holes by the seawall, and if the Town required the Association to repair them, they would do so.

Mr. Cox stated he was concerned with improvements that existed as well as others which would be necessary. He said a seawall adjoining the property had fallen in the canal, and he was unsure of the condition of the existing seawall, and if the Town accepted the dedication, it would be accepting that liability.

Commissioner Loiselle felt the Town was only buying a liability if the property was accepted. Mr. Dreher stated if someone was hurt there, the Town would still be liable.

Mayor Pollock asked Mr. Cox's recommendation. Mr. Cox stated he would recommend to not accept the dedication. He said while the area in reference was barricaded, the Town could double barricade it. Mayor Pollock stated he would recommend placing the double barricade and installing danger signs.

Commissioner Gally asked why the parcel was not dedicated at the time other streets were offered to the Town. Mr. Cox stated the Association wished to maintain some privacy, and to control use of the seawall for fishing by outsiders.

Commissioner Stewart asked if the property conformed to Sec. 97.15 of the Town standards. Mr. Cox stated staff did not have that information at present, but a standard it did not meet was the

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cul-de-sac standard in the subdivision regulations.

The Commission instructed the Town Manager to discuss the issue with the Town Attorney for a legal opinion.

11. The Sanctuary - Amended Site Plan.

Mr. Brady stated Yale Properties had petitioned the Town to amend their site plan to add additional covered parking area over existing parking. He said the amendment would cover 51 existing paved parking surface areas. He said open space would remain at approximately 69% on the property. Commissioner Fernald asked what was being considered as open space. Mr. Brady stated it was located around the beach area. He said the total building coverage would increase from 13.0% to 15.95% representing an addition of 22,650 square feet. Further, high rise coverage increased from 12.2% to 14.9%. The project met all other provisions of the Town Code, and the Planning & Zoning Board recommended approval of the project.

Commissioner Stewart asked if this would still meet Code if the Town were not allowed to waive most requirements in a PUD. Mr. Brady stated the project met all the Code requirements. Commissioner Stewart stated this project did not meet, on ground coverage alone, what the Town required on other projects. Mr. Brady replied that was not how the Town Attorney was currently interpreting the language in the Code. Commissioner Stewart stated the Town had grounds to deny the amendment. He said the Planning & Zoning Board had been given the impression they could not deny the amendment because of those reasons. Mr. Brady stated his direction to the Planning & Zoning Board was if they wished to deny the amendment, they would have to find something in the performance standards of the Code on which to base denial on that section. He said he did not find a reason for denial in his review.

Commissioner Gally asked why the covered parking was not included in the original site plan. Mr. Brady stated when the plans were presented to the Town there was extensive covered parking. Staff had determined it would create larger buildings that could not meet the cone of vision requirements.

Commissioner Stewart stated the Town had interpreted the Code to be the 15% coverage; the fact the Town Attorney had given an opinion that this was not the correct interpretation did not mean the Commission could not enforce the 15% coverage. Mr. Cox stated once the Town Attorney had given a legal opinion, the Commission may be on "thin ice" if they gave the opposite interpretation. Commissioner Stewart stated he did not receive an opinion that said it could only be interpreted a certain way. He felt this should be clarified. Mr. Cox stated the Town Attorney had advised that the Commission was acting under the rule that the developer would be allowed a total of 30% ground coverage.

Commissioner Fernald asked if the developer had considered placing additional parking underneath the buildings. Mr. Brady stated it was in the developer's interest to place as many spaces as possible under the buildings.

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Harvey Abel, attorney representing the developer, stated it was desirable to place the parking under the buildings, but this would cause loss of one floor of living units from the building. He said since there would be marketing problems without covered parking, the developer was seeking additional parking. He said since the developer did comply with all Code requirements, he was not asking for a variance. Commissioner Gally asked what type of structures were being constructed for the covered parking. Mr. Abel stated they would be concrete.

This item was forwarded to the Special Meeting of 1-17-89.

