

**MINUTES
LONGBOAT KEY TOWN COMMISSION
REGULAR WORKSHOP
FEBRUARY 18, 2010 - 2:00 P.M.**

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

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

CALL TO ORDER

The Regular Workshop of the Longboat Key Town Commission was called to order at 2:01 p.m., in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.

PLEDGE OF ALLEGIANCE

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

COMMITTEE REPORTS AND COMMUNICATIONS

1. Manatee County Special Liaison Report - No items were presented.

2. Sarasota County Special Liaison Report

A. Organizations

Commr. Spoll noted attendance at the Barrier Islands Elected Officials meeting and reviewed the items discussed.

3. Other Reports

A. Organizations

Mayor Rothenberg noted attendance at the Metropolitan Planning Organization (MPO) and Council of Governments (COG) meetings and advised that Sarasota County Commissioners are being sued for violation of the Sunshine Law.

PUBLIC TO BE HEARD

4. Opportunity for Public to Address Town Commission

A. Citizens Academy

Public Works Director Juan Florensa advised of the upcoming Citizens Academy and invited Commission and citizen participation. Individual comments followed.

B. Town Commission Presentation

Commr. Jaleski requested consensus to make a short presentation on a community Wi-Fi system.

There was consensus to grant the request following completion of the scheduled agenda items.

CONSENT ITEMS

5. Proposed Ordinance 2010-01, Mechanical Equipment

At their January 19, 2010 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval of proposed Ordinance 2010-01, with amendments to relocate the regulations of mechanical equipment into one section of the Town Code. This item is placed on the February 18, 2010 Regular Workshop Meeting for Commission consideration. Recommended Action: Approval of the Consent Agenda will forward this item to the March 1, 2010 Regular Meeting for first reading and public hearing.

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

The Town Attorney has provided proposed Ordinance 2010-10, amending Chapter 33, Code Enforcement Board for consistency with current Florida Law. Recommended Action: Approval of the Consent Agenda will forward Ordinance 2010-10 to the March 1, 2010 Regular Meeting for first reading.

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

The Town has a Franchise Agreement with Waste Management (Ordinance 06-24) that provides for an annual CPI and fuel adjustment. This year the rate adjustment provides for a *rate decrease* for all Longboat Key customers. Proposed Resolution 2010-09 is forwarded for your consideration in approving the franchise rate adjustments effective April 1, 2010. Recommended Action: Approval of the Consent Agenda will forward Resolution 2010-09 to the March 1, 2010 Regular Meeting for formal action.

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

At the May 5, 2008 Regular Meeting the Commission adopted Resolution 2008-19, providing funds to reimburse the Longbeach Village Association for peafowl relocation. Proposed Resolution 2010-08 provides for a budget transfer to fund reimbursement for peafowl removal activities within the Longbeach Village area. Recommended Action: Approval of the Consent Agenda will forward Resolution 2010-08 to the March 1, 2010 Regular Meeting for formal action.

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

Due to public safety issues experienced with vehicular and foot traffic in the area adjacent to the ingress/egress to Town Hall a No Parking Zone in that area is recommended. Proposed Resolution 2010-11 provides for a Temporary No Parking Zone to be established in the vicinity of the entry driveway to Town Hall. Recommended Action: Approval of the Consent Agenda will forward Resolution 2010-10 to the March 1, 2010 Regular Meeting for formal action.

There was consensus to close and approve the Consent Agenda in accordance with Staff reports and recommendations.

DISCUSSION ITEMS

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

The Florida Legislature recently passed amendments to State Statute 327.4105 that creates a conflict with the existing Town Ordinance addressing anchoring and mooring of vessels. Proposed Ordinance 2010-12 provides for language that brings the Town Code into compliance with Florida Statutes. Recommended Action: Pending discussion, provide direction to Manager.

Following comments by Mayor Rothenberg, Police Chief Al Hogle presented an overview of the proposed Ordinance to provide compliance with statutory regulations, the ability to regulate mooring in the waters of Longboat Key, the provisions to monitor anchoring of vessels, and supported forwarding the proposed Ordinance to the March 1, 2010, Regular Meeting for first reading.

