

**MINUTES
LONGBOAT KEY TOWN COMMISSION
SPECIAL WORKSHOP
FEBRUARY 12, 2010 - 10:20 A.M.**

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

Also Present: Town Attorney David Persson, Town Clerk Trish Granger

CALL TO ORDER

Mayor Rothenberg called the Special Workshop Meeting to order at 10:20 a.m. in the Temple Beth Israel, 567 Bay Isles Road, Longboat Key, Florida, to consider the following item:

1. Discussion of Key Club's requested amendments to a 1979 Agreement and the 1992 Stipulated Final Judgment in Town of Longboat Key, Florida, a Municipal Corporation, Plaintiff, vs. Key Club Associates, Limited, a Florida Limited Partnership et. al.

Town Attorney David Persson provided an overview of the items to be considered by the Commission.

Commr. Jaleski inquired and Town Attorney Persson noted that legal notice requirements to hold the Special Workshop Meeting had been met.

Attorney Jim Syrett, representing the Longboat Key Club, noted distribution of a memorandum dated February 11, 2010, and advised that all parties had been provided the information. Attorney Syrett presented an overview of the request relating to a previously approved Open Space Agreement and a Stipulated Final Judgment relating to the golf course facilities. Discussions were held with Attorney Syrett and Mr. Michael Welly on the following topics/issues:

- definition of a group play and procedures for group play
- minimum and maximum number of golfers permitted in a group play
- requested amendments to the 1992 Stipulation
- current restrictions on golfing and proposed amendments to current restrictions
- determination of a group
- effect of group play on current members utilization of course
- number of current golf courses and anticipated utilization of one course
- advance booking and group play restrictions on Harbourside versus Islandside
- heaviest used tee times
- length of course closings to undertake required maintenance
- income generated by golfers from Inn On The Beach (IOTB)
- discounted fees for group play
- anticipated income stream if Key Club project is approved
- golf statistics
- average of use of courses throughout the United States
- validity of statistics/general practice of averaging totals

1. Request To Amend 1979 Agreement/1992 Stipulated Final Judgment - Continued

- seasonal versus summer use
- proposed use of courses by guests IOTB and proposed hotel
- majority of group play occurs during summer months
- rate fee during off season
- proposed users if hotel and condominiums are approved
- statement in Attorney Syprett's memorandum -"The right of guests at the new hotel to play golf on Islandside and Harbourside golf courses is critical to the sustainability of the golf courses and success of the new hotel."
- impact of raising/lowering fees on membership and play
- number of proposed condominium units.

Commr. Lenobel noted discussions with Mr. Welly and outlined the following items to be included in any amendment to the current agreements:

1. "New" hotel guests can play at Islandside only.
2. These guests can make advance tee times one day in advance (members have 3 days and IOTB have 2 days).
3. Guests of new hotel are permitted to play Islandside on any day, providing all 45 holes are open for member usage. The only occasion where more than one day advance is the case where the hotel has a scheduled shotgun tournament scheduled for a group of more than 50 guests registered to play. In this case, membership must be provided with advance notice to exceed more than one month that Islandside will be closed to members on that date.
4. One Commissioner or the Town Manager, approved by the Loeb group and the Town Commission, shall have the right to examine the extent of all play on the golf courses. (This person will be called Liaison to Club by Town.)
5. Fining failure to enforce the agreement will result in no non-members being permitted to play on Longboat Key Club courses.

Mr. Welly noted the differential between advance tee times for Harbourside versus Islandside. Commr. Lenobel noted opposition to amending the agreement to eliminate Harbourside. Discussion ensued on impact to members relating to use by guests at a future hotel.

Attorney Syprett noted options to come to agreement on proposed amendments to the existing stipulations.

Subsequent to individual comments, Mayor Rothenberg noted his support for Commr. Lenobel to work towards resolution of issues relating to the golf course play and restriction.

Town Attorney Persson advised that Commr. Lenobel was not acting as a liaison for the Commission with Mr. Welly, as sunshine requirements would apply.

1. Request To Amend 1979 Agreement/1992 Stipulated Final Judgment - Continued

Commr. Jaleski requested modification to the proposed Amendment submitted by Attorney Syprett pertaining to the second "Whereas" clause.

Town Attorney Persson suggested an amendment to Section 6 (page 5) of the existing stipulation.