12. Clearing and Use of Town-Owned Properties.

Mr. Cox stated this concerned the property owned by the Town at the south end of Longboat Key. The Commission had directed staff to delay any projects on the property until the Land Acquisition Funds were available, and also until after the recreation survey was complete. However, he said, he was also instructed to contact the Audubon Society and the Beautification Committee for recommendations. He said the low bid was \$9,988 to conduct the topography survey and to identify certain trees. He reviewed the details of the topography survey. He said he would like to see the Town selectively remove all dead material, then look at the site again to see if a survey would be warranted.

Commissioner Stewart stated since the Town would be considering turning the area into a nature park, a design would need to be prepared; therefore, the Town should ask the person who would be doing the design what information would be needed in that regard.

Ruth Napolliello, Longboat Club Road, suggested the Beautification Committee be asked for input concerning this property.

Commissioner Loiselle stated in discussion of this property at the last meeting concern was expressed for the osprey nesting season. He said this property was not a priority this year, because the Beautification Committee was concentrating on completing the Overlook Project; the second priority was to complete the planting along Gulf of Mexico Drive. He suggested the DCA may offer free services of this nature for the site.

Commissioner Wurzburg suggested Craig Huegel, State Extension Service, be contacted to tour the property for recommendations.

13. Review of Ordinance 86-7 - Fire Code.

Mayor Pollock stated there was considerable public opposition to certain requirements of this ordinance. He said he would place the responsibility of what would happen if those requirements were deleted on those people who petitioned for the Code to be changed; however, he would insist that a standpipe system be maintained. Assistant Fire Chief Conover stated if there was no standpipe system firefighters were required to use stairways and tired much faster.

Commissioner Loiselle stated he had proposed a 2-year extension of 89-01

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the requirements at the previous meeting to allow new technology to evolve, and the end result of the meeting was a 1-year extension. He said the technology of the Enhanced 911 telephone system would be tracked through a Town committee to report progress to the Commission.

Commissioner Stewart stated two things should be changed in the Code: 1) Delete the requirements for retrofitting with smoke/heat alarms, and 2) delete the requirement for sprinkler systems to be installed in new single-family homes.

Allan Calder and Sam Kipnis, Longboat Harbour, addressed the Commission in opposition to current requirements of the Code. Commissioner Loiselle stated he wished to thank Mr. Kipnis for initiative taken to get this issue resolved and his information concerning the E911 system.

There was consensus to direct the Town Attorney to amend Ord. 86-7 by deleting retrofit requirements and deleting the requirement for sprinkler systems in new single-family homes. Standpipe requirements were to remain.

14. Police Department Manual - Proposed Amendments to Rules and Regulations.

Police Chief McCammon stated this item was the result of the Police Department's wishes to update an old set of departmental rules and regulations. He said the Town Manager had reviewed the final draft and disagreements on several issues were resolved. However, he said, an issue remaining concerned appointment of a citizen to the Complaint Review Board. He said he handled minor disciplinary infractions on a daily basis as necessary, but if the infraction were more serious, officers had a right to go before a review board pursuant to Florida Statutes. Mr. Cox said the Town Attorney had provided a memo concerning the F.S., but he and Chief McCammon were in disagreement regarding the interpretation in reference to the "Chief Administrator" as being the Town Manager or the Police Chief.

Commissioner Stewart proposed the Town Commission sit as a review board if there was an appeal by anyone. He said he did not believe there was any prohibition on this, and had suggested the Town Manager consider this possibility. Chief McCammon stated the F.S. indicated the Town Manager and Chief of Police would each choose a person to sit on a review board, and those two people would choose a third person. Chief McCammon stated in 16 years there had been no cause for any review. He said he had sat as an officer's representative on a review board for Anna Maria Island, which had worked well, and was "out in the open".

Commissioner Stewart stated he felt the Town Manager's suggestion should be supported. Commissioner Fernald stated the F.S. referred to the "Town Administrator". Chief McCammon said from his experience this was the Chief of police.

The Town Manager was directed to get further opinion on this from the Town Attorney for recommendation.

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Mayor Pollock stated another issue concerned hiring a special juvenile officer. Chief McCammon stated he had contacted HRS and requested additional training in this respect for the present police officers. He said HRS stated someone would be made available for this purpose as soon as possible. He stated at Commissioner Wurzburg's suggestion, training bulletins were also being reviewed for additional training for a juvenile officer.

