

**MINUTES
LONGBOAT KEY TOWN COMMISSION
REGULAR MEETING
NOVEMBER 1, 2021**

Present: Mayor Ken Schneier, Vice Mayor Mike Haycock, Commissioners B.J. Bishop, Sherry Dominick, Penny Gold, Maureen Merrigan, Debra Williams

Also Present: Town Manager Tom Harmer, Town Attorney Maggie Mooney, Town Clerk Trish Shinkle

1. Call to Order and Pledge of Allegiance

Mayor Schneier called the November 1, 2021, Regular Meeting to order at 1:00 p.m., in the Town Commission Chamber, Town Hall, 501 Bay Isles Road, Longboat Key, Florida. Commissioner Dominick led the Pledge of Allegiance.

2. Pledge of Public Conduct

Mayor Schneier noted the Town's Civility Code and read the Pledge of Public Conduct.

Mayor Schneier noted a request to move Item 6B to follow Item 9. Commissioner Dominick moved to reverse the order of agenda items as stated. The motion, seconded by Commissioner Gold, carried unanimously.

3. Public to be Heard

A. Organizations

Mr. Michael Drake, Longboat Drive South, noted the status of the historical building at the Town Center, advised that he anticipated opening by November 27, 2021, and discussed the development on Palm Avenue.

B. Planning, Zoning, and Building

Mr. Brian Feeney, Broadway Street, commented on the Residential Permit Parking program established for Longbeach Village and utilization of guest passes issued to the management at Mar Vista Restaurant for their employees.

C. Planning, Zoning, and Building/Fire Department

Mr. Andrew Litvin, Gulf of Mexico Drive, commented on fireboard safety in his residence and requested a code inspection for safety purposes.

4. Reports

A. Committee Reports

1. Organizations

Mayor Schneier noted a phone call from Florida Department of Transportation Representative L.K. Nandam and reviewed the issues discussed.

2. Organizations

Mayor Schneier noted the proposed sale by the City of Sarasota of the lot on St. Armands Circle and advised that the City of Sarasota is expecting bids for the lot.

B. COVID-19 Update

The Town Manager will brief Commissioners on the Town's response to the COVID-19 pandemic. Recommended Action: None, informational only.

Key and advised he will verify with Counties and noted that the address reflected on the testing form provides the location where the testing is credited.

5. Consent Agenda

The purpose of the Consent Agenda is to expedite formal action on agenda items that are routine in nature. Any item on the Consent Agenda can be removed from the Consent Agenda and placed on the Regular Meeting Agenda by any member of the Commission without a motion, a second, or a vote. Otherwise, all items on the Consent Agenda are voted upon in their totality by one action (motion, second and vote) and are not subject to discussion. A vote in the affirmative on the Consent Agenda provides the formal action noted for each item.

A. Approval of Minutes

September 27, 2021 Regular Workshop Meeting; September 27, 2021 Special Meeting; October 4, 2021 Regular Meeting; and October 4, 2021 Special Workshop Meeting (Meet & Greet) Minutes. Recommended Action: Approve Minutes.

B. Public Forum Permit (PFP) Application Requests for Waiver of Permit Fees

The St. Mary's Star of the Sea Catholic Church is requesting a PFP Application fee waiver of \$100 for their Annual Christmas Bazaar on Saturday November 13, 2021. The Kiwanis Club is requesting a PFP Application fee waiver of \$100 for their Gourmet Lawn Party on December 4, 2021. Recommended Action: Waive the \$100 PFP application fees.

Commissioner Bishop moved to approve the Consent Agenda in accordance with Staff's report and recommended action. The motion, seconded by Commissioner Gold, carried by a 7-0 roll call vote, as follows: Bishop, aye; Gold, aye; Williams, aye; Merrigan, aye; Schneier, aye; Haycock, aye; Dominick, aye.

6. Ordinance – First Reading

A. Ordinance 2021-17, Establishing the 2022 Election Dates

The Town Commission will consider Ordinance 2021-17, which provides for the dates of January 26, 2022 for a Preliminary Election (if required), and March 8, 2022 for the General Municipal Election. It also provides for early voting in accordance with State law, for ballot presentation, and advertising. Recommended Action: Forward Ordinance 2021-17 to the December 6, 2021 Regular Meeting for second reading and public hearing.

Town Clerk Trish Shinkle placed Ordinance 2021-17 on record by title only.

Commissioner Williams moved to pass Ordinance 2021-17 and to forward to the December 6, 2021, Regular Meeting, for second reading and public hearing. The motion was seconded by Commissioner Dominick.

