

**MINUTES
LONGBOAT KEY TOWN COMMISSION
REGULAR MEETING
MARCH 1, 2010 - 7:00 P.M.**

Present: Mayor Lee Rothenberg, Vice Mayor Robert Siekmann, Commrs. Jim Brown, Gene Jaleski, Hal Lenobel, Peter O'Connor, George Spoll

Also Present: Town Manager Bruce St. Denis, Town Attorney David Persson, Town Clerk Trish Granger

CALL TO ORDER

The Regular Meeting of the Longboat Key Town Commission was called to order at 7:00 p.m., in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.

PLEDGE OF ALLEGIANCE

Mayor Rothenberg requested and Commr. Jaleski led the Pledge of Allegiance.

APPROVAL OF MINUTES

1. January 4, 2010 Regular Meeting Minutes

There was consensus to approve the Minutes of the meeting as submitted.

COMMITTEE REPORTS AND COMMUNICATIONS

A. Governmental Agency

Vice Mayor Siekmann welcomed Manatee County Commissioner John Chappie who was in attendance.

B. Governmental Committee

Vice Mayor Siekmann noted attendance at the first Sarasota County Complete Count Committee meeting relating to the 2010 Federal Census and noted the intent to increase the response rate from Longboat Key residents.

PUBLIC TO BE HEARD

2. Opportunity for Public to Address Town Commission - No items were presented.

ORDINANCES - FIRST READING

3. Ordinance 2010-10, Amending Town Code Chapter 33, Code Enforcement

To consider Ordinance 2010-10, amending Chapter 33, Boards, and Commissions, Code Enforcement Board, Sections 33.02 through 33.18. The Town Attorney's Office drafted Ordinance 2010-10, amending Chapter 33, Code Enforcement Board for consistency with current Florida Law. Recommended Action: Pending first reading and discussion, forward Ordinance 2010-10 to the April 5, 2010 Regular Meeting for second reading, public hearing, and discussion.

Town Clerk Trish Granger placed Ordinance 2010-10 on record by title only.

3. Ordinance 2010-10, Amending Town Code Chapter 33, Code Enforcement

Commr. Spoll moved to pass Ordinance 2010-10 on first reading and to forward to the April 5, 2010, Regular Meeting for second reading and public hearing. The motion was seconded by Vice Mayor Siekmann.

Town Attorney David Persson noted distribution of an errata sheet, amending page 4, paragraph two, substituting the numbers 1, 2, and 3, for the letters A, B, and C.

Commr. Spoll and Vice Mayor Siekmann noted acceptance of the amendments stated by Town Attorney Persson.

The motion carried by a 7-0 roll call vote, as follows: Spoll, aye; Siekmann, aye; Jaleski, aye; Lenobel, aye; Brown, aye; O'Connor, aye; Rothenberg, aye.

4. Ordinance 2010-12, Amending Chapter 93, Vessels, Waterways and Water Activities

To consider Ordinance 2010-12, amending Chapter 93, Vessels, Waterways, and Water Activities, to provide compliance with Florida Statutes. The Florida Legislature recently passed amendments to State Statute 327.4105 that creates a conflict with the existing Town Ordinance addressing anchoring and mooring of vessels. Ordinance 2010-12 provides for language that brings the Town Code into compliance with Florida Statutes. Recommended Action: Pending first reading and discussion, forward Ordinance 2010-12 to the April 5, 2010 Regular Meeting for second reading, public hearing, and discussion.

Town Clerk Trish Granger placed Ordinance 2010-12 on record by title only.

Commr. Jaleski moved to pass Ordinance 2010-12 on first reading and to forward to the April 5, 2010, Regular Meeting for second reading and public hearing. The motion was seconded by Vice Mayor Siekmann.

Town Attorney David Persson commented on the changes in statutory requirements, the determination of the definition for mooring, vessels designated as live-aboards, and the classification of craft identified as houseboats without a motor or a sail.

The motion carried by a 7-0 roll call vote, as follows: Jaleski, aye; Siekmann, aye; Rothenberg, aye; O'Connor, aye; Brown, aye; Lenobel, aye; Spoll, aye.