Vice-Mayor Brown stated he felt these issues should not be brought before the Commission, but be resolved between the Town Manager, Town Attorney, and Police Chief.

Commissioner Stewart stated he felt there were a number of issues in the manual that should be the concern of the Commission. One of the issues was "hot pursuit". He said staff had distributed to the Commission the model prepared by the National Association of Chiefs of Police. He said the model should be adopted unless there was some reason to omit or alter the dates, or some technicalities. He said a large section relating to "hot pursuit" was in the model, but was omitted from the Town's manual. He said he felt it changed the tone of duties for the officer in the vehicle. Chief McCammon stated those items were superfluous. Commissioner Stewart stated the Town's version was more relaxed on the subject than the model. Chief McCammon stated he had a book of models which he reviewed for applicability to needs of the Town. Commissioner Stewart referred to the model which stated "the decision to abandon pursuit may be the most intelligent course of action. Officers must continually question whether the seriousness of the crime justifies the pursuit ...". He said these important statements had been omitted from the Town's manual.

Commissioner Loiselle stated in both cases it would be judgmental. Commissioner Stewart stated the model indicated if it was not safe, then the officer should stop the pursuit. Commissioner Fernald stated the question would be who decided it was not safe. Chief McCammon stated the officer on the spot was the person who had the ultimate responsibility to determine whether it was right or wrong.

Commissioner Wurzburg stated he agreed with Commissioner Stewart, as there were extra precautionary measures in the model that should be offered to the officers. Vice-Mayor Brown stated he felt Chief McCammon was experienced enough to educate his officers, and opposed the change. Commissioners Gally, Loiselle, and Fernald stated they supported Chief McCammon. Commissioner Stewart stated he had confidence in the International Association, and felt he was doing his duty to the residents to keep things safe; therefore, he was in favor of including the model in the rules and regulations. Mr. Cox stated he felt officers should not engage in high-speed pursuit to chase vehicles off the island, although there may be certain circumstances when it may be necessary. Mayor Pollock asked what the officers' stand was on high-speed pursuit. Chief McCammon stated it was one of the last things they wished to be involved with, as an officer's life would be in jeopardy. He said if an officer was required to leave the island during a pursuit, he

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notified the jurisdiction being entered and requested assistance from that department.

There was consensus to forward this issue to the Regular Workshop of 2-16-89.

15. Citizens' Attitude Survey.

Consultant Wayne Daltry, Executive Director of the Southwest Florida Regional Planning Council, reviewed with the Commission a revised draft of the survey forwarded to the Town 12-23-89.

There was Commission consensus for additional revisions as follows:

Page 3 - Question 13.c.(2) - Add to read "be open to all other citizens."

Question 16 - Add line for "No age group has problem."

Question 17 - Delete

Page 4 - Question 20 - Delete

Page 5 - Question 21 - Add to a. to read "If yes, should facilities be established."

Page 5 - Question 22 - change word "where" to "if" in first sentence.

In the list of facilities, delete "Park".

Page 6 - Question 23 - Delete

Question 24 - Add question "Do you have access to golf and tennis?" Revise 4th part to read "Do you find adequate public recreation for all-groups your family and self on Longboat Key?

Question 25 - b. Add word to read "Do you feel the youngsters on the island should have a regulation field?"

Page 7 - Question 26 - First part: Change to read "Do you prefer to have a Town-administered recreation Council funded by the Town taxes?"

Second part: Change to read "Or would you prefer to continue the publically privately-run Recreation Council Center funded voluntarily by the private sector?"

Ruth Napoliello, Longboat Club Road, commented since this was a survey on recreation it should ask whether or not it should be funded by the private sector or reflected in taxes. She said it should not include questions about land acquisition since it was the job of the Commission to decide about buying land.

Sally Rauch, Gulf of Mexico Drive, Representative of Board of Directors of the Recreation Center, stated the Commission voted by a 5 to 1 majority on 6-14-88 to put in a ball field, basketball courts, and tennis courts. She said the survey was supposed to show what the community wanted beyond that.

Commissioner Stewart stated the approval was to put that in a draft of the Comp. Plan forwarded to the DCA; additional public hearings were required before adoption.