Upon inquiry, Chief Hogle noted that there is on-going review relating to the anchoring of vessels and advised that he will participate and monitor during the review process. Town Attorney David Persson advised that the State has pre-empted local authority on anchoring and live aboard vessels.

Following individual comments, there was consensus to forward the proposed Ordinance 2020-12

11. Discussion Regarding License Plate Recognition Camera System

The Police Chief has been investigating the potential for use of a License Plate Recognition Camera System on Longboat Key. Chief Hogle will be present at the February 18, 2010 Regular Workshop Meeting to discuss his findings with the Commission. Recommended Action: Pending discussion, provide direction to Manager.

Police Chief Al Hogle presented an overview of the potential for the use of a License Plate Recognition (LPR) Camera System, the advantages of a system, the current process utilized, governmental agencies currently reviewing the LPR system, and the potential for future utilization of the LPR system. Discussions were held on the following topics/issues:

- capture of the vehicle's tag upon entering versus coming/going
- procedure for dispatch/storage of images

There was consensus to authorize continued review of the LPR system.

Mr. Bob Craft, Emerald Harbor, commented on the recent break-ins in Emerald Harbor, the establishment of a Neighborhood Watch program, encouraged other neighborhoods to establish Neighborhood Watches, noted support of the camera issues by law enforcement agencies, and thanked the Police Department for their assistance to date.

RECESS: 2:28 p.m. - 2:35 p.m.

14. Time Certain 2:30 PM - Discussion of Amendments to a 1979 Agreement and the 1992 Stipulated Final Judgment and Town of Longboat Key, FL, a Municipal Corporation, Plaintiff, vs. Key Club Associates, Limited, a Florida Limited Partnership et. al.

Pursuant to Town Commission direction the Town Attorney has prepared amendments to both the 1979 agreement and stipulated final judgment for the commission's review and consideration. There is a Special Meeting scheduled for 9:00 AM on February 19, 2010 in the event the Commission wishes to forward this item for formal action. Recommended Action: Pending discussion, provide direction to Town Attorney.

Following comments by Mayor Rothenberg, Town Attorney David Persson noted that the Islandside ODP Amendment Petition will reconvene at 8:00 a.m. on February 19, 2010, at the Temple and a Special Meeting will be held to take formal action on any consensus reached this date.

Mayor Rothenberg noted distribution of his comments in opposition to removal of the driving range.

Town Attorney Persson noted receipt of comments from Commissioners and advised that the drafted agreements were in response to the requests submitted by the Commissioners and clarified that court reporter present was continuing the record for the Islandside petition.

Following comments by Mayor Rothenberg, discussions were held with Town Attorney Persson, Mr. Terry O'Hara, Mr. Michael Welly, and Mr. David Leach on the following topics/issues:

- rights of the residents/owners at the Key Club relating to golfing rights over those of guests staying at a hotel
- removal of the driving range in the proposal and providing a warm-up/practice range
- determination of what a warm-up/practice range would provide to golfers
- preference of a driving range over a warm-up/practice range
- option to utilize Harbourside golf course for driving range
- procedure/service to transport golfers to Harbourside (shuttle service currently utilized)
- intent to provide services to golfers to maintain high standards of service
- intent to place a meeting center and garage on the current driving range site
- location of existing driving range (labeled 13 and 24 on the rendering)
- proposed location on rendering for cart house and spa
- intent to provide "on demand" services between courses (Harbourside and Islandside) for golfers
- anticipated round trip time (eight to ten minutes/2.6 miles between courses)
- discussions leading up to the proposed elimination of the Islandside driving range
- impact of retaining existing driving range
- necessity to retain existing golf course size
- current utilization of Tracts II and III (maintenance area and "Half-Way" House)

14. Proposed Amendments to a 1979 Agreement and the 1992 Stipulated Final Judgment and Town of Longboat Key, FL, a Municipal Corporation, Plaintiff, vs. Key Club Associates, Limited, a Florida Limited Partnership et. al. - Continued

- options to utilize Tracts II or III
- on-going improvements to the driving range at the Harbourside course
- current surfaces for practice area (grass and mats) versus proposed use of artificial surfaces in warm up area

- visual impact on Gulf of Mexico Drive for a warm up area
- reliance on facilities presented to purchasers and golfers
- restrictions of existing agreements and need to treat agreements separately.