ORDINANCES - SECOND READING AND PUBLIC HEARING

5. Quasi-judicial - Ordinance 2010-02, Cedars Tennis Club, 645 Cedars Court, Outline Development Plan Amendment

Quasi-judicial public hearing to consider Ordinance 2010-02, amending Resolution 84-23, as amended, to amend the Outline Development Plan (ODP) for Cedars East Development. Ordinance 2010-02 was forwarded from the February 1, 2010 Regular Meeting for second reading and public hearing. Recommended Action: The Town Commission will base their decision on competent substantial testimony presented at this meeting.

5. Ordinance 2010-02, Cedars Tennis Club ODP Amendment - Continued

Town Clerk Trish Granger placed Ordinance 2010-02 on record by title only for second reading and public hearing.

Mayor Rothenberg noted the process for consideration of a quasi-judicial petition.

Town Attorney David Persson inquired as to any potential conflicts in consideration of the request and advised that ex-parte communication should be noted at this time, with no items presented by Commissioners.

Mayor Rothenberg opened the public hearing.

Planning, Zoning, and Building Department Town Planner Steve Schield, duly sworn, presented an overview of the Cedars East Development ODP Amendment, advised that the amendments to the Ordinance relating to restaurant use had been deleted, commented on review of the buffer between the Cedars complex and Spanish Main, and noted the Planning and Zoning (P&Z) Board's recommendation for approval.

Mayor Rothenberg inquired as to a recent advertisement relating to "social memberships" and Mr. Schield advised that Cedars was in compliance with their approved ODP.

Mr. Randy Langley, 701 Lands End Drive, advised he would answer any questions of the Commission and commented on the membership fees.

As no others wished to be heard, Mayor Rothenberg closed the public hearing.

Commr. Brown moved to adopt Ordinance 2010-02. The motion, seconded by Commr. Spoll, carried by a 7-0 roll call vote, as follows: Brown, aye; Spoll, aye; Lenobel, aye; Jaleski, aye; O'Connor, aye; Siekmann, aye; Rothenberg, aye.

6. Ordinance 2010-03, Amending Chapter 34, Employment Policies – Firefighters' Retirement System

Public hearing to consider Ordinance 2010-03, amending Chapter 34, Employment Policies, Firefighters' Retirement System, for compliance with statutory requirements. During the 2009 Legislative Session the Florida Legislature passed amendments to Chapters 175 and 185 which govern municipal pension plans. Ordinance 2010-03 provides for amendments to Town Code Chapter 34, Employment Policies – Firefighters' Retirement System in order for the Town to remain eligible for the receipt of State premium tax monies. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2010-03.

Town Clerk Trish Granger placed Ordinance 2010-03 on record by title only for second reading and public hearing.

Commr. Spoll moved to adopt Ordinance 2010-03. The motion was seconded by Vice Mayor Siekmann.

6. Ordinance 2010-03 – Firefighters' Retirement System - Continued

Mayor Rothenberg opened the public hearing. As no one wished to be heard, the public hearing was closed.

The motion carried by a 7-0 roll call vote, as follows: Spoll, aye; Siekmann, aye; O'Connor, aye; Rothenberg, aye; Brown, aye; Jaleski, aye; Lenobel, aye.

7. Ordinance 2010-04, Amending Chapter 34, Employment Policies – General Employees' Retirement System

Public hearing to consider Ordinance 2010-04, amending Chapter 34, Employment Polices, General Employees' Retirement System, Sections 34.73 through 34.98, to provide compliance with statutory requirements. During the 2009 Legislative Session the Florida Legislature passed amendments to Chapter 2009-97, Laws of Florida which governs municipal pension plans. Ordinance 2010-04 provides for amendments to Town Code Chapter 34, Employment Policies – General Employees' Retirement System for consistency with legislative changes. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2010-04.

Town Clerk Trish Granger placed Ordinance 2010-04 on record by title only for second reading and public hearing.

Vice Mayor Siekmann moved to adopt Ordinance 2010-04. The motion was seconded by Commr. Spoll.

Mayor Rothenberg opened the public hearing. As no one wished to be heard, the public hearing was closed.

The motion carried by a 7-0 roll call vote, as follows: Siekmann, aye; Spoll, aye; Lenobel, aye; O'Connor, aye; Rothenberg, aye; Jaleski, aye; Brown, aye.

