

**MINUTES  
LONGBOAT KEY TOWN COMMISSION  
REGULAR MEETING  
JANUARY 9, 2012 - 7:00 P.M.**

**Present:** Mayor Jim Brown, Vice Mayor David Brenner, Commrs. Jack Duncan, Lynn Larson, Hal Lenobel, Phillip Younger, Pat Zunz

**Also:** Town Manager Dave Bullock, Town Attorney David Persson,  
**Present:** Town Clerk Trish Granger

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

**Mayor Brown called the meeting to order at 7:00 p.m. and Vice Mayor Brenner led the Pledge of Allegiance.**

16. Ordinance 2011-36, Budget Transfer for One-Time Payment to Town Employees

17. Ordinance 2012-01, Pass-Through of Manatee County Wholesale Water and Wastewater Rate Increases

**Mayor Brown requested, and there was consensus to reorder the agenda items to consider Items 16 and 17 following Item 12 on the published agenda.**

**APPROVAL OF MINUTES**

1. October 20, 2011, Regular Workshop; October 20, 2011, Special Meeting; November 3, 2011, Special Workshop (Beach Management); November 4, 2011, Special Workshop (Comprehensive Plan Amendments); November 7, 2011, Joint Meeting with Sarasota Board of County Commission; November 7, 2011, Regular Meeting; November 17, 2011, Regular Workshop; and November 17, 2011, Special Meeting Minutes.

**Mayor Brown noted there was consensus to approve the minutes as submitted.**

**COMMITTEE REPORTS AND COMMUNICATIONS**

A. Organizations

Vice Mayor Brenner noted that Commr. Duncan had attended the Manatee Tourist Development Council (TDC) in his absence. Commr. Duncan provided an overview of items discussed.

B. Government Entities

Vice Mayor Brenner noted attendance with Mayor Brown at the Manatee County Council of Governments (COG) meeting, reviewed the issue relating to the mullet kill that was experienced in late December by the coastal communities, advising the issue is under review to prevent future events from occurring.

**PUBLIC TO BE HEARD**

2. Opportunity for Public to Address Town Commission

A. Litigation

Mr. Irwin Pastor, L'Ambiance Drive, commented on the recent court decision relating to the Longboat Key Club litigation and noted support to not appeal the court ruling.

2. Opportunity for Public to Address Town Commission - Continued

B. Litigation

Mr. Bob White, representing the Islandside Property Owners Coalition (IPOC), commented on the recent court decision relating to the Longboat Key Club litigation and noted support to not appeal the court ruling.

Mayor Brown advised the item was not included on the agenda. Town Attorney David Persson noted the intent to request Commission direction on the issue later this meeting.

C. Litigation

Mr. Michael Welly, representing the Longboat Key Club, advised of the Longboat Key Club's intent to file an appeal to the recent court ruling resulting from the Islandside Property Owners' Coalition (IPOC) litigation.

**CLOSING AND ACTION ON CONSENT AGENDA**

3. Ministerial Approval of the Appointment of Michael Murphy as the Firefighters' Retirement System Board of Trustees At-Large Representative

Retirement System Board At-Large Trustees are selected by the other four Board members and are appointed by the Town Commission as a ministerial act. Michael Murphy was selected to serve on the Firefighters' Retirement System Board as the At-Large Trustee. Recommended Action: Approval of the Consent Agenda will confirm Firefighters' Retirement System Board At-Large appointment of Michael Murphy.

4. Ministerial Approval of the Appointment of Ron McDonough as the General Employees' Retirement System Board of Trustees At-Large Representative

Retirement System Board At-Large Trustees are selected by the other four Board members and are appointed by the Town Commission as a ministerial act. Ron McDonough was selected to serve on the General Employees' Retirement System Board as the At-Large Trustee. Recommended Action: Approval of the Consent Agenda will confirm General Employees' Retirement System Board At-Large appointment of Ron McDonough.

5. Ministerial Approval of the Appointment of Peter Kasdan as the Police Officers Retirement System Board of Trustees At-Large Representative

Retirement System Board At-Large Trustees are selected by the other four Board members and are appointed by the Town Commission as a ministerial act. Peter Kasdan was selected to serve on the Police Officers' Retirement System Board as the At-Large Trustee. Recommended Action: Approval of the Consent Agenda will confirm Police Officers' Retirement System Board At-Large appointment of Peter Kasdan.