Town Manager Tom Harmer provided an overview on Ordinance 2021-17, noting that if the Commission seats were uncontested, the Ordinance would not proceed to second reading.

The motion carried by a 7-0 roll call vote, as follows: Williams, aye; Dominick, aye; Bishop, aye; Haycock, aye; Merrigan, aye; Schneier, aye; Gold, aye.

B. Ordinance 2021-13, Amending Chapter 130, Sound Regulations

Following adoption of Emergency Ordinance 2021-10 on July 2, 2021, the Town Attorney and Town Manager were directed to review Chapter 130 and develop a new Sound Ordinance to replace the existing Code to provide for objective standards, and criteria for

enforcement. Recommended Action: Forward Ordinance 2021-13, to the December 6, 2021, Regular Meeting for second reading and public hearing.

Mayor Schneier requested and there was consensus to consider Item 6B later this meeting.

7. Ordinance – First Reading & Public Hearing

A. Ordinance 2021-16, Amending Chapter 158, Zoning Code, Section 158.114, Personal Wireless Service Facility Development Standards

The Town has received interest from a telecommunications provider to install its own equipment in various right-of-way locations in the Town to enhance cell service. Proposed amendments address spacing between infrastructure poles, and updates ancillary equipment dimensional standards. Recommended Action: Forward Ordinance 2021-16 to the November 15, 2021, Special Meeting for second reading and public hearing.

Town Clerk Trish Shinkle placed Ordinance 2021-16 on record by title only for first reading and public hearing

Commissioner Bishop moved to pass Ordinance 2021-16 and to forward to the November 15, 2021, Special Meeting for second reading and public hearing. The motion was seconded by Commissioner Williams.

Mayor Schneier opened the public hearing.

Following comments by Town Manager Tom Harmer, Planning, Zoning, and Building Department Planner Tate Taylor gave a PowerPoint presentation on Ordinance 2021-16. Discussions were held on the following topics/issues:

- clarification on type of meeting (Special versus Workshop)
- ability for all carriers to participate under the Code amendments
- Town's preference to have services placed on Town's infrastructure.

Dr. Jim Whitman, Norton Street, commented on the Ordinance.

Town Manager Harmer noted all wiring will be underground. Town Attorney Maggie Mooney noted legislation passed relating to cell towers and the exemption of Longboat Key due to the undergrounding project underway and protection provided by the Town's Code.

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

The motion carried by a 7-0 roll call vote, as follows: Bishop, aye; Williams, aye; Schneier, aye; Merrigan, aye; Gold, aye; Dominick, aye; Haycock, aye.

B. Ordinance 2021-15, Amending Chapter 160, and the Town's Comprehensive Plan for Addition of a Property Rights Element

House Bill 59, adopted in 2021 and incorporated into Florida Statutes, requires all local governments to include a Property Rights Element in their Comprehensive Plan to ensure constitutionally protected private property rights are considered in the Town's decision-making processes. Recommended Action: Transmit Ordinance 2021-15 to the Department of Economic Opportunity (DEO) for review and comment. Schedule second reading and public hearing following DEO review.

Town Clerk Trish Shinkle placed Ordinance 2021-15 on record by title only for first reading and public hearing.

Vice Mayor Haycock moved to pass Ordinance 2021-15 and to forward to the Department of Economic Opportunity for review and comment. The motion was seconded by Commissioner Williams.

Mayor Schneier opened the public hearing.

Following comments by Town Manager Tom Harmer, Planning, Zoning, and Building Department Director Allan Parsons gave a PowerPoint presentation on Ordinance 2021-15. Discussions were held on the following topics/issues:

- timeframe for consideration of any Comprehensive Plan Amendments and/or approval by the Town
- legislation passed by Florida Legislature relating to property owners' rights
- impact on consideration of future petitions by the Planning and Zoning Board and Town Commission.

As no one wished to be heard, Mayor Schneier closed the public hearing.

The motion carried by a 7-0 roll call vote, as follows: Haycock, aye; Williams, aye; Schneier, aye; Dominick, aye; Gold, aye; Merrigan, aye; Bishop, aye.

7C and 8. Ordinance 2021-08 and 2021-09

Mayor Schneier noted that Items 7C and 8 would be heard concurrently.

Mayor Schneider noted the procedures for consideration of quasi-judicial proceedings and public hearings. Upon inquiry, Attorney David Levin noted that he was requesting affected party status.

