

**MINUTES
LONGBOAT KEY TOWN COMMISSION
SPECIAL MEETING
MAY 3, 2010 - 9:00 A.M.**

Present: Mayor George Spoll, Vice Mayor Jim Brown, Commrs. David Brenner, Gene Jaleski, Lynn Larson, Hal Lenobel, Robert Siekmann

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

CALL TO ORDER

The Special Meeting of the Longboat Key Town Commission was called to order at 9:01 a.m., in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.

PLEDGE OF ALLEGIANCE

Mayor Spoll requested and Vice Mayor Brown led the Pledge of Allegiance.

ORDINANCES – FIRST READING AND PUBLIC HEARING

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code of the Town of Longboat Key
Public hearing to consider Ordinance 2010-16, to amend the Zoning Code, Chapter 158.

At the April 16, 2010 Special Workshop Meeting the Town Commission forwarded Ordinance 2010-16 to the May 3, 2010 Special Meeting for first reading and public hearing. Recommended Action: Pending first reading, public hearing, and discussion, provide direction to Manager.

Town Clerk Trish Granger placed Ordinance 2010-16 on record for first reading and public hearing by title only.

Vice Mayor Brown moved to pass Ordinance 2010-16 on first reading and public hearing. The motion was seconded by Commr. Larson.

Mayor Spoll opened the public hearing and requested input on consideration of Ordinance 2010-16. Following comments, there was concurrence to consider the amendments outlined in Ordinance 2010-16 individually.

Town Attorney David Persson commented on the time limits for speaker presentations.

Planning, Zoning, and Building Director Monica Simpson provided an overview of Staff's report Ordinance 2010-16, outlining the proposed amendments to the Zoning Code.

Attorney John Patterson, representing the Longboat Key Club, commented on previous consideration of Ordinance 2010-16 at the April Workshop, noted numerous submittals to the Town Commission by various entities, and suggested that any amendments submitted from outside entities be rejected.

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Attorney Michael Furen, representing Islandside Property Owners Coalition (IPOC), LLC, commented on the submission by IPOC to the Town Commission relating to the Ordinance and requested clarification on the process for proceeding.

Following comments by Mayor Spoll, Ms. Simpson review Section 158.009, Description of Districts and District Policies, Subsection (L). Discussions were held with Ms. Simpson and Town Attorney Persson on the following topics/issues:

- description of a Planned Development (PD), Gulf Planned Development (GPD), and Negotiated Planned Development (NPD)
- inclusion of properties zoned PD, GPD, and NPD and not to properties zoned differently
- non-defined terms within the Zoning Code (non-residential and commercial versus residential use and commercial use)
- intent to clarify the Code with interpretations
- determination of clustering in the Comprehensive Plan
- definition of commercial.

Attorney Patterson commented on Section 158.009 and commercial versus non-commercial designation and noted support of the proposed amendment. Discussions were held with Attorney Patterson on the terminology of commercial and tourism versus non-residential uses.

Upon inquiry, Attorney Nancy Stroud, Special Counsel, commented on the terminology of residential, non-residential, commercial, and tourism uses.

Discussion ensued with Attorney Patterson on determinations of tourism, residential, and commercial designations, impact on the Comprehensive Plan, and opinions of Mr. Martin Black.

Attorney Stroud commented on interpretations in the Comprehensive Plan.

Attorney Furen requested and Attorney Patterson provided a copy of correspondence from Mr. Martin Black. Attorney Furen commented on definitions in the Comprehensive Plan and opined that the proposed language amendment to Section 158.009 reflects a major change to the current Town Code. Attorney Furen commented on "clustering" on property and types of permitted uses.

Town Attorney Persson commented on proposed language in Section 158.009(L) and submitted the following language for consideration (additions shown as underlined text/deletions shown as ~~strikethrough~~ text):

PUDs approved in a Planned Development District may include a mix of ~~residential, tourism, nonresidential and commercial~~ land uses as identified set forth in the regulations of this chapter, ~~including, but not limited to, community residential homes, and such regulations shall not be interpreted as prohibiting mixed uses in duly approved PUDs.~~ The following standards for regulating residential development . . .

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Upon inquiry, Town Attorney Persson noted that Section 2, the first sentence in the second paragraph of Section 158.009(L), was suggested for amendment and the remainder of the paragraph would remain as outlined on page 2 of the Ordinance.