Attorney Syprett noted an omission of addressing the Open Space Agreement of 1979. Subsequent to comments on the schedule, Attorney Syprett noted a request to amend Section 5 (page 3) of the Open Space Agreement.

Discussion ensued on the elimination/renaming of the driving range, impact on the entire agreement, determination of "appurtenant" buildings, impact of amendments to the ODP amendment being considered, golf course issues to be addressed, and the impact of voting in favor or against of the proposed amendments.

RECESS: 12:15 p.m. to 1:15 p.m.

Mayor Rothenberg called the meeting back to order at 1:15 p.m.

Attorney Michael Furen, representing Islandside Property Owners Coalition, LLC, commented on the 1979 Open Space Agreement opining that amendments would impact the decision making process and commented on the Stipulated Final Judgment. Attorney Furen reviewed the following documents, with discussions held throughout the presentation:

- the 1979 Open Space Agreement
- the March 14, 1980, approved Longboat Key Club Site Plan relating to Tract 1 (with driving range)
- Resolution No. 80-21, page 4, Section 2.E.3.A., Open Space
- Agreement between Arvida and the Town dated March 5, 1979, relating to page 3, Article 5, Tract I amendments
- utilization of the words "modify" and "amend"
- conditions providing guarantees to purchasers
- criteria to consider when amending the existing agreements
- special considerations to the existing residents rights on relying on an approved PUD
- authority included in the agreement providing amendments are approved subject to the Code.

Following comments, Attorney Syprett offered rebuttal comments noting that paragraphs 4 and 5 (page 3) of the Open Space Agreement provide authority for the Town Commission to amend the agreement and the reliance of purchasers on the documents recorded. Discussion ensued on the verbiage relating to future amendments to approved development agreements.

1. Request To Amend 1979 Agreement/1992 Stipulated Final Judgment - Continued

Attorney Persson opined that the Town Commission has the authority to amend the documents as outlined in several clauses of the agreement. Discussion ensued on the determination of "rational" concept.

Attorney Syprett commented on Resolution 80-21, page 4, Section 2.E.3.A.1, and page 6, paragraph 1, Section 2.E.3.A.6, and page 6, Section 6, advising that the Key Club (Arvida) had not violated any of the provisions outlined. Discussion ensued on the correlation between the provisions in the Resolution and the 1979 agreement.

Attorney Furen commented on the 1979 Agreement and the effect of an approval of the proposed amendments to the agreement.

Mr. Bob White, 435 Longboat Club Road, noted that he did not support amendments to the 1979 Agreement, right of reliance and the basis for modifications to the Agreement, reliance on the Town Code to protect property rights within a PUD, and opined of an adverse impact if the Agreements (Open Space and Stipulated Final Judgment) are approved and the reliance of

Ms. Carmel Izzo, 100 Sands Point Road, commented in opposition to the proposed amendments to the existing agreements.

Mr. Marc Fors, 570 Yardarm, noted opposition to amend the current agreements relied upon by purchasers.

Upon inquiry, Town Attorney Persson noted that no formal action can be completed this date and that discussion and direction to schedule a date for formal action could be provided. Discussion ensued on the time frame for consideration of the requests submitted

There was consensus to add the issue to the Regular Workshop on February 18, 2010, at Town Hall and to call a Special Meeting on Friday 19, 2010, to take formal action.

Mayor Rothenberg noted that the issue of the amendments will be scheduled on the February 18, 2009, Regular Workshop, and to schedule a Special Meeting on February 19, 2009, to take formal action.

Town Attorney Persson requested that all comments be submitted by Monday, February 15, 2010, by 5:00 p.m. and noted he will provide a draft document for consideration on Tuesday, February 16, 2010.

Vice Mayor Siekmann noted the previous discussion of the golf course issues and Commr. Lenobel submitted his requested comments relating to the golf course.

1. Request To Amend 1979 Agreement/1992 Stipulated Final Judgment - Continued

Ms. Simpson requested consideration for time certain on the Workshop Schedule and Town Manager Bruce St. Denis suggested that the items be scheduled at 2:30 p.m., time certain.

Attorney Furen requested clarification on the request to submit proposed revisions to the documents.

ADJOURNMENT

Mayor Rothenberg adjourned the February 12, 2010, Special Workshop Meeting at 2:50 p.m.

/s/ Trish Granger
Trish Granger, Town Clerk

/s/ George Spoll
George Spoll, Mayor

Minutes Approved: 0712/2010