6. Resolution 2012-02, Pension Study Funding Resolution

On January 3, 2011, the Town Commission authorized funding for a pension plan study to analyze costs for alternatives going forward for both General Employees' and Police Officers' pension plans. Resolution 2012-02 provides additional funding to expand the pension plan study to include the Firefighters' pension plan. Recommended Action: Approval of the Consent Agenda by a 7-0 vote will pass Resolution 2012-02.

7. Resolution 2012-03, Opposing Florida HB 4025 and Florida SB 760 - Repeal of Florida Statutes Chapter 205

Florida Statutes, Chapter 205 currently provides for a Business Tax Receipt program from which the Town derives approximately \$165,000 in annual revenue. The Florida

7. Resolution 2012-03, Opposing Florida HB 4025 and Florida SB 760 - Repeal of Florida Statutes Chapter 205 - Continued

House and Senate are currently considering bills that would eliminate Chapter 205 and thereby would terminate the Town's business tax receipt program. Resolution 2012-03 is placed on the December 15, 2011, Regular Workshop Meeting for Commission consideration. Recommended Action: Approval of the Consent Agenda by a 7-0 vote will pass Resolution 2012-03.

8. Resolution 2012-04, Budget Transfer in the Amount of \$36,284 to Provide Funding for Telecommunications Study

At the December 15, 2011 Regular Workshop Meeting the Town Manager advised of results of the RFQ for Telecommunications Study and selection of TE Connectivity, Inc. as the consultant chosen to provide services to the Town. Resolution 2012-04 provides for funding required to enter a contract for services with TE Connectivity, Inc. Recommended Action: Approval of the Consent Agenda by a 7-0 vote will pass Resolution 2012-04.

9. Resolution 2012-05, Establishing the Date for the Town of Longboat Key General Municipal Election and Providing for Early Voting

At the December 15, 2011, Regular Workshop Meeting staff was directed to prepare Resolution 2012-05, establishing March 20, 2012, as the Town of Longboat Key General Municipal Election and providing for one week of early voting at Town Hall. Recommended Action: Approval of the Consent Agenda by a 7-0 vote will pass Resolution 2012-05.

Vice Mayor Brenner commented on the appointments to the Town's Retirement System Board of Trustees, At-Large Members, and noted concern with having three firefighters seated on one Board.

**Commr. Lenobel moved to close and approve the Consent Agenda in accordance with Staff reports and recommendations. The motion, seconded by Commr. Younger, carried by a 7-0 roll call vote, as follows: Lenobel, aye; Younger, aye; Larson, aye; Brenner, aye; Brown, aye; Duncan, aye; Zunz, aye.**

**ORDINANCES - FIRST READING**

10. Ordinance 2012-07, Amending Chapter 30.01(D) Workshop Meetings

At the December 5, 2011 Regular Meeting, Mayor Brown proposed amending the Town Code to provide for future workshop meetings to begin at 2:00 PM. Ordinance 2012-07 was forwarded from the December 15, 2011, Regular Workshop Meeting for first reading. Recommended Action: Pending first reading and discussion, forward Ordinance 2012-07 to the February 6, 2012, Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2012-07 on record for first reading.

**Commr. Larson moved to pass Ordinance 2012-07 on first reading and to forward to the February 6, 2012, Regular Meeting for second reading and public hearing. The motion, seconded by Commr. Duncan, carried by a 7-0 roll call vote, as follows: Larson, aye; Duncan, aye; Younger, aye; Zunz, aye; Brenner, aye; Lenobel, aye; Brown, aye.**

10. Ordinance 2012-07, Amending Chapter 30.01(D) Workshop Meetings- Continued  
**Mayor Brown noted that the January 19, 2012, was scheduled for 1:00 p.m. and following comments, noted that the January 19, 2012, would remain at 1:00 p.m.**

**ORDINANCES - FIRST READING AND PUBLIC HEARING**

11. Ordinance 2011-16, Amending Chapter 158, Screening and Landscaping Regulations for Transition Yards

At their November 15, 2011 Regular Meeting, the Planning & Zoning Board recommended approval, and forwarded, Ordinance 2011-16 to the Town Commission for consideration. Ordinance 2011-16 amends the Zoning Code to provide for alternative methods to meet Code requirements for landscape buffers in transition yards. Recommended Action: Pending first reading and discussion, forward Ordinance 2011-16 to the February 6, 2012 Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger Placed Ordinance 2011-16 on record for first reading and public hearing by title only.