Commissioner Gally stated \$35,000 was appropriated in the budget, but not \$83,000. Mr. Cox stated when the budget was approved it was intended to put in \$83,000 and Finance Director Sullivan reviewed

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all items with the Commission. He said the Commission did more than just place this in the Comp. Plan. However, there was a mathematical error when figures were added up for the facilities identified to be put on that land; the clearing of the property was \$50,000. He said somehow the \$50,000 did not get added in with the total, but the item was named in the budget. He said the items were not in the initial budget, so were brought before the Commission in the Betterments Program for approval.

Vice-Mayor Brown said he agreed with statements by both Commissioner Stewart as well as Mrs. Rauch; he said he anticipated approval of the Recreation Element of the Comp. Plan at State level, and when returned it should be adopted and the funds expended.

Mr. Cox said he had stated when the Comp. Plan was being discussed he had always advocated not strapping future Commissions with a Comp. Plan to do something; if there was something they wished to do, they should go ahead and do it, but should not include in the Plan something not mandated by the State. He said when this was addressed, the Commission went one step further and budgeted the facilities for this year.

Commissioner Stewart stated for clarification as to how the Town worked, when the budget was approved it was for an overall figure to set the tax rate; the Commission had the right at anytime, as a matter of procedure, to direct funds not to be spent if they wished. Therefore, he said, this was not guaranteed either.

Mrs. Rauch said according to the level of service in the Comp. Plan there were plenty of golf courses and tennis courts for those who could afford membership in the Longboat Key Club, and many condos offered courts, so some people also had access to those facilities. She said in the survey a question was asked concerning facilities at condos, however, no question asked if the respondent was a member of the Longboat Key Club. As to tabulation of the survey, she asked if provisions were made for professional analysis of the survey results.

Commissioner Stewart pointed out Question 24 covered that information in "access to golf and tennis."

Mayor Pollock indicated Mr. Daltry would advise concerning tabulation of the results.

VERBATIM TRANSCRIPT FROM THIS POINT RE. WHO TO POLL:

Commissioner Wurzburg: Who is this survey going to? This is the most important question.

W. Daltry: My advice is you can engage a business service and contract it to be mailed to every residential address on the island. That would be basically a contract where you advertise or call up some of the better ones. If you do that it will cost you from about \$5000 to \$7000. The better ones have on their files all the residential addresses in the whole area.

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Mayor: If we're going to have a survey, I suspect the best thing is to cover everybody.

Comm. Stewart: We should recognize this Town is considerably different from other mainland towns, and we have people come here and rent for a week at a time. Whoever happens to be in one of these tourist condos or time-share condos at the moment would be the one to answer; they're here for that week or a month sometimes. We have not followed that procedure you just suggested, because in the past we thought it would be very distorted. You've got 2 lists: one is the voters, we know that, and the property owners - they're the ones that pay the taxes; and the voters are the ones who make the decisions. Some of them are both voters and property owners.

Mayor: What I meant is to cover those people who are here most of the time, whether taxpayers or voters.

Comm. Wurzburg: Another point - you can get a voter list and property owner list and you don't have to pay someone else to do it.

Comm. Fernald: I've been involved in mailing and it's not that simple a job, but difficult. I want to speak about taxpayer owners - we have owners who are not citizens. Are they going to talk to us about what our Town should do? Should everybody who owns property get this?

Mayor: If they are living here and paying taxes, because they are living here, I think they have an opportunity to answer this survey anyway they want. Perhaps they have children who are playing.... yes, I would think so. I don't know. I think they fall into the general category of owner/taxpayer.

Comm. Wurzburg: I would be in favor of the taxpayers. But we don't want the time-share people.

W. Daltry: Two options - if you use the property owner list that would leave out apartment dwellers on the island.

Comm. Fernald: Oh, no, they don't rent, they own their apartment. But when you talk about time-shares, you're talking about something different. A tremendous list of owners.

Comm. Gally: They don't pay direct taxes, they are not taxpayers.

Mayor: You better check that out with Terry or Scott, as to the question we're asking, time-share being just maintenance payers, I don't see how they could collect taxes that many times on one unit.