Attorney Furen noted concern with the consistency of the language with the Town's Comprehensive Plan.

Attorney Patterson noted agreement with the language modification proposed by Town Attorney Persson.

Mayor Spoll noted that Attorney Stroud noted agreement from the floor with the proposed language submitted by Town Attorney Persson.

Upon inquiry, Attorney Furen commented on the opinion of Mr. Martin Black and the necessity to be consistent with the Comprehensive Plan and the previous ruling on density transfers on the property.

Attorney Patterson commented on Mr. Black's correspondence, outlined additional items outlined in the document, and commented on the density clustering.

The following individuals commented on the proposed amendments to Section 158.009:

Mr. Gary Tsenko, 531 Chipping Lane
Mr. Terry Gans, 3030 Grand Bay Boulevard
Mr. Richard Weber, 2120 Harbourside Drive
Mr. Jim Greer, 2016 Harbourside Drive
Mr. Alexander Wilhelm, 601 Longboat Club Road

Town Attorney Persson commented on the intent for clarification of the language and the opinion of Attorney Furen. Discussion ensued on the impact and intent of the language to the Comprehensive Plan.

Commr. Brenner moved to amend the language in Section 2 of Ordinance 2010-16 as submitted this date by the Town Attorney. The motion was seconded by Commr. Larson.

Commr. Siekmann inquired and Ms. Simpson and Town Attorney Persson commented on the zoning districts of PD, GPD, and NPD and the zoning map and advised that other parcels in the future could request a zoning change to any of these district types. Discussion ensued on the Commission's authority to make policy changes or to amend portions of the Town Code.

The motion carried by a 6-1 roll call vote, as follows: Brenner, aye; Larson, aye; Jaleski, aye; Siekmann, aye; Brown, aye; Lenobel, aye; Spoll, aye.

RECESS: 10:13 a.m. – 10:22 a.m.

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Town Attorney Persson commented on the Commission's ability to grant departures and the submitted the following suggestion, deleting the current language (shown as ~~strikethrough~~ text) in Section 3 (page 3) of Ordinance 2010-16 and adding the following language (shown as underlined text):

- (g) ~~Departures from the land development code of ordinances which would otherwise be applicable to the planned unit development if the plan were not approved (or if in the PD, GPD or NPD district, departures from the requirement of a zoning district most similar to the use approved for the proposed project), and a statement of any existing hardship and/or a clear and specific statement of how the code departures are necessary or desirable to accomplish one or more of the stated purposes of the planned unit development as set forth in Section 158.065. For a PUD without an underlying zoning district (PD, GPD or NPD districts), departures shall be evaluated under the requirement of the zoning district most similar to the proposed use for the proposed project in addition to departures from other land development code requirements.~~

- (g) Departures from Article IV of this chapter and Section 158.102 which would otherwise be applicable to the planned unit development if the plan were not approved, and a statement of any existing hardship and/or clear and specific statement of how the code departures are necessary or desirable to accomplish one or more of the stated purposes of the planned unit development as set forth in Section 158.065. For a planned unit development without an underlying zoning district (PD, GPD, or NPD districts), departures shall be evaluated from the requirements of the zoning district most similar to the proposed project.

Discussion ensued with Town Attorney Persson on the impact on granting future departures relating to the 5% rule.

Ms. Simpson requested consideration that if the language is accepted that it not be limited to Section 158.102(L).

Discussion continued with Town Attorney Persson and Ms. Simpson on the effect on future Commission's ability to grant departures for future developments, the impact to emergency response and building code requirements, 5% rule applicable to PUDs, and intent of proposed language to identify Commission authority to grant departures.

There was consensus to apply the proposed language to all of Section 158.102.

Attorney Patterson commented on the revised language and noted support if other proposed language amendments are accepted by the Town Commission.

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Attorney Furen noted support if other proposed language amendments are not accepted, and commented on the Commissions' current abilities/considerations of waivers and departures.

Following comments by Town Attorney Persson on the impact to other sections of the Ordinance, Attorney Furen and Town Attorney Persson discussed expansion of properties currently zoned commercial versus utilizing property not zoned commercial.

Mayor Spoll opened the floor for public comment, with no requests to speak on the issue presented.