**Commr. Larson moved to pass Ordinance 2011-16 on first reading and public hearing and to forward to the February 6, 2012, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Younger.**

**Mayor Brown 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: Larson, aye; Younger, aye; Zunz, aye; Lenobel, aye; Brown, aye; Brenner, aye; Duncan, aye.**

19. Other Business

A. Government Entities

Mayor Brown noted the attendance of Sarasota County Commissioner Carolyn Mason.

12. Ordinance 2011-21, Amending Chapter 158.006, Landscaping Required

At the June 6, 2011 Regular Meeting the Town Commission adopted Ordinance 2011-10, amending Section 158.152 of the Town Code. Commissioner Younger asked that provisions of Section 158.152 be reviewed pertaining to the time frame for replacement of non-compliant hedges. Pursuant to the Town Code, the Planning & Zoning Board reviewed the issue and forwarded Ordinance 2011-21 to the Town Commission for consideration. Recommended Action: Pending first reading and discussion, forward Ordinance 2011-21 to the February 6, 2012 Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger Placed Ordinance 2011-21 on record for first reading and public hearing by title only.

**Commr. Duncan moved to pass Ordinance 2011-21 on first reading and public hearing and to forward to the February 6, 2012, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Younger.**

12. Ordinance 2011-21, Amending Chapter 158.006, Landscaping Required - Continued  
**Mayor Brown 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: Duncan, aye; Younger, aye; Larson, aye; Lenobel, aye; Brown, aye; Zunz, aye; Brenner, aye.**

**ORDINANCES - SECOND READING AND PUBLIC HEARING**

16. Ordinance 2011-36, Budget Transfer for One-Time Payment to Town Employees

At the November 17, 2011, Special Meeting, the Town Commission unanimously supported a one-time payment of \$1,000 to the Town's full time employees and a prorated amount to the part time employees based on hours worked the previous twelve months. Ordinance 2011-36 provides for the Budget transfer for Fiscal Year (FY) 2011-2012 to appropriate funding for the approved payment. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2011-36.

Town Clerk Trish Granger Placed Ordinance 2011-36 on record for second reading and public hearing by title only.

**Commr. Larson moved to adopt Ordinance 2011-36 on second reading and public hearing. The motion was seconded by Commr. Duncan.**

**Mayor Brown 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: Larson, aye; Duncan, aye; Zunz, aye; Lenobel, aye; Younger, aye; Brenner, aye; Brown, aye.**

17. Ordinance 2012-01, Pass-Through of Manatee County Wholesale Water and Wastewater Rate Increases

On October 25, 2011, the Manatee Board of County Commissioners voted on increasing wholesale water and wastewater rates effective November 1, 2011. Commission policy has been to pass-through Manatee County rate changes to the Town's utility ratepayers as provided for in Town Code Chapter 51, Sections 11 and 21. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2012-01.

Town Clerk Trish Granger Placed Ordinance 2012-01 on record for second reading and public hearing by title only.

**Commr. Zunz moved to adopt Ordinance 2012-01 on second reading and public hearing. The motion was seconded by Vice Mayor Brenner.**

**Mayor Brown 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: Zunz, aye; Brenner, aye; Duncan, aye; Brown, aye; Lenobel, aye; Younger, aye; Larson, aye.**

## **TOWN ATTORNEY COMMENTS**

### **A. Litigation**

Mayor Brown requested and Town Attorney David Persson commented on the court ruling relating to the Islandside Property Owners' Coalition and advised that there was no basis to postpone the hearings on Items 13, 14, 15, and 18.

## **ORDINANCES - FIRST READING AND PUBLIC HEARING/RESOLUTION AND PUBLIC HEARING**

### **13. Quasi-Judicial – Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), 594 Bay Isles Road, Outline Development Plan Amendment**

At their December 13, 2011 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval, and forwarded, Ordinance 2012-03 to the January 9, 2012 Regular Meeting for Commission consideration. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

### **14. Quasi-judicial – Ordinance 2012-04, Parcel B-2, Bay Isles, (Town Plaza II), 545 Bay Isles Parkway, Outline Development Plan Amendment**

At their December 13, 2011 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval, and forwarded, Ordinance 2012-04 to the January 9, 2012 Regular Meeting for Commission consideration. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