8. Ordinance 2010-05, Amending Chapter 34, Employment Policies – Police Officers' Retirement System

Public hearing to consider Ordinance 2010-05, to amend Chapter 34, Employment Policies, Police Officers Retirement System, Sections 34.13 through 34.40, to provide compliance with statutory requirements. During the 2009 Legislative Session the Florida Legislature passed amendments to Chapters 175 and 185 which govern municipal pension plans. Ordinance 2010-05 provides for amendments to Town Code Chapter 34, Employment Policies – Police Officers' Retirement System in order for the Town to remain eligible for the receipt of State premium tax monies. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2010-05.

Town Clerk Trish Granger placed Ordinance 2010-05 on record by title only for second reading and public hearing.

Commr. Spoll moved to adopt Ordinance 2010-05. The motion was seconded by Vice Mayor Siekmann.

8. Ordinance 2010-05 – Police Officers' Retirement System - Continued

Mayor Rothenberg opened the public hearing. As no one wished to be heard, the public hearing was closed.

The motion carried by a 7-0 roll call vote, as follows: Spoll, aye; Siekmann, aye; O'Connor, aye; Brown, aye; Lenobel, aye; Rothenberg, aye; Jaleski, aye.

9. Ordinance 2010-06, Budget Transfer in the Amount of \$30,000 from Beach Fund Unappropriated Fund Balance to North Shore Erosion Control Structure Construction Project

Public hearing to consider Ordinance 2010-06, a budget transfer in the amount of \$30,000.00 from the Beach Fund to reimburse the North Shore Erosion Control Structure Fund. At the December 7, 2009 Regular Meeting the Town Commission passed Resolution 2009-47. This action was taken to expedite a sand placement project at the North end where critical erosion has occurred. Ordinance 2010-06 is necessary to reimburse the North Shore Erosion Control Structure Construction Project account from the Beach Fund. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2010-06.

Town Clerk Trish Granger placed Ordinance 2010-06 on record by title only for second reading and public hearing.

Commr. Jaleski moved to adopt Ordinance 2010-06. The motion was seconded by Vice Mayor Siekmann.

Mayor Rothenberg opened the public hearing. As no one wished to be heard, the public hearing was closed.

Commr. Jaleski inquired and Town Manager Bruce St. Denis provided a status report on the erosion issues.

As no others wished to be heard, Mayor Rothenberg closed the public hearing.

The motion carried by a 7-0 roll call vote, as follows: Jaleski, aye; Siekmann, aye; Rothenberg, aye; O'Connor, aye; Brown, aye; Lenobel, aye; Spoll, aye.

10. Ordinance 2010-07, Utility Bill Appeal Process

Public hearing to consider Ordinance 2010-07, amending Chapter 51, Charges, Rates, and Billing, Section 51.30 (D) to provide authority to the Town Manager to make reasonable adjustments to customers' bills. The Town Commission forwarded Ordinance 2010-07 for second reading and public hearing, to change the manner in which utility bill appeals are handled. The Town Code (Ordinance 2009-07) currently provides for utility bill appeals to be heard by the Town Commission. Ordinance 2010-07 would give the Town Manager the authority to make reasonable adjustments to individual utility bills. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2010-07.

10. Ordinance 2010-07, Utility Bill Appeal Process - Continued

Town Clerk Trish Granger placed Ordinance 2010-07 on record by title only for second reading and public hearing.

Commr. Spoll moved to adopt Ordinance 2010-07. The motion was seconded by Commr. Jaleski.

Mayor Rothenberg opened the public hearing. As no one wished to be heard, the public hearing was closed.

The motion carried by a 7-0 roll call vote, as follows: Spoll, aye; Jaleski, aye; O'Connor, aye; Siekmann, aye; Lenobel, aye; Rothenberg, aye; Brown, aye.

11. Ordinance 2010-09, Establishing a Town Policy for Mandatory Training in Sunshine Law, Public Records, and Ethics

Public hearing to consider Ordinance 2010-09, to establish a policy for mandatory training in Sunshine Law, Public Records Law, and Ethics. The Town Commission forwarded Ordinance 2010-09 for second reading and public hearing to provide for all Town Board and Committee members to receive mandatory training in public records, sunshine law, and ethics. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2010-09.