Town Attorney Maggie Mooney noted that the applicant noted no objection to the affected party status and Attorney Robert Lincoln confirmed his agreement and requested consideration for additional rebuttal time for the applicant.

Following comments, there was consensus to grant affected party status to Attorney Levin.

Town Attorney Mooney noted the time allocations were consistent with the Town Code and advised of the requirement for disclosure of any conflicts of interest. Upon inquiry, no conflicts of interest were stated by any Commissioner.

Town Attorney Mooney noted required disclosure of ex-parte communication by Commissioners for quasi-judicial matters. Upon inquiry, Town Clerk Trish Shinkle confirmed that all e-mails and/or written correspondence on the requests were distributed and included in the record for the petitions. Upon inquiry by Town Attorney Mooney, Commissioners Bishop, Merrigan, and Vice Mayor Haycock noted individual (separate) site visits and all confirmed they could consider the applications fairly and impartially.

Town Attorney Mooney noted the standards/criteria to be considered during the public hearings and advised that she was representing the Town Commission during the hearings.

Mayor Schneier read the descriptions of the items under consideration this date.

7C. Ordinance 2021-08, Application for Amendment to Chapter 160, Comprehensive Plan, for 551 Broadway Street, 7009 and 7017 Longboat Drive North
Request of property owners, Cypress Cash, LLC., for a Comprehensive Plan amendment to change the Future Land Use designation of the subject property with addresses of 551

Broadway Street and 7009 and 7017 Longboat Drive North, on the Future Land Use Map from RH-6 to RH-6/CORD. Recommended Action: Forward Ordinance 2021-08 to the December 6, 2021, Regular Meeting for second reading and public hearing.

8. Ordinance 2021-09, Application for Rezoning, 551 Broadway, 7009 and 7017 Longboat Drive North

Request of property owners, Cypress Cash, LLC., for approval of rezoning the property from R-6SF (High Density Mixed Residential District, 6 units per acre) to the R-6SF/CORD (High Density Mixed Residential District, 6 units per acre/Conformance Overlay Redevelopment District) which will take the properties at 551 Broadway Street and 7009 and 7017 Longboat Drive North, from a non-conforming status to conforming for density. As a quasi-judicial item, the Town Commission will base their decision on competent and substantial evidence presented at this meeting. Recommended Action: Forward Ordinance 2021-09 to the December 6, 2021, Regular Meeting for second reading and public hearing.

Mayor Schneier opened the public hearings.

Town Clerk Shinkle placed Ordinance 2021-08 and Ordinance 2021-09 on record for first readings and public hearings.

Town Attorney Mooney advised that all disclosures noted are officially included in the record of the public hearings.

Following comments by Town Manager Tom Harmer, Planning, Zoning, and Building Department Director Allen Parsons, duly sworn, gave a PowerPoint presentation on Ordinance 2021-08 and Ordinance 2021-09. Discussions were held with Mr. Parsons and Town Attorney Mooney on the following topics/issues:

- determination of abandonment/case law rulings
- determination or requirement for evidentiary hearing of intent
- length/time frame of last lease of the property
- assertion of non-use of property
- determination that property was ineligible under CORD provisions
- lease presented by the applicant included in the application.

RECESS: 2:53 p.m. - 3:05 p.m.

Discussions continued on the following topics/issues:

- 1984 density restrictions
- intent of the CORD adopted by the Commission
- previous/existing zoning of property
- number of parking places for existing apartment complex
- inclusion of swimming pools
- proposed setbacks between the proposed homes
- comparison of proposed development with Lands End development
- CORD consideration for redevelopment when under consideration
- existing setbacks in between homes on Broadway
- intent to put multi-family homes in single family zoned district
- option to change density on the parcel/zoning districts
- focus of CORD on non-conforming properties.

Mr. Bob Rokop, Architect, with AIA Architect, LLC, representing Cypress Cash, LLC, and duly sworn, provided an overview of the proposed plan. Mr. Richard Lawrence, with SRQ Property Law and duly sworn, commented on the determination of abandonment. Attorney Robert Lincoln, duly sworn, noted his credentials in land planning, discussed non-conformities, abandonment determination, daylight plane provisions, and Code compliance.

Attorney David Levin, representing the Abrams family, duly sworn, requested the ability for cross-examination of witnesses.

Discussions were held on the following topics/issues:

- last rental of properties (in 2018)
- public input presentation versus amendments made to the proposal after presentation to the public
- participation by the residents in the Village at the public input presentation
- intent to maintain required stormwater management/required review by Southwest Florida Water Management District (SWFWMD)
- proposed material for driveways
- environmental impacts for canal dredging/canal ownership (public) and intended maintenance/width of the canal
- consideration of four versus two single family development
- intent for maintenance of common areas by an association
- tolling provisions under declared State of Emergency/further review of claim of tolling provisions.