W. Daltry: you could exclude the time-shares.....

Mayor: Mr. Abel, could you answer that without spinning your clock?

H. Abel, Atty.: Time-share owners are all property owners. Under the Statutes the time-share group can elect to have one bill sent to the property association and divided among them. Obviously I don't know

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what happens with the various time-shares around. You would have to contact the Tax Collector's Office to find out.

Mr. Cox: I would like to talk to Scott about that.

Comm. Wurzburg: The other possibility would be the voter list, but that doesn't include all property owners.

Mayor: This is a question that ultimately we're going to have to answer. I don't think we can answer it now. Are you all done, Wayne?

W. Daltry: I'm done with the survey. If you're going to the special meeting you can agree to it as amended by the Workshop today.

Mayor: We can't answer today. We want some advice from the Town Attorney.

Comm. Wurzburg: Can't we go ahead with it and then use whatever the Attorney says?

Mayor: If you want to carry this on to a vote at the special meeting....

Comm. Wurzburg: Let's not delay it any further.

Comm. Stewart: There may be unanimous consent right now.

Mr. Cox: It's on the agenda for approval at the special meeting.

16. Sandhamn, The Centre Shopping Center, 5300-5400 Block GMD.

Mr. Brady stated two issues were involved: a request for an ODP amendment to allow for seating capacity for a specialty food use, not to exceed 1500 square feet; and amendment to the Site Plan to provide an additional 18 parking stalls with some behind the building to accommodate this intensification. He said the Planning & Zoning Board had recommended several spaces be deleted from the Plan. Further, there was a sidewalk that was part of the Site Plan that would connect the existing sidewalk along GMD to the parking lot at The Centre.

Mr. Cox stated he was concerned that the original resolution that was approved required a buffered area behind the building. Commissioner Stewart stated he saw no justification for the major changes in the operation and the exceptions which may stretch the Code to "absurdity". Commissioner Gally stated this was approved by the P&Z Board, who had the time to review and study these plans; therefore, he felt the Commission should take their recommendation.

Mr. Cox stated because of the way the application addressed the restaurant, there could be any number of 15-seat restaurants; therefore, if the Commission approved the project they would need to include that there would only be one restaurant in the complex.

Bill Bishop, designer of the parking plan for the applicant, stated the wording in the application reflected current Code requirement

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for one parking space per 100 square feet of seating area.

Mr. Lovett stated the Commission could amend the Resolution of Approval to allow "one specialty food shop not to exceed 1500 s.f. of floor area". He said then the parking would not need to be addressed.

Peder Wallenberg, developer of The Centre, stated he had hired Mr. Bishop to address the parking situation as he thought this was required to amend the Plan.

Mayor Pollock stated he would go along with the decision of the P&Z Board. Commissioner Stewart stated there was sufficient parking for two restaurants.

There was consensus to allow one specialty food unit with 30 seats with no change to parking spaces. This item was forwarded to the Regular Meeting of 2-6-89.

II. Town Commission CommentsIII. Town Manager CommentsPayment from Arvida for Legal Fees.

Mr. Cox stated Bob Wilhelm, Arvida, had delivered the second of five payments of Special Counsel Van Voris' legal fees for negotiations between the Town and Arvida concerning the clubs.

Mid-Key Beach Nourishment Project.

Mr. Cox stated the mid-key beach nourishment project was not funded in the Federal budget.

IV. Public to be HeardRealty Signs.

Betty Johnson, Longboat Key Realtors, stated all Longboat Key realtors had agreed for their businesses there would be one sign on a building and one sign in front. She said for a number of months a realtor parked a large van with a realty sign on the sides and back in front of that business. She said she believed this constituted use as a sign.

Mr. Lovett stated when Ord. 73-12, Sign Ordinance, was passed there was a section that required any vehicle with a sign parked in a residential area overnight to cover the sign, but this did not address commercial property.

Mr. Cox indicated he would take some photos of the van to use in consulting with the Town Attorney on this matter.

V. Press to be HeardVI. Adjournment

The meeting was adjourned at 6:00 P.M.

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Donna Hall
Patrizia L. Arends, Town Clerk
Donna Hall, Deputy Clerk

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