### **15. Quasi-judicial – Ordinance 2012-02, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), 525 Bay Isles Parkway, Outline Development Plan Amendment**

At their December 13, 2011 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval, and forwarded, Ordinance 2012-02 to the January 9, 2012 Regular Meeting for Commission consideration. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

### **18. Quasi-judicial – Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix) 525 Bay Isles Parkway, Site Plan Amendment**

At their December 13, 2011 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval, and forwarded, Resolution 2012-01 to the January 9, 2012 Regular Meeting for Commission consideration. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

**Mayor Brown noted that the public hearings on Items 13, 14, 15, and 18, would be opened and heard simultaneously and provided an overview of the procedures for the quasi-judicial public hearings.**

**Mayor Brown opened the public hearings simultaneously.**

Town Clerk Trish Granger placed Ordinances 2012-02, 2012-03, and 2012-04 and Resolution 2012-01 on record for public hearing by title only.

13. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), ODP Amendment - Continued

14. Ordinance 2012-04, Parcel B-2, Town Plaza II, ODP Amendment - Continued

15. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix, ODP Amendment-Continued

18. Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), Site Plan Amendment - Continued

Town Attorney David Persson commented on ex-parte communication and disclosure of any conflicts, with comments as follows:

Commr. Larson noted she had spoken with Publix staff.

Commr. Duncan noted he utilizes the current services located at the shopping plaza.

Mayor Brown noted meetings with Mr. Leeds, representing Publix, prior to the filing of the final applications.

Vice Mayor Brenner noted attendance at a public presentation before the filing of the application and a meeting with Mr. Michael Leeds approximately 10 months prior, and encouragement to Publix representatives to meet with the Revitalization Committee. Vice Mayor Brenner noted he had forwarded correspondence received by the Town Commission to the Publix representatives through the public e-mail system.

Town Attorney Persson advised that the e-mail correspondence, the Land Development Regulations, and the Comprehensive Plan would become part of the official record for the hearing.

Town Attorney Persson noted receipt of a request from Icard, Merrill, representing Bay Isles Association, Inc., for third party status in connection with the applications under consideration and advised that the Town Commission had the authority to grant "interested party" status due to the ownership of the roadway by the Bay Isles Association.

**There was consensus to grant "interested party" status to the Bay Isles Association, Inc.**

Town Clerk Granger administered the oath to all individuals presenting testimony this date.

Upon inquiry, Town Attorney Persson opined that the Commission could move forward with the public hearings without consideration of the ruling on the Longboat Key Club litigation.

Planning, Zoning, and Building Department Planner Steve Schield, duly sworn, presented an overview of the proposals, and noted distribution of the PowerPoint presentation and revised Ordinances. Discussions were held on the following topics/issues:

- impact of deleting all previously allowable uses on a parcel/necessity for Town to assign a use to the parcel

- 13. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), ODP Amendment - Continued
- 14. Ordinance 2012-04, Parcel B-2, Town Plaza II, ODP Amendment - Continued
- 15. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix, ODP Amendment-Continued
- 18. Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), Site Plan Amendment - Continued

- process to receive approval for proposed uses (Outline Development Plan Amendment required)
- requirement to comply with the Town's Comprehensive Plan for any proposed future uses
- total parking reflected on the Site Plan for Parcel A
- ability to place parallel parking and the number of spaces to be realized.

Mr. Bill Oliver, of Tindale-Oliver and duly sworn, noted the recommendation to maintain two way circulation. Discussions were held with Mr. Oliver on the following topics/issues:

- the traffic flow and utilization of the ingress/egress by emergency vehicles
- impact on additional access (ingress/egress) for emergency vehicles
- proposed third access to be ingress only (north portion of the property)
- access to the proposed retail office space to reduce safety concerns (access by emergency issues)
- concerns of the Bay Isles Association, Inc. relating to the additional access
- proposed access reflects existing ingress/egress to the shopping center
- anticipated issues with two way traffic at the main entrance area.

**RECESS:** 8:30 p.m. - 8:40 p.m.

Mr. Michael Leeds, RMC Development Services representing the applicant, duly sworn, provided an overview of the proposed redevelopment of the existing Avenue of the Flowers shopping center.

Mr. Joel Freedman, Freedman Consulting, duly sworn, provided an overview of the existing development and the proposed development and requested consideration to grant the departures as requested by the applicant.