Town Clerk Trish Granger placed Ordinance 2010-09 on record by title only for second reading and public hearing.

Commr. Brown moved to adopt Ordinance 2010-09. The motion was seconded by Commr. Lenobel.

Mayor Rothenberg opened the public hearing. As no one wished to be heard, the public hearing was closed.

Vice Mayor Siekmann noted that Manatee County's Attorney was holding a seminar on April 23, 2010, on the Sunshine Law, Public Records, and Ethic Laws Seminar.

Upon inquiry, Manatee County Commissioner John Chappie confirmed that there would be sufficient room for attendance by members of the public and Town Manager Bruce St. Denis advised that information would be provided to members of the public wishing to attend.

The motion carried by a 7-0 roll call vote, as follows: Brown, aye; Lenobel, aye; Jaleski, aye; Spoll, aye; Siekmann, aye; Rothenberg, aye; O'Connor, aye.

RESOLUTIONS

12. Resolution 2010-08, Budget Transfer in the Amount of \$2,400 from Commission Contingency to Facilitate Relocation of Peafowl from the Longbeach Village Area

To consider Resolution 2010-08, a budget transfer in the amount of \$2,400.00, from the Commission Contingency fund to reimburse the Village Association for peafowl removal.

12. Resolution 2010-08, Budget Transfer - Relocation of Peafowl - Continued

At the May 5, 2008 Regular Meeting the Commission adopted Resolution 2008-19, providing funds to reimburse the Longbeach Village Association for peafowl relocation. Resolution 2010-08 provides for a budget transfer to fund reimbursement for peafowl removal activities within the Longbeach Village area. Recommended Action: Pending discussion, pass Resolution 2010-08.

Town Clerk Trish Granger placed Resolution 2010-08 on record by title only.

Commr. Brown moved to pass Resolution 2010-08. The motion was seconded by Commr. Lenobel.

Commr. Jaleski noted the extent of the issue and Mr. Michael Drake commented on the number of birds in the flock (50-60 birds) and noted the reason for delay in the culling.

Commr. Jaleski noted that a company called Nuisance Wildlife Removal is available and noted additional options to limit the reproduction of the birds.

Mr. Drake inquired as to the placement of the nets and Commr. Jaleski suggested the "K" lot at the end of Fox Street and suggested that the Village Association contact the company.

Town Manager Bruce St. Denis noted the Town's participation through funding and suggested that the Village Association handle the removal.

Mr. Drake advised that he would contact Nuisance Wildlife Removal to begin the process of removal.

The motion carried by a 7-0 roll call vote, as follows: Brown, aye; Lenobel, aye; Rothenberg, aye; O'Connor, aye; Spoll, aye; Jaleski, aye; Siekmann, aye.

13. Resolution 2010-09, Waste Management CPI and Fuel Adjustment

To consider Resolution 2010-09, applying the Consumers Price Index (CPI) and fuel cost decreases in the solid waste, yard trash, and recyclable materials base rates. The Town has a Franchise Agreement with Waste Management (Ordinance 06-24) that provides for an annual CPI and fuel adjustment. This year the rate adjustment provides for a *rate decrease* for all Longboat Key customers. Resolution 2010-09 is forwarded for your consideration in approving the franchise rate adjustments effective April 1, 2010. Recommended Action: Pending discussion, pass Resolution 2010-09.

Town Clerk Trish Granger placed Resolution 2010-09 on record by title.

Vice Mayor Siekmann moved to pass Resolution 2010-09. The motion, seconded by Commr. Spoll, carried by a 7-0 roll call vote, as follows: Siekmann, aye; Spoll, aye; Jaleski, aye; Lenobel, aye; Brown, aye; O'Connor, aye; Rothenberg, aye.

14. Resolution 2010-11, Establishing a No Parking Zone in the Area Adjacent to the Ingress/Egress to Town Hall

To consider Resolution 2010-11 to establish a temporary no parking zone in the area adjacent to the ingress/egress to Town Hall. Due to public safety issues experienced with vehicular and foot traffic in the area adjacent to the ingress/egress to Town Hall, a No Parking Zone in that area is recommended. Resolution 2010-11 provides for a Temporary No Parking Zone to be established in the vicinity of the entry driveway to Town Hall. Recommended Action: Pending discussion, pass Resolution 2010-11.