Upon inquiry, discussion ensued with Town Attorney Persson and Ms. Simpson on the determination of a departure versus a waiver (Section 158.102{L}) and variance criteria.

Following comments, there was consensus to postpone action on Section 3 pending discussion of Section 4 of Ordinance 2010-16.

Ms. Simpson reviewed Section 158.071, Proposed land uses, subsection (A)(2). Discussion ensued on the following topics/issues:

- percentage of non-residential acreage in Islandside GPD (14.98%)
- determination of designated land uses for the Islandside GPD outside of the gated area.

Attorney Patterson commented on the proposed language in Section 4 of Ordinance 2010-16.

Attorney Furen commented on the proposed language in Section 4 of Ordinance 2010-16 and reviewed portions of the Comprehensive Plan (Policy 1.1.6).

Discussion ensued with Attorney Stroud on the intent of Comprehensive Plan Policy 1.1.6. and the authority of the Town Commission to amend the Zoning Code in correlation with the Policy.

Town Attorney Persson reviewed the impact to future Commissions if the revised language to Section 3 of Ordinance 2010-16 was accepted by the Commission. Discussions were held with Town Attorney Persson and Ms. Simpson on Exhibit A of Ordinance 2010-16.

Mayor Spoll inquired, and the following individuals commented on proposed Section 4

- Mr. Bob White, 435 Longboat Club Road
- Mr. Robert Clark, 435 L'Ambiance Drive
- Ms. Maria Georgiev, 435 L'Ambiance Drive
- Ms. Marnie Matarese, 7125 Westmoreland Drive, Sarasota

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Ms. Simpson commented on the acreage (less than 3½ acres) under consideration. Discussion ensued.

Vice Mayor Brown moved to approve the language outlined in Ordinance 2010-16, Section 4, pertaining to Section 158.071(A)(2) of the Zoning Code. The motion, seconded by Commr. Larson, carried by a 4-3 roll call vote, as follows: Brown, aye; Larson, aye; Lenobel, no; Jaleski, no; Spoll, aye; Siekmann, no; Brenner, aye.

Commr. Brenner moved to approve the language to Section 3, as submitted by the Town Attorney this date, to apply to Section 158.102, in its entirety. The motion was seconded by Vice Mayor Brown. Following comments, the motion carried by a 6-1 roll call vote, as follows: Brenner, aye; Brown, aye; Jaleski, no; Larson, aye; Siekmann, aye; Lenobel, aye; Spoll, aye.

RECESS: 11:42 a.m. – 12:30 p.m.

Ms. Simpson commented on Section 158.071(D) of Ordinance 2010-16 (Section 5, page 3).

Attorney Patterson noted no objection to Section 5 of Ordinance 2010-16.

Attorney Furen noted a previous opinion of former Town staff members that a density transfer was not allowable.

Mayor Spoll opened the floor for public comment, with no requests to speak on the issue presented.

Commr. Larson moved to approve the amendments outlined in Ordinance 2010-16, Section 5, relating to Section 158.071(D) of the Zoning Code. The motion was seconded by Vice Mayor Brown.

Commr. Siekmann inquired and Attorney Furen explained his position on Section 158.071(D) and the historical rulings on Section 158.071 by previous Town officials.

The motion carried by a 4-3 roll call vote, as follows: Larson, aye; Brown, aye; Spoll, aye; Lenobel, no; Siekmann, no; Brenner, aye; Jaleski, no.

Ms. Simpson presented an overview of Section 158.102, Performance standards for site and development, subsection L, outlined in Ordinance 2010-16 (Section 6, page 4). Upon inquiry, Ms. Simpson noted that approval of Section 6 of the Ordinance would reflect a policy change from current standards.

Attorney Patterson discussed proposed amendments to Section 158.071(L), supported approval, and opined that it would make it less difficult for a developer to accomplish

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Attorney Furen commented on proposed amendments to Section 158.071(L) and noted opposition to the proposed modifications advising it was a significant policy change as noted by Ms. Simpson.

Mayor Spoll opened the floor for public comment.

Mr. Gary Tsenko, 531 Chipping Lane, commented on the proposed amendment to the Zoning Code.