Upon inquiry, Town Attorney Persson reviewed the restrictions of the existing Open Space Agreement and the Stipulated Final Judgment and noted the necessity to consider the agreements individually. Discussions were held with Attorney Persson on the following topics/issues:

- removal of driving range replacing with a warm up/practice range
- utilization of the parking garage, meeting center, and residential condominiums on Tract I.

Mr. Leach noted that hotel guests would utilize the warm up/practice range in lieu of being shuttled to the Harbourside driving range. Discussions were held with Mr. Leach and Mr. Welly on the following topics/issues:

- anticipation that members and hotel guests will both vie for use of the Reese Jones Golf Course
- current utilization of Harbourside versus Islandside by members and guests.

Mr. John Gibson, Jr., 3030 Grand Bay Boulevard, noted support for updating and renovating the Key Club.

Mr. Terry Gans, 3030 Grand Bay Boulevard, noted support for updating the Longboat Key Club.

Ms. Geri Yonover, 675 Longboat Club Road, commented on the expressions of build-out of the Longboat Key Club and the aesthetic reasons for retaining the driving range in Islandside.

Mr. Bob White, representing the Islandside Property Owners Coalition (IPOC), noted concern with the modification of the Open Space Agreement and the Stipulated Final Judgment, opining of a negative impact in amending existing 30 year agreements. Upon inquiry, Mr. White commented on the position of IPOC on the overall project.

14. Proposed Amendments to a 1979 Agreement and the 1992 Stipulated Final Judgment and Town of Longboat Key, FL, a Municipal Corporation, Plaintiff, vs. Key Club Associates, Limited, a Florida Limited Partnership et. al. - Continued

Town Attorney Persson advised that discussions needed to be restricted to the proposed amendments to the agreements.

Mr. White commented on previous submissions by IPOC.

Commr. Brown commented on the volume of e-mails received in opposition to the proposed amendments and advised that the agreements provide for amendment at the determination of the Town Commission. Discussion ensued with Town Attorney Persson on the consideration and action to be accomplished this date (consensus to move forward the issues to the Special Meeting on February 19, 2010).

Attorney Jim Syprett, representing the Longboat Key Club, commented on the requested amendments to the agreements, noted disagreement with statements relating to restrictions of use included in the 1979 Open Space Agreement and uses in place at the time of the agreement and the authority to provide for modifications to the uses outlined. Attorney Syprett reviewed the proposed amendments to eliminate the driving range, inclusion of tennis courts on Tract 1, use of a portion of a meeting center for administrative offices, and inclusion of administrative offices in the agreement.

Upon inquiry, Attorney Syprett commented on paragraph 3 of the proposed amendment to the agreement.

Discussion ensued with Attorney Persson and Attorney Syprett on the following topics/issues:

- consideration of the removal of the driving range at the current time pending final consideration of the ODP Amendment petition
- necessity to include permitted list of uses/options for "conceptual approval" of future uses
- intent of the 1992 Stipulated Final Judgment to clarify a Memorandum of Understanding.

Attorney Syprett commented on and reviewed the 1992 Stipulated Final Judgment and the intent to protect the existing (and future) members for preferential tee times. Attorney Syprett noted support of the original amendment to the agreement that he submitted. Upon inquiry, Attorney Syprett advised that the majority of owners of Inn On The Beach are in the rental program and anticipated a higher residential owner use of the proposed condominiums and the intent to allow for the rental of the proposed units, with allowed rental periods of under 30 days.

Attorney Syprett continued his presentation on the following:

14. Proposed Amendments to a 1979 Agreement and the 1992 Stipulated Final Judgment and Town of Longboat Key, FL, a Municipal Corporation, Plaintiff, vs. Key Club Associates, Limited, a Florida Limited Partnership et. al. - Continued

- paragraph 2 proposed Amendment - deletion of the last sentence of Paragraph 1.E of the 1992 Stipulation and Order
- addition of a paragraph providing for the negotiation of a method to allow the Town authority to review the records, but to maintain the privacy of the members.

RECESS: 4:09 p.m. - 4:20 p.m.

Attorney Syprett noted the importance of retaining the privacy of the members.

