

Regular Workshop – March 23, 2016
Agenda Item 9

Agenda Item: Discussion Regarding the Code Enforcement Board

Presenter: Town Manager and Staff

Summary: At the January 4, 2016 Regular Meeting, the Town Commission expressed interest in discussing the status and role of the Town's Code Enforcement Board. Town staff will present information on the current status of the Code Enforcement Board, information from the Town's Charter and Code, as well as provisions of Florida State Statute as it relates to the Code Enforcement Board.

Attachments: 2-19-16 Memo, CEO Elbon through Chief Cumming to Manager.

Recommended

Action: Pending discussion, provide direction to Manager.



**TOWN OF LONGBOAT KEY
CODE ENFORCEMENT DEPARTMENT
5460 GULF OF MEXICO DRIVE
LONGBOAT KEY, FL 34228**

February 19, 2016

To: Dave Bullock, Town Manager
Through: Pete Cumming, Police Chief
From: Chris Elbon, Code Enforcement Officer
Subject: Discussion Regarding the Code Enforcement Board

1. The purpose of this report is to provide information on the following areas:
 - a. The current status of the Code Enforcement Board.
 - b. Overview of the town charter pertaining to the Code Enforcement Board.
 - c. Overview of the town code pertaining to the intent, establishment, appointments, organization and authority of the Code Enforcement Board.
 - d. Florida State Statute pertaining to the role of the Code Enforcement Board.
 - e. Current practices for surrounding jurisdictions regarding Code Enforcement Boards and supplemental enforcement procedures.

2. Status of the Code Enforcement Board:
 - a. The Code Enforcement Board consists of seven members that are appointed by the Town Commission.
 - b. Currently, the Code Enforcement Board consists of seven members, with no vacancies.
 - c. The current members of the Code Enforcement Board are Chairman Robert Krosney, Neal Colton, Thomas Jones, Irwin Lowenstein, Joel Mangel, Beverly Shapiro and Jerry Whitehead.
 - d. During the regular Code Enforcement Board on January 11, 2016, attorney Charles D. Bailey, III with the law firm of William Parker Harrison Dietz & Getzen, provided training as it pertained to the procedures, duties and authority of the Code Enforcement Board.

3. Section 20 – *Appointment of Advisory Boards* of the Longboat Key Charter states:
 - a. The Town Commission shall establish permanent boards by ordinance and ad hoc committees by resolution. Members of such boards or committees shall serve without compensation at the pleasure of the town commission for such terms as it deems necessary and desirable. At a minimum, the permanent boards of the town shall be the Planning and Zoning Board, the Zoning Board of Adjustment and the Code Enforcement Board, the duties and responsibilities of which shall be established by ordinance.

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- b. The Town Commission, at its discretion, shall appoint a Charter Review Committee to review the Charter but in no event shall such review be less than once in a ten (10) year period from the date of adoption of this Charter.
4. Chapter 33 – *Board and Commissions* of the Town’s Code of Ordinances:
- a. Section 33.01 – *Intent*: It is the intent of this subchapter to promote, protect and improve the health, safety and welfare of the citizens of the Town of Longboat Key by creating a code enforcement board with authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing any codes, ordinances, resolutions, orders, approvals, and permits of the town, where a pending or repeated violation continues to exist.
 - b. Section 33.03 – *Establishment; Members*: The Code Enforcement Board shall consist of seven members to be appointed by the Town Commission. All members must be registered voters and residents of the Town of Longboat Key. The board shall elect a chairman annually from among its members. No member shall be an elected official or employee of the town. A person appointed to this board may not serve concurrently on any of the following town boards: Ethics Commission, Planning and Zoning Board or Zoning Board of Adjustment. The Code Enforcement Board shall, whenever possible, consist of persons experienced in their respective fields as follows:
 - (1) Architect;
 - (2) Businessman;
 - (3) Engineer;
 - (4) General contractor;
 - (5) Subcontractor;
 - (6) Realtor
 - c. The initial appointments to the Code Enforcement Board shall be as follows:
 - (1) Two members appointed for a term of one year;
 - (2) Three members appointed for a term of two years;
 - (3) Two members appointed for a term of three years
 - d. Section 33.04 – *Organization; Quorum and Compensation*: The members of the Code Enforcement Board shall elect a chairman and vice-chairman from among its members. The vice-chairman shall serve as chairman in the absence or disability of the chairman. The presence of four or more members shall constitute a quorum of the board. Members shall serve without compensation, but may be reimbursed for any travel, mileage, and per diem expenses authorized by the Town Commission or as otherwise provided by law.
 - e. Section 33.09 – *Powers*: The Code Enforcement Board shall have the power to:
 - (1) Adopt rules for the conduct of its hearings;