Upon inquiry, Ms. Simpson confirmed the proposed amendment would reflect a policy change, noted she did not support the recommended changes. Discussion ensued on existing development and alternative controls subject to waivers.

Attorney Patterson commented on the proposed amendments and supported approval. Discussion ensued pertaining to current requirements and departure standards.

Ms. Simpson commented on Staff's position relating to Section 158.102(L).

Attorney Furen commented on and noted support to retain current Zoning Code language in Section 158.102(L). Upon inquiry, Attorney Furen commented on the current/existing development at the Longboat Key Club.

Ms. Simpson commented on the existing development at the Longboat Key Club and the consideration of the existing code.

Mayor Spoll opened the floor for public comment, with no requests to speak on the issue presented.

Vice Mayor Brown moved to approve the amendments outlined in Ordinance 2010-16, Section 6, relating to Section 158.102(L) of the Zoning Code. The motion, seconded by Commr. Larson, carried by a 4-3 roll call vote, as follows: Brown, aye; Larson, aye; Brenner, aye; Jaleski, no; Lenobel, no; Spoll, aye; Siekmann, no.

Ms. Simpson reviewed Section 158.102(L)(3), Performance standards for site and development (Section 7 of Ordinance 2010-16) and commented on the maximum length from the front lot line (30 degrees) and the intent to maintain site lines to water bodies. Discussion ensued on the intent of the proposed Section to provide a site line to the water.

Attorney Patterson commented on Section 158.102(L)(3) and supported approval. Individual comments followed.

Attorney Furen commented on Section 158.102(L)(3) and supported retention of the current standard.

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Upon inquiry, Ms. Simpson noted the following language suggested by the Planning and Zoning (P&Z) Board for Section 158.102(L)(3):

Maximum Length. No portion of any individual building shall extend beyond a line drawn from the front lot line 30 degrees either side of a line ~~centered on~~ through the building and perpendicular to the front lot line.

Mayor Spoll inquired, and Town Attorney Persson commented on the language submitted by the P&Z Board versus the language currently included in Ordinance 2010-16. Discussion ensued with Ms. Simpson on the preferred language.

Mayor Spoll opened the floor for public comment.

Mr. Rick Crawford, 100 Sands Point, commented on the proposed language.

Following individual comments, Commr. Jaleski moved to retain the language outlined in Ordinance 2010-16. The motion, seconded by Commr. Lenobel, failed by 5-2 roll call vote, as follows: Jaleski, aye; Lenobel, aye; Brown, no; Brenner, no; Larson, no; Siekmann, no; Spoll, no.

Commr. Brenner moved to substitute the language recommend by the P&Z Board in Section 7 of Ordinance 2010-16 relating to Section 158.102(L)(3). The motion, seconded by Vice Mayor Brown, carried by a 6-1 roll call vote, as follows: Brenner, aye; Brown, aye; Lenobel, aye; Siekmann, aye; Spoll, aye; Jaleski, no; Larson, aye.

Ms. Simpson reviewed Section 158.132(B) (Section 8 of Ordinance 2010-16) and opined that it was a clarification of the existing Code.

Attorney Patterson commented on Section 158.132(B) and supported approval.

Attorney Furen commented on Section 158.132(B) and noted objection to the modification to the Code.

Mayor Spoll opened the floor for public comment, with no requests to speak on the issue presented.

Vice Mayor Brown moved to approve the amendments outlined in Ordinance 2010-16, Section 8, relating to Section 158.132(B) of the Zoning Code. The motion, seconded by Commr. Larson, carried by a 5-2 roll call vote, as follows: Brown, aye; Larson, aye; Jaleski, no; Brenner, aye; Siekmann, aye; Lenobel, no; Spoll, aye.

Ms. Simpson noted and reviewed a proposed additional Section of the Code to be considered for inclusion in Ordinance 2010-16 based on continuing Staff review, as follows (additions to existing code shown in underlined text/deletions shown as ~~striketrough~~ text):

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Section 158.071(A)(3), Proposed Land Uses.

Outdoor recreation areas shall not be included in the computation of permitted nonresidential areas of a planned unit development except that recreation buildings, as well

as accessory buildings, land areas, driveways, and parking areas associated with such buildings ~~and accessory buildings~~ shall be included in such computation.

Town Attorney Persson noted procedure to be followed in consideration of the two additional Zoning Code sections presented by Ms. Simpson.