Upon inquiry, Town Attorney Persson noted the need to include the provisions for the membership information to enforce the conditions of approval. Following comments by Mayor Rothenberg, Town Attorney Persson noted the intent of the discussions to provide consensus on the proposed amendments to the agreements.

Attorney Syprett noted the basis for his reasoning as outlined in Attorney Syprett's memorandum dated February 18, 2010. Discussion ensued on the availability of membership information on line and in other forms of transmission to members.

Discussion ensued with Town Attorney Persson and Attorney Syprett on the intent of the discussion to consider the proposed amendments to the agreements and the determination of compliance with conditions.

Ms. Kristi Bell noted that the existing membership list provides names, addresses, and phone numbers. Ms. Katherine Songster advised that the list is no longer published and it is available for members only through computer log-in.

Attorney Syprett noted the intent to modify the existing agreements to provide for a future hotel and to permit play on both Harbourside and Islandside golf courses.

Discussion ensued on the following topics/issues:

- total revenue from off-island members
- current tax laws
- necessity to have enforcement authority for development approvals
- consideration to allow guests of a future hotel to have ability to play golf at both Harbourside and Islandside golf courses
- determination of "guests" at the hotel (staying/registered versus visiting)/allowance of charity events.

There was consensus to identify "guests" as "staying guests."

14. Proposed Amendments to a 1979 Agreement and the 1992 Stipulated Final Judgment and Town of Longboat Key, FL, a Municipal Corporation, Plaintiff, vs. Key Club Associates, Limited, a Florida Limited Partnership et. al. - Continued

Attorney Syprett noted time constraints to resolving outstanding issues and suggested that time be granted for additional discussions between the parties.

Subsequent to discussion on the procedure to audit the information, there was majority consensus to retain the inclusion of the Town Attorney's recommendation in Paragraph 2 of the proposed amendment to the 1992 Stipulation and Order.

There was majority consensus to accept Paragraph 3 as submitted by the Town Attorney for the 1992 Stipulation and Order.

There was majority consensus to accept Paragraph 4, Conditions a through f.

Subsequent to discussion on the appointment of the Town Manager in Paragraph 4, Condition g, there was majority consensus to accept Condition g.

Attorney Syprett noted disagreement with the last sentence of Paragraph 4, Condition h, requesting deletion of the following sentence:

The relief under Paragraph 13 may include a prohibition of guests at the new hotel playing Islandside or Harbourside Golf Courses.

Discussion ensued with Town Attorney Persson, Attorney Syprett, and Mr. Welly on inclusion or deletion of the sentence.

Subsequent to comments, there was majority consensus to modify the second sentence as follows:

The relief under Paragraph 13 shall include all remedies available in law or equity.

Attorney Syprett requested inclusion of the following language:

Any conflict between this Amendment to 1992 Stipulation and Order and any relevant Ordinance or Resolution of the Town of Longboat Key shall be resolved in favor of the Ordinance or Resolution.

Town Attorney Persson suggested that the language include the word "specific" as follows:

Any specific conflict between this Amendment . . .

There was majority consensus to incorporate the language as amended by Town Attorney Persson.

14. Proposed Amendments to a 1979 Agreement and the 1992 Stipulated Final Judgment and Town of Longboat Key, FL, a Municipal Corporation, Plaintiff, vs. Key Club Associates, Limited, a Florida Limited Partnership et. al. - Continued

Upon inquiry, discussion ensued on Paragraph 4, Condition e, relating to shot-gun tournament play and the normal lead time for a group booking and Condition "i" relating to the time frame for construction.

Mayor Rothenberg requested consideration to amend Paragraph 9 of the original agreement as follows:

Key Club will make its course use statistics which are kept on a monthly basis, available for semi-annual review by the Town during the months of July and January, under the same conditions as stated in Paragraph 1E.

There was consensus to not amend Paragraph 9.

Mayor Rothenberg inquired as to Paragraph 12 of the original agreement, relating to costs pertaining to costs to defend the validity of the provisions of the Agreement.

There was consensus to not amend Paragraph 12.

Mayor Rothenberg inquired as to Paragraph 13, relating to the resolution of disputes. Following comments by Town Attorney Persson, no action was taken on Paragraph 13.