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- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the police department of the town or sheriff of Manatee or Sarasota County;
 - (3) Subpoena evidence to its hearings;
 - (4) Take testimony under oath;
 - (5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance;
 - (6) Order the replacement of trees when it deems such action to be proper for violation of Chapter 98.
- f. Section 33.10 – *Administrative Fines and Lien*: The Code Enforcement Board may order a violator to pay a fine not to exceed:
- (1) \$250.00 per day for a first violation;
 - (2) \$500.00 per day for a repeat violation;
 - (3) \$5,000.00 per violation if the Code Enforcement Board finds the violation to be irreparable or irreversible in nature.

In addition, a certified copy of an order imposing the fine may be recorded in the public records of the county, and thereafter such order shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. After three months from the filing of any such lien which remains unpaid, the code enforcement board may authorize the town attorney to foreclose on the lien or sue to recover a money judgment for the amount of the lien plus accrued interest.

- g. Section 33.03 – *Code Enforcement Board Supplemental* states: Nothing contained in Sections 33.01 through 33.12 shall prohibit the town from enforcing its code by any other means. The code enforcement board shall provide an additional or supplemental means of obtaining compliance with the Town Code. This includes citations as stated in Sections 33.14 through 33.18.
5. Florida State Statute 162 – *County or Municipal Code Enforcement*:
- a. Chapter 33 of the Town Code mirrors Florida State Statute 162 in many respects as it relates to the intent, establishment of members, appointments, organization, conduct of hearing, powers, administrative fines and liens, and supplementary enforcement procedures as it relates to the Code Enforcement Board.
 - b. Florida State Statute 162 grants the same authority to special magistrates as it grants to an enforcement board upon the adoption of an alternate code enforcement system by charter counties, non-charter counties, and municipalities.
 - c. Florida State Statute 162 grants Code Enforcement Officers the authority to issue civil citations, notices to appear, initiate enforcement proceedings and conduct inspections.
 - d. Florida State Statute 162.03(1) grants cities and municipalities the option of creating or abolishing by ordinance local government Code Enforcement Boards.

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- e. Florida State Statute 162 does not prohibit counties or municipalities from enforcing its codes or ordinances by any other means and may designate the enforcement methods and penalties to be imposed for the violation of ordinances adopted by the municipality. These enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear.

6. Practices for Surrounding Jurisdictions:

In meeting with Code Enforcement from surrounding jurisdictions, the following has been identified:

- a. The City of Anna Maria does not utilize a Code Enforcement Board, and instead utilizes a Special Magistrate who is a licensed and practicing attorney. In addition, the City of Anna Maria utilizes warning notices and civil penalty citations as primary means of enforcement. The citations are processed through the City of Anna Maria and appeals are heard by the Special Magistrate. Due to the success of the citation process, the City of Anna Maria has not utilized their Special Magistrate for the five months the Code Enforcement Officer has been with the City of Anna Maria
- b. The City of Bradenton Beach does not utilize a Code Enforcement Board due to the Code Enforcement Board overstepping their authority, and instead utilizes a Special Magistrate who is a licensed attorney. In addition, The City of Bradenton Beach utilizes warning citations and civil penalty citations as primary means of enforcement. The citations are processed through The City of Bradenton Beach and appeals are heard by the Special Magistrate. Due to the success of the citation process, The City of Bradenton Beach has not utilized their Special Magistrate for over two years.
- c. The City of Holmes Beach does not utilize a Code Enforcement Board, and instead utilizes a Special Magistrate. In addition, The City of Holmes Beach utilizes warning notices and civil penalty citations as primary means of enforcement. The citations are processed through the Manatee County Clerk of the Circuit Court and appeals are heard in the Circuit Court for Manatee County. Due to the success of the citation process, The City of Holmes Beach has not utilized their Special Magistrate for the six months the Code Enforcement Officer has been with The City of Holmes Beach.
- d. The City of Sarasota does not utilize a Code Enforcement Board, and instead utilizes a Special Magistrate. The City of Sarasota has one Special Magistrate with two alternates, all of which are licensed attorneys and only two are practicing. In addition, The City of Sarasota utilizes civil penalty citations and supplemental enforcement procedures as primary means of enforcement. The citations are processed through The City of Sarasota and appeals are heard by the Special Magistrate. Due to the supplemental enforcement procedures, the City of

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Sarasota holds weekly Special Magistrate hearings, which hear on average 30 cases per hearing.

- e. The City of Bradenton utilizes a Code Enforcement Board, as opposed to a Special Magistrate, but is dissatisfied with the Code Enforcement Board process due to the Code Enforcement Board overstepping their authority and being inconsistent with decisions. In addition, The City of Bradenton utilizes warning notices and civil penalty citations as primary means of enforcement. The citations are processed through the Manatee County Clerk of the Circuit Court and appeals are heard in the Circuit Court for Manatee County. The City of Bradenton currently holds monthly Code Enforcement Board meetings.

	Code Enforcement Board	Special Magistrate	Citations	Supplemental Enforcement Procedures
Anna Maria		ü	ü	
Bradenton Beach		ü	ü	
Holmes Beach		ü	ü	
City of Sarasota		ü	ü	ü
City of Bradenton	ü		ü	
Longboat Key	ü			

The point of contact for this report is Christopher Elbon at (941) 361-6411, Ext. 1917, or celbon@longboatkey.org.

Christopher Elbon
 Code Enforcement Officer
 Town of Longboat Key



Discussion Regarding the Code Enforcement Board

March 23, 2016

Prepared by: Chris Elbon, Code Enforcement Officer



Background and History

§ At the January 4, 2016, Regular Meeting, the Town Commission expressed interest in discussing the status and role of the Town's Code Enforcement Board.



Background and History

§ Staff consulted with the following entities regarding code enforcement boards, special magistrates, and supplemental code enforcement procedures:

- § Anna Maria Code Enforcement
- § Bradenton Beach Code Enforcement
- § Holmes Beach Code Enforcement
- § City of Bradenton Code Enforcement
- § City of Sarasota Code Enforcement



Status of the Code Enforcement Board

- § The Code Enforcement Board consists of seven members appointed by the Town Commission.**

- § The Code Enforcement Board currently meets once per month and regularly holds meetings on the second Monday of every month.**

- § Currently, the Code Enforcement Board has no vacancies.**



Longboat Key Charter

§ **Article II - *Town Commission*, Section 20 - *Appointments of Advisory Boards* of the Longboat Key Charter establishes the Code Enforcement Board as a permanent board.**



Chapter 33

- § **Chapter 33 - *Boards and Commissions, Code Enforcement Board* governs all procedures and authority for the Code Enforcement Board.**

- § **Subsections *Code Enforcement Board* and *Supplemental Code Enforcement* of Chapter 33 mirror Chapter 162 of the Florida Statute.**



Surrounding Jurisdictions

	Code Enforcement Board	Special Magistrate	Citations	Supplemental Enforcement Procedures
Anna Maria		ü	ü	
Bradenton Beach		ü	ü	
Holmes Beach		ü	ü	
City of Sarasota		ü	ü	ü
City of Bradenton	ü		ü	
Longboat Key	ü			



End of Agenda Item



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