Mr. Matt Campo, Campo Engineering, duly sworn, reviewed the functionality of the site, proposed pedestrian/bike accessibility, and stormwater retention areas.

Mr. Mike Raysor, Professional Engineer, duly sworn, noted his involvement with the parking evaluation and the two-way versus one-way circulation for the site.

Mr. Gary Hoyt, Hoyt Architects, duly sworn, reviewed the proposed building and landscape renderings for the project.

Mr. Phil Smith, Landscape Architect and Certified Arborist, duly sworn, reviewed the proposed buffering and landscaping to be utilized on the site. Upon inquiry, Mr. Smith advised that the graphics displayed did not reflect the six foot berm that was discussed.

- 13. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), ODP Amendment - Continued
- 14. Ordinance 2012-04, Parcel B-2, Town Plaza II, ODP Amendment - Continued
- 15. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix, ODP Amendment-Continued
- 18. Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), Site Plan Amendment - Continued

Discussions were held with Mr. Schield and the applicants representatives on the following topics/issues:

- suggested size of the caliper of 4 inches
- existing landscaping conditions and proposed improvements along Bay Isles Parkway
- depiction on drawings versus photo enhanced pictures displayed
- accommodation of various types of delivery vehicles/tractor-trailers
- traffic flow of delivery vehicles/maintenance of Bay Isles Parkway
- delivery truck impact on pedestrian/bicycle safety
- existing access agreement with Bank of America to provide connection between properties.

Attorney Stephen Rees, Jr., representing Bay Isles Association, duly sworn, commented on buffering and the proposed parking spaces, and requested consideration for the following revisions to the application:

- Ordinance 2012-02, Condition 4, relating to the future third access to Bay Isles Road, to incorporate the following words:  
    . . . (if access is approved in writing by the Bay Isles Master Association) . . .
- Resolution 2012-01, Condition 26, relating to pre- and post-construction road assessment to incorporate the following words:  
    . . . has been caused by the applicant its contractors, subcontractors, or agents during the time of construction. The applicant . . .
- Resolution 2012-01, Conditions 36 and 37, requesting that the required six foot berm be continued down Bay Isles Parkway with the elimination of the parking spaces in the area.
- Resolution 2012-01, Condition 38, relating to the installation time frame to include reference to the required berms, as follows:  
    The applicant shall install all required landscape buffer vegetation and berms along Gulf of Mexico Drive and Bay Isles Parkway during the first phase of the project beginning in April of 2012.
- Inclusion of an additional condition to require timely repair of any master irrigation lines, including wells that may be damaged during construction.

Upon inquiry, Attorney Rees commented on the position of the Bay Isles Association relating to a third access point and the impact on maintenance costs for the roadway.

Upon inquiry, Mr. Leeds commented on the requested parking spaces, the operational perspective of Publix based on the square footage of the store, and the intent to make the shopping plaza a focal point within the Town.

- 13. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), ODP Amendment - Continued
- 14. Ordinance 2012-04, Parcel B-2, Town Plaza II, ODP Amendment - Continued
- 15. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix, ODP Amendment-Continued
- 18. Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), Site Plan Amendment - Continued

Mayor Brown commented on the existing parking and the request by Publix for the additional spaces and noted concern with requesting a reduction in the design standards promoted by Publix.

Attorney Rees noted the constraints for the redevelopment of the site and the aesthetic issues to be addressed.

Mr. Bill Levine, President of the Bay Isles Master Association, duly sworn, commented on the position of the Association on the ingress/egress from Bay Isles Parkway and safety concerns relating to the existing vehicles from Bay Isles Road. Mr. Levine noted agreement by the Association to review the access point at a later date and opined that the reduction in the retail space does not required the excess parking requested.

Discussion ensued on the ingress/egress to the existing shopping center.

The following individuals, duly sworn, commented on the proposed redevelopment:

- Mr. Larry Grossman, St. Judes Drive
- Mr. George Spoll, Harbourside Drive
- Mr. Terry Gans, Grand Bay Boulevard
- Mr. Tim Clarke, Harbor Point Road
- Ms. Beverly Shapiro, Gulf of Mexico Drive

**RECESS:** 10:30 p.m. - 10:40 p.m.

Mr. Leeds reviewed the requests, advised that Publix has a pending purchase contract for a portion of the property, and discussion ensued with Town Attorney Persson on the existing conditions on the property.