Attorney Levin inquired as to testimony presented (affidavit from prior owner) relating to occupancy. Mr. Lawrence noted the determination of abandonment was "intent" based and not based on actual occupancy and clarified the dates relating to the affidavit (submitted for the record). Town Attorney Mooney noted the document should be submitted for the record if utilized as testimony.

Attorney Levin inquired and Attorney Lincoln commented on interior lot lines, setbacks of the structures (single lot for zoning purposes), use of property as short-term rentals/release of any transient rental non-conforming use.

Upon inquiry, Mr. Lawrence noted that the applicant will comply with current rental Codes with respect to occupancy.

Town Attorney Mooney noted that the zoning would be a residential use and would carry a restriction against short-term (tourism use) rentals.

Attorney Levin noted his credentials in land use, discussed the abandonment issue, gave a PowerPoint presentation on the proposed development, and noted correspondence provided to the Town Commission and submitted to the Town Clerk for the record.

The following individuals commented on Ordinances 2021-08 and 2021-09:

- Mr. Pete Rowan, Broadway Street
- Ms. Carla Rowan, Broadway Street
- Ms. Peg Stanton, Longboat Drive East
- Mr. Benny Parrish, Hughes Street
- Mr. Michael Drake, Longboat Drive South

- Mr. Don Fancher, Linley Street
- Mr. Brian Feeney, Broadway Street
- Mr. Charles Rozier, Lands End Drive.

RECESS: 5:10 p.m. - 5:22 p.m.

Mr. Parsons noted no points of rebuttal by Staff.

6B Ordinance 2021-13, Amending Chapter 130, Sound Regulations

Following adoption of Emergency Ordinance 2021-10 on July 2, 2021, the Town Attorney and Town Manager were directed to review Chapter 130 and develop a new Sound Ordinance to replace the existing Code to provide for objective standards, and criteria for enforcement. Recommended Action: Forward Ordinance 2021-13, to the December 6, 2021, Regular Meeting for second reading and public hearing.

Subsequent to comments, Mayor Schneier noted that consideration of Ordinance 2021-13 would be held at a future meeting.

7C. Ordinance 2021-08, Application for Amendment to Chapter 160, Comprehensive Plan - Continued

8. Ordinance 2021-09, Application for Rezoning, 551 Broadway, 7009 and 7017 Longboat Drive North - Continued

Following a request for a 10-minute rebuttal period, Mr. Lawrence and Attorney Lincoln offered rebuttal comments.

Attorney Levin noted no rebuttal comments and supported denial of the requests.

Following comments by Mayor Schneier, Town Attorney Mooney noted the process for consideration of the petitions, required written orders dependent on Commission action, and options to continue the public hearings. Discussions were held on the following topics/issues:

- eligibility issues relating to application for the CORD process
- determination of abandonment
- identification of/historical data relating to water usage on the property
- consideration and intent of the CORD zoning for properties
- lack of pending Code enforcement action by the Town
- intent of the CORD redevelopment option/ability to provide historical information
- lack of intent of property owner to rent existing units
- impact of State's Declaration of Emergency in 2020
- density impact
- consideration of abandonment issue.

Mayor Schneier requested and there was majority consensus that the applicant was eligible to apply for the CORD process.

Discussion ensued on findings relating to the proposed development.

Commissioner Bishop moved to deny Ordinance 2021-08 and to continue the issue to the November 15, 2021, Special Meeting, immediately following the Regular Workshop, to provide adequate time for Staff to develop the appropriate documentation of denial. The motion was seconded by Commissioner Williams.

Upon inquiry, Mr. Parsons noted the applicant would be required to submit a new application if the requests were denied.

Commissioner Bishop moved to amend the motion to deny both Ordinance 2021-08 and Ordinance 2021-09 and to continue the issue to the November 15, 2021, Special Meeting, immediately following the Regular Workshop, to provide adequate time for Staff to develop the appropriate documentation of denial. The amendment was seconded by Commissioner Williams.

Upon inquiry, Town Attorney Mooney noted that a written order is required for final action by the Commission.

The motion, as amended, carried by a 7-0 roll call vote, as follows: Bishop, aye; Williams, aye; Merrigan, aye; Dominick, aye; Gold, aye; Haycock, aye; Schneier, aye.