Town Clerk Trish Granger placed Resolution 2010-11 on record by title.

Vice Mayor Siekmann moved to pass Resolution 2010-11. The motion was seconded by Commr. Brown.

Subsequent to comments by Town Manager Bruce St. Denis, the motion carried by a 7-0 roll call vote, as follows: Siekmann, aye; Brown, aye; Spoll, aye; Lenobel, aye; O'Connor, aye; Rothenberg, aye; Jaleski, aye.

NEW BUSINESS

15. Longboat Key Town Commission Liaison to West Coast Inland Navigation District (WCIND) Board

To confirm the appointment of Vice Mayor Siekmann to serve as the Town's liaison to the WCIND Board. The Town currently has several active projects that involve coordination with the WCIND. In order to improve the Town's effectiveness in that cooperative effort with WCIND the Town Manager is requesting a Town Commissioner be appointed to serve as a liaison to the WCIND Board. There was consensus at the February 18, 2010 Regular Workshop Meeting for Vice Mayor Siekmann to be appointed to this position. Recommended Action: Pending discussion, confirm Vice Mayor Siekmann as Town Commission liaison to the WCIND Board.

Commr. O'Connor moved to confirm the appointment of Vice Mayor Siekmann to serve as the Town's liaison to the WCIND Board and Commr. Jaleski as the alternate. The motion, seconded by Commr. Spoll, carried by a 7-0 roll call vote, as follows: O'Connor, aye; Spoll, aye; Brown, aye; Jaleski, aye; Rothenberg, aye; Siekmann, aye; Lenobel, aye.

16. Request From the Longboat Key Club for the Town Commission to Consider Changes to the Town's Zoning Code

To consider a request from the Longboat Key Club relating to changes to the Town's Zoning Code. Representatives of the Longboat Key Club have requested Town Commission consideration of Zoning Code changes. This item is placed on the March 1, 2010 Regular Meeting for Commission discussion. Recommended Action: Pending discussion, provide direction to Manager.

Town Attorney David Persson commented on the request from the Longboat Key Club and suggested that Attorney John Patterson provide an overview of the request.

16. Request From the Longboat Key Club - Changes to the Zoning Code - Continued

Attorney John Patterson, representing the Longboat Key Club, noted review of the Zoning Code and requested that consideration be provided to amend the existing Code prior to continuation of the Islandside ODP Amendment petition and reviewed sections of the Code, as follows:

- anticipated number of proposed amendments
- definition of a subdivision
- Section 158.006 - Gross Land Area
- Section 158.009, (L)(1) - Density
- Section 158.071 - the Five Percent Rule
- Section 158.102 (L) - Building Widths
- Section 158.125 - Schedule of Regulations
- Section 158.127 - Accessory Uses
- Section 158.150 - Waterfront Pass
- Section 158.029 - Variances
- Section 158.067 - Standard for Departures
- Section 158.132 - Clarification of application of "PD"
- Section 158.143 - Recreational Amenities
- Stacked parking review
- Height restrictions in Planned Districts (PD).

Discussions were held with Attorney Patterson on the following topics/issues:

- requested 16 departures from the Code
- request for clarification or modification to the Code
- lack of request for review of Comprehensive Plan in conjunction with the Zoning Code review
- preference to expedite the review and hearing process.

Town Attorney David Persson noted a recommendation to develop an Ordinance in conjunction with the requested review and proposals and the time frame for hearings before the Planning and Zoning (P&Z) Board and the Town Commission.

Individual comments followed on the following topics/issues:

- necessity to review the Comprehensive Plan as noted during the public hearing on the Islandside petition
- consideration of all projects/future projects in the build-out of the Island
- debates made during the Islandside petition as it pertains to consistency between the Comprehensive Plan and the Zoning Code
- issues raised on the Zoning Code and clarifications to address
- additional issues to be considered in the Zoning Code outside of the Islandside application.