**Following comments, there was consensus to grant a departure for parking.**

Mr. Leeds commented on the departure requested on Bay Isles Parkway relating to the buffering at the west entrance area, and supported approval of the departure. Discussion ensued on the proposed and existing landscaping along Bay Isles Parkway.

Upon inquiry, Attorney Rees commented on the concerns of the Bay Isles Association relating to the proposed landscaping. Discussion ensued on the proposed height of the hedge and proposed berm.

Subsequent to comments, Mr. Schield noted that the requested modifications were outlined in Ordinance 2012-02 and Mr. Leeds discussed outdoor seating and the request for approval of a sit-down restaurant.

13. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), ODP Amendment - Continued

14. Ordinance 2012-04, Parcel B-2, Town Plaza II, ODP Amendment - Continued

15. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix, ODP Amendment-Continued

18. Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), Site Plan Amendment - Continued

Mr. Schield clarified the requested modification that a restaurant be included in the approved uses for the property in lieu of applying for a Special Exception at a later date. Upon inquiry, Mr. Schield advised that a Special Exception is required for any restaurant to be located on the property.

**There was consensus to allow up to two restaurants on the parcel without the requirement for a Special Exception application to be submitted.**

Discussion ensued with Mr. Schield and Mr. Leeds on Resolution 2012-01, Condition 20 relating to the bond requirements and Condition 34 relating to the two-way driveway.

**Mayor Brown requested that the driveways/entrances be numbered prior to the next hearing.**

**Mr. Leeds discussed Conditions 36 and 37 relating to the berm requirements and subsequent to comments, there was consensus to allow modifications to provide a natural looking landscaping/berm in lieu of a rigid berm.**

Mr. Leeds discussed Condition 38 relating to the timeframe for placement of the landscaping and requested consideration to modify the timeframe.

**There was consensus to modify Condition 38 relating to the timeframe for installation.**

Attorney Rees requested that Condition 4 of Ordinance 2012-02 include approval requirement in writing by the Bay Isles Association, and Mr. Schield confirmed that language is included to address this request.

Attorney Rees requested that Site Plan approval (Resolution 2012-01) include provisions for the developer to repair any damage to any underground utilities/piping during the course of construction. Mayor Brown inquired and Attorney Rees advised that the Bay Isles Association does not have an extensive detail of the location of existing underground utilities.

Mr. Leeds noted agreement to the request.

Attorney Rees requested that Condition 26 of Resolution 2012-01 include requirements that the developer be required to repair any damage that may be caused by the agents (contractors/subcontractors/site workers) of the developer.

- 13. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), ODP Amendment - Continued
- 14. Ordinance 2012-04, Parcel B-2, Town Plaza II, ODP Amendment - Continued
- 15. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix, ODP Amendment-Continued
- 18. Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), Site Plan Amendment - Continued

Attorney Rees requested that Conditions 36 and 37 be combined as one Condition of Resolution 2012-01 and that the applicant agree to include a reference to the landscape berm in Condition 38.

Mr. Leeds noted the timeframe for the project in order to fulfill the construction schedule determined by the Publix Corporation and the commitment to the residents to reopen in December 2012.

**Commr. Larson moved to pass Ordinance 2012-03 on first reading and public hearing in accordance with Staff's recommendations and to forward to the February 6, 2012, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Zunz.**

Vice Mayor Brenner inquired and Mr. Schield advised that there were no departures requested for Parcel B-1. Mayor Brown inquired and Mr. Leeds advised that the final easement will provide adequate connection between the properties.

**The motion carried by a 7-0 roll call vote, as follows: Larson, aye; Zunz, aye; Lenobel, aye; Younger, aye; Brenner, aye; Duncan, aye; Brown, aye.**

**Vice Mayor Brenner moved to pass Ordinance 2012-04, as amended with three departures, on first reading and public hearing and to forward to the February 6, 2012, Regular Meeting for second reading and public hearing. The motion, seconded by Commr. Larson, carried by a 7-0 roll call vote, as follows: Brenner, aye; Larson, aye; Duncan, aye; Brown, aye; Zunz, aye; Younger, aye; Lenobel, aye.**

**Commr. Duncan moved to pass Ordinance 2012-02, as amended for approved uses and the requested departure, on first reading and public hearing and to forward to the February 6, 2012, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Larson.**

Discussions were held with Mr. Schield and Mr. Leeds on the following topics/issues:

- clarification of restaurant designation (exclusion of a deli in the grocery store)
- list of proposed permitted uses
- inclusion of personal wireless services rooftop antennas/structure mounted antennas and height restrictions
- storefront worship centers
- inclusion of lounges as a permitted special exception
- option to permit laundry and dry cleaning pickup stations
- inclusion of service stations.

13. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), ODP Amendment - Continued

14. Ordinance 2012-04, Parcel B-2, Town Plaza II, ODP Amendment - Continued

15. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix, ODP Amendment-Continued

18. Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), Site Plan Amendment - Continued

**Upon inquiry and confirmation by Mr. Leeds, there was majority consensus to strike “service station (limited to minor customary repairs) from the list of permitted special exception uses.**

Town Attorney Persson clarified that by the action of the Commission, the property would be limited to two restaurants (without a special exception) and that maximum square footage criteria would be presented at the February 6, 2012, Regular Meeting.

**The motion carried by a 7-0 roll call vote, as follows: Duncan, aye; Larson, aye; Younger, aye; Lenobel, aye; Zunz, aye; Brenner, aye; Brown, aye.**

**Commr. Duncan moved to continue the public hearing on Resolution 2012-01, as amended, to the February 6, 2012, Regular Meeting for final action. The motion, seconded by Commr. Younger, carried by a 7-0 roll call vote, as follows: Duncan, aye; Younger, aye; Larson, aye; Zunz, aye; Lenobel, aye; Brown, aye; Brenner, aye.**

Town Attorney Persson noted for the record that the second reading and public hearings would be held on February 6, 2012, on the ODP Amendment applications and the Site Plan would be considered following action on the ODP amendments.

### **TOWN COMMISSION COMMENTS**

#### A. Budgets

Vice Mayor Brenner inquired and Town Manager Dave Bullock advised that he would provide information on the balance of the Contingency Fund. (See item later this meeting.)

#### B. Public Library

Vice Mayor Brenner noted concerns expressed by community members that the Longboat Key Library would not be in operation in the near future.

Town Manager Dave Bullock advised that he had met with representatives of the Longboat Key Library and indicated that he was not provided information to confirm the statement.

#### A. Budgets - Continued

Town Manager Dave Bullock advised that the balance of the Contingency Fund is approximately \$180,000.00.

### **TOWN ATTORNEY COMMENTS** - Continued

#### B. Litigation

Town Attorney David Persson commented on filing an appeal on the ruling of the court on the Longboat Key Club litigation, noting that the cost of the special counsel would be paid by the Longboat Key Club.

**TOWN ATTORNEY COMMENTS** - Continued

**B. Litigation** - Continued

Town Attorney Persson requested Commission direction on whether to file an appeal, authorization to hire special counsel if the Commission supported an appeal, and to authorize the Town Manager to review and waive, if applicable, a conflict for the special counsel.

**Commr. Larson moved to direct the Town Attorney to negotiate a contract to hire an appellate lawyer to pursue the appeal and to authorize the Town Manager to waive conflict, if necessary, in order to file a joint appeal on the court ruling.**

Upon inquiry, Town Attorney Persson advised that it would be a joint filing with the Longboat Key Club on the appeal filed.

**The motion was seconded by Commr. Zunz.**

Following clarification on the motion to authorizing the filing of an appeal, Town Attorney Persson discussed the benefit of filing a joint appeal.

**The motion carried by a 7-0 roll call vote, as follows: Larson, aye; Zunz, aye; Lenobel, aye; Younger, aye; Brenner, aye; Brown, aye; Duncan, aye.**

**C. Planning, Zoning, and Building Department**

Town Attorney David Persson requested Commission direction on scheduling the review of the Town Code.

**Commr. Duncan requested that the issue be scheduled on an upcoming Workshop as soon as possible. Commr. Larson suggested that a Charter Review Board be appointed in conjunction with the consideration of the Town Code. (No objections were stated.)**

**TOWN MANAGER COMMENTS** - No items were presented.

**PRESS TO BE HEARD** - No items were presented.

**ADJOURNMENT**

Mayor Brown adjourned the January 9, 2012, Regular Meeting at 11:50 p.m.

*Trish Granger*

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Trish Granger, Town Clerk

*James L. Brown*

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James L. Brown, Mayor

Minutes Approved: 03-05-2012