9. Ordinance – Second Reading and Public Hearing

Ordinance 2021-14, Amending Chapter 154, Flood Control

The Town participates in the National Flood Insurance Program (NFIP) and the Community Rating System (CRS) and is currently rated a Class 6 community, providing 20% discounts island-wide on applicable insurance policies. Based on changes in NFIP CRS effective January 12, 2021, the Town is required to amend the Town Code to eliminate the building elevation height exemption for manufactured homes, or the Town would be downgraded to a Class 9 CRS community with only a 5% discount island-wide on applicable insurance policies. Recommended Action: Adopt Ordinance 2021-14.

Town Clerk Trish Shinkle placed Ordinance 2021-14 on record by title only for second reading and public hearing

Commissioner Dominick moved to adopt Ordinance 2021-14. The motion was seconded by Commissioner Bishop.

Mayor Schneier opened the public hearing.

Following comments by Town Manager Tom Harmer, Planning, Zoning, and Building Department Director Allan Parsons gave a PowerPoint presentation on Ordinance 2021-14. Discussions were held on the following topics/issues:

- lack of impact unless property is not maintained
- correspondence received from the Florida Manufactured Housing Association (FMHA)
- inclusion of 154.304(D) Elevation - modify ~~bottom of the frame~~ to lowest floor
- mobile homes eligible for discount
- 50 percent of repairs versus 50 percent of structure value
- requirement for one ingress/egress
- ability to park under elevated structures.

The following individuals commented on Ordinance 2021-14:

- Mr. Fred Bez, Community Association Manager, Gulfshore Mobile Home Park
- Mr. Tommy Rhenlander, Twin Shores Mobile Home Park.

Mr. Parsons noted 50 percent or more than assessed value would require compliance and advised that there is only one means of ingress/egress, Section 154.107(G), relating to variances.

Mayor Schneier closed the public hearing.

Following comments, the motion carried by a 7-0 roll call vote, as follows: Dominick, aye; Bishop, aye; Gold, aye; Williams, aye; Schneier, aye; Haycock, aye; Merrigan, aye.

10. Resolution & Public Hearing

Resolution 2021-25, Amending the FY21 General Fund Budget in the Amount of \$30,000 to Cover COVID-19 Expenses and Amending the Facilities Fire Stations Capital Fund in the amount of \$1,570 to Establish Account for the Longboat Key Garden Club Donation
Resolution 2021-25 provides for a FY21 Budget transfer as part of the required year-end adjustments to cover various unbudgeted expenses resulting for the on-going pandemic, and for a grant received for the Fire Stations beautification projects. Recommended Action: Pass Resolution 2021-25.

Town Clerk Trish Shinkle placed Resolution 2021-25 on record by title only for public hearing.

Commissioner Gold moved to pass Resolution 2021-25. The motion was seconded by Vice Mayor Haycock.

Mayor Schneier opened the public hearing.

Town Manager Tom Harmer gave an overview of Resolution 2021-25.

As no one wished to speak, Mayor Schneier closed the public hearing.

The motion carried by a 7-0 roll call vote, as follows: Gold, aye; Haycock, aye; Bishop, aye; Dominick, aye; Merrigan, aye; Schneier, aye; Williams, aye.

11. Discussion Items

Appointment to the Zoning Board of Adjustment

The Town Commission will consider an appointment to the Zoning Board of Adjustment (ZBA) which currently has one vacancy for a partial term until May 10, 2023. Recommended Action: Make appointment to the Zoning Board of Adjustment.

Following comments by Mayor Schneier, Commissioner Bishop moved to appoint Mr. Rich Pearce to the Zoning Board of Adjustment. The motion, seconded by Vice Mayor Haycock, carried by a 7-0 roll call vote as follows: Bishop, aye; Haycock, aye; Dominick, aye; Gold, aye; Williams, aye; Merrigan, aye; Schneier, aye.

12. Town Commission Comments

No items were presented.

13. Town Attorney Comments

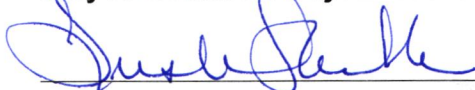
No items were presented.

14. Town Manager Comments

Town Manager Harmer noted the upcoming Commission meetings and items to be considered and advised of upcoming events to be held in November.

15. Adjournment

Mayor Schneier adjourned the November 1, 2021, Regular Meeting at 6:56 p.m.



Trish Shinkle, Town Clerk

Minutes Approved: 12/6/2021



Kenneth Schneier, Mayor