Mayor Rothenberg inquired as to inclusion of a clause relating to the "right for first refusal" to purchase the Key Club. Attorney Syprett noted opposition to include such a provision. No action was taken on the request.

There was consensus to forward the 1992 Stipulation and Order Agreement, as amended, to the February 19, 2010, Special Meeting for formal action.

Attorney Michael Furen, representing IPOC, opined that the Town Commission does not have lawful or legal authority to amend the 1992 Stipulation and Order agreement with the underlying quasi-judicial application pending.

Discussion ensued on the authority of the Town to amend the agreements.

Attorney Furen reviewed Article 5 (page 3) of the 1979 Open Space Agreement and advised that the Agreement nor the Town Code provides for amendment based on the underlying quasi-judicial application pending.

Discussion ensued on the basis for consideration of the 1979 Agreement and options to modify the existing agreements to outline the additional future uses that would be permitted uses.

14. Proposed Amendments to a 1979 Agreement and the 1992 Stipulated Final Judgment and Town of Longboat Key, FL, a Municipal Corporation, Plaintiff, vs. Key Club Associates, Limited, a Florida Limited Partnership et. al. - Continued

There was majority consensus to forward the First Amendment to Agreement dated March 5, 1979, as submitted this date.

Town Attorney Persson advised that he would make minor modifications to set forth a list of proposed uses requested by the Longboat Key Club.

Mayor Rothenberg requested clarification on the decision and determination of maintaining the golf course in "first class condition." Town Attorney Persson advised that a complaint could be filed with the Town.

Mr. Welly commented on the subjective nature pertaining to the condition of the golf course and the time line for rebuilding the golf course.

12. Request to Start Consideration of Comprehensive Plan

Mayor Rothenberg requested an agenda item be placed on the February 18, 2010, Regular Workshop Meeting to begin consideration of modifying the Town's Comprehensive Plan. Recommended Action: Pending discussion, provide direction to Manager.

Mayor Rothenberg noted the absence of Planning, Zoning, and Building Director Monica Daigle and advised the issue will be moved to the March workshop meeting.

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

The Town currently has several active projects that involve coordination with the WCIND. In order to improve the Town's effectiveness in that cooperative effort with WCIND the Town Manager is requesting a Town Commissioner be appointed to serve as a liaison to the WCIND Board. This item is placed on the February 18, 2010 Regular Workshop Meeting for Commission consideration. Recommended Action: Pending discussion, provide direction to Manager.

Following comments, there was consensus to appoint Vice Mayor Siekmann as the Town's liaison to WCIND and to authorize correspondence to WCIND advising them of the appointment.

TOWN COMMISSION COMMENTS

A. Management Information Services

Commr. Jaleski gave a PowerPoint presentation on Municipal Digital Infrastructure and requested consensus to direct the Town Manager to issue a Request for Information (RFI) to be issued.

TOWN COMMISSION COMMENTS - Continued

A. Management Information Services - Continued

Upon inquiry, Town Manager Bruce St. Denis commented on the technology and suggested that a structured approach be developed.

Commr. Spoll inquired as to the appropriateness of forming a citizen's committee to consider the technology and review the data. Town Manager St. Denis noted the need to have a consultant to review the data and the options to utilize in a review process.

There was consensus for the Town Manager to report back on the issue in late March or April 2010.

B. Town Code

Mayor Rothenberg commented on the request by Planning and Zoning Board Chair B.J. Webb to establish a joint committee for review of the Tree Code.

Following individual comments, there was consensus to consider the request at the March Regular Workshop.

TOWN MANAGER COMMENTS

A. Public Works

Town Manager Bruce St. Denis advised that the Public Works Department had arranged for traffic counts to be done for the Town.

TOWN ATTORNEY COMMENTS

A. Contracts

Town Attorney David Persson advised that the revised agreements discussed earlier this meeting (see Item 14) had been e-mailed to the Commissioners for their review.

PRESS TO BE HEARD - No items were presented.

ADJOURNMENT

Mayor Rothenberg adjourned the February 18, 2010, Regular Workshop at 7:21 p.m.

/s/ Trish Granger
Trish Granger, Town Clerk

/s/ George Spoll
George Spoll, Mayor

Minutes Approved: 07/12/2010