Mayor Spoll opened the floor to Attorney Patterson, Attorney Furen and public comment, with no requests to speak on the amendment presented.

Commr. Larson moved to add an additional Section in Ordinance 2010-16 to incorporate the language to Section 158.071(A)(3), as presented. The motion, seconded by Commr. Brenner, carried by a 7-0 roll call vote, as follows: Larson, aye; Brenner, aye; Siekmann, aye; Lenobel, aye; Spoll, aye; Brown, aye; Jaleski, aye.

Ms. Simpson noted and reviewed a proposed additional Section of the Code to be considered for inclusion in Ordinance 2010-16 based on continuing Staff review, as follows (additions to existing Code shown in underlined text/deletions shown as ~~strikethrough~~ text):

Section 158.067(b)(1)(o), Review and Approval Procedure.

A statement specifically indicating departures from the requirements of ~~this~~ the land development code of ordinances ~~which would otherwise be applicable to the project if a planned unit development were not granted by the Town~~ and a clear and specific statement of any hardship which might exist making the departures from the code necessary or a clear and specific statement of how the departures are necessary or desirable to accomplish one or more of the stated purposes of the planned unit development as set forth in Section 158.065.

Mayor Spoll opened the floor to Attorney Patterson, Attorney Furen and public comment, with no requests to speak on the amendment presented.

Vice Mayor Brown moved to add an additional Section in Ordinance 2010-16 to incorporate the language to Section 158.067(b)(1)(o). The motion, seconded by Commr. Brenner, carried by a 6-1 roll call vote, as follows: Brown, aye; Brenner, aye; Jaleski, no; Lenobel, aye; Siekmann, aye; Spoll, aye; Larson, aye.

Ms. Simpson reviewed a proposed additional Section of the Code to be considered for inclusion in Ordinance 2010-16 based on continuing Staff review. Following comments from Town Attorney Persson, Ms. Simpson withdrew the proposed amendment from consideration.

1. Ordinance 2010-16, Amending Chapter 158, Zoning Code - Continued

Following comments from Mayor Spoll, Commr. Siekmann inquired on the percentage included in Section 4 of Ordinance 2010-16, relating to the percentage of total land area of the PD.

Mayor Spoll moved to reopen Section 4 (page 3) of Ordinance 2010-16 for additional discussion. The motion, seconded by Vice Mayor Brown, carried by consensus.

Following comments, Vice Mayor Brown moved to amend Section 4 of Ordinance 2010-16 (page 3), relating to Section 158.071(A)(2) of the Zoning Code, to reflect 13.60 percent of the total land area in the PD in lieu of the 14.00 percent shown. The motion was seconded by Commr. Siekmann.

Mayor Spoll opened the floor to Attorney Patterson, Attorney Furen and public comment, with no requests to speak on the amendment presented.

The motion carried by a 4-3 roll call vote, as follows: Brown, aye; Siekmann, no; Jaleski, no; Larson, aye; Brenner, aye; Lenobel, no; Spoll, aye.

Mayor Spoll noted the motion on the floor to pass Ordinance 2010-16 on first reading and public hearing, the additional items considered and acted upon to Ordinance 2010-16, and requested a substitute motion to incorporate the amendments made this date.

Following comments by Town Clerk Trish Granger, Vice Mayor Brown moved a substitute motion to pass Ordinance 2010-16, as amended, on first reading and public hearing. The motion, seconded by Commr. Larson, carried by a 4-3 roll call vote, as follows: Brown, aye; Larson, aye; Lenobel, no; Jaleski, no; Brenner, aye; Siekmann, no; Spoll, aye.

Following comments by Town Clerk Granger, Mayor Spoll noted the second reading and public hearing of Ordinance 2010-16 is scheduled for May 20, 2010, at 5:01 p.m., in the Town Hall Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.

Commr. Siekmann inquired and Mayor Spoll advised that the hearing date held for May 6, 2010, in the event a continuation of today's hearing was required, would not be necessary.

ADJOURNMENT

Mayor Spoll adjourned the May 3, 2010, Special Meeting at 2:03 p.m.

s/s/ Trish Granger
Trish Granger, Town Clerk

/s/ George Spoll
George Spoll, Mayor

Minutes Approved: 09/13/2010