16. Request From the Longboat Key Club - Changes to the Zoning Code - Continued
Attorney Michael Furen, representing the Islandside Property Owners Coalition, LLC (IPOC), commented on the following topics/issues:

- request to seek review and amendment of the Zoning Code by an applicant with an open petition on file
- advising on the position of IPOC relating to the Town's authority on the consideration of the Islandside petition
- the issues raised during the public hearings
- the intent to change the Code to provide authority for approval of the Islandside petition
- opinion to review the Code and Comprehensive Plan jointly
- consideration to allow public/citizen participation in the entire process in lieu of review of the entire code versus specific issues for one property
- impact of Code changes on the Comprehensive Plan.

Mr. William McCary, 795 Marbury Lane, commented on the request to amend the Zoning Code. Discussions were held with Mr. McCary on the request of the Longboat Key Club.

Mr. Jeremy Whatmough, Gulf of Mexico Drive, commented on the request submitted and Town Attorney Persson advised that discussion of the petition should not be held at the current time.

Town Attorney Persson reviewed the request of the Longboat Key Club to review areas of the Code that appear to be problematic with the petition and require clarification, the position of Attorney Furen, and the consideration of the issues to be considered for the overall development of the Town through enforcement of the Comprehensive Plan.

Mr. Whatmough requested clarification on the intent of the request and the process required and Town Attorney Persson commented on the process to follow.

Mr. Bob White, President of the IPOC, commented on the request, opined that all property owners should be considered prior to changes being considered to the Zoning Code and noted objection to site specific review of the Zoning Code for an active application..

Ms. Kelly Kary, 795 Marbury Lane, noted support of the request for review of the Zoning Code.

Mr. John Summer, 5961 Emerald Harbor Drive, noted opposition to grant the request for Code review and amendments.

Discussions were held on the following topics/issues:

- underlying agreement that issues need to be addressed
- impact of request on the entire Code and/or Comprehensive Plan
- necessity for impartiality throughout the entire Town

16. Request From the Longboat Key Club - Changes to the Zoning Code - Continued

- required amendments to the Comprehensive Plan if identified during review of the Zoning Code
- time frame for consideration (restrictions on hearings in July and August)
- position of the opposing Attorneys
- consideration and action of previous Commissions in developing the Comprehensive Plan and the 1984 development vision
- determination of the review and compilation of amendments to the Zoning Code and Comprehensive Plan.

Attorney Patterson noted the intent to simplify issues by reviewing portions of the Code and advised that the Longboat Key Club does not want further delays pertaining to review of the Code and Comprehensive Plan. Upon inquiry, Attorney Patterson noted that the request was not intended to further postpone the public hearing process.

Following comments, Attorney Patterson advised that he had no objection to a denial of the request.

RECESS: 9:25 p.m. - 9:39 p.m.

Town Attorney Persson noted options for consideration to postpone the public hearings on the Islandside petition or to move forward under the existing regulations. Discussion ensued on the process for consideration of the application on file.

Commr. Brown moved to grant the applicants request to send the issues (noted by Attorney Patterson) to the Planning and Zoning Board for review, but to allow additional review of other areas of the Code as necessary. The motion was seconded by Vice Mayor Siekmann.

Subsequent to individual comments, Commr. Brown clarified the motion to reflect granting of the applicant's request for review of the issues submitted, with no limitation of further review of the Code by the Planning and Zoning Board, if other issues arise, The motion, as clarified, carried by a 6-1 roll call vote, as follows: Brown, aye; Siekmann, aye; Jaleski, aye; Spoll, aye; Lenobel, no; Rothenberg, aye; O'Connor, aye.

TOWN COMMISSION COMMENTS - No items were presented.

TOWN ATTORNEY COMMENTS - No items were presented.

TOWN MANAGER COMMENTS

A. Organizations

Town Manager Bruce St. Denis noted distribution of a request from the Sarasota Coalition For Substance Abuse to sign the document at the meeting.

There was consensus for the Mayor to sign the document.

PRESS TO BE HEARD - No items were presented.

ADJOURNMENT

Mayor Rothenberg adjourned the March 1, 2010, Regular Meeting at 9:56 p.m.

/s/ Trish Granger
Trish Granger, Town Clerk

/s/ George Spoll
George Spoll, Mayor

Minutes Approved: 07/12/2010