

TOWN OF LONGBOAT KEY
PLANNING AND ZONING BOARD
MINUTES OF SPECIAL MEETING

JUNE 14, 2011

The special meeting of the Planning and Zoning Board was called to order at 9:00 AM.

Members Present: Chair BJ Webb, Secretary John Wild, Members Laurin Goldner, Walter Hackett, Leonard Garner, George Symanski

Members Absent: Vice Chair Allen Hixon, Members Phineas Alpers, Jack Daly

Also Present: Nancy Stroud, Special Counsel; David Persson, Town Attorney; Kelly Martinson, Assistant Town Attorney; Monica Simpson, Planning, Zoning & Building Director; Steve Schield, Planner; Ric Hartman, Planner; Donna Chipman, Office Manager

Administration of Oath

Deputy Clerk Mixon swore new member Leonard Garner.

Town Attorney Comments

David Persson, Town Attorney, discussed the letter he provided concerning new legislation that was passed dealing with referendums. He explained that the Town Charter states that density shall equal the 1984 Comprehensive Plan, but could be increased through the referendum process. The referendum process was what the legislature would not allow in the future. There was discussion occurring between the mayors and other elected officials to address this issue with the legislature during the next legislative session so they might consider exempting communities that had regulations prior to a date certain.

Mr. Hackett questioned if there were any proposed amendments. Attorney Persson replied no; the legislature was out of session. They hoped to convince the local legislators that there were unintended consequences and that they should allow referendums.

AGENDA ITEM #1
COMPREHENSIVE PLAN AMENDMENTS

Nancy Stroud, Special Counsel, commented that she and Ms. Simpson reviewed where they were at in the update process. She noted there was a question of whether the board wished to continue discussions through the summer as the goal was to get a complete package together for the Board to review and recommend amendments to the Town Commission by the end of the year. Chair Webb believed there was consensus from the board during the last meeting that they were willing to meet over the summer. She suggested staff set a summer calendar and provide the dates to the board.

Attorney Stroud noted that she understood the Town Commission had discussions on other issues related to the Vision Plan that they might want addressed in the Comprehensive Plan.

Recreation and Open Space:

Attorney Stroud mentioned that during the last meeting, the board discussed, and consensus was reached, that the board was interested in supporting recreation facility improvement; continuing to support land acquisition, but realizing that land was becoming a “scarce commodity,” even though there was a slight deficit in the amount of land that would reach the level of service (LOS) adopted in the Comprehensive Plan. There was also a need for facilities, and not really a dedicated revenue source to build those facilities. She explained that facilities could mean something like a community center, but could also include things like boardwalks along conservation and wetland areas. The revenues did not have to be large at the beginning, but having a source of revenue to make those improvements that would help the public enjoy the recreation and open space was where the board wished to move forward.

Attorney Stroud reviewed a PowerPoint presentation which outlined the issues discussed by the board. She pointed out that one of the issues was clarifying that the LOS related to Town-owned and controlled land, and not private land. She noted that the Recreation and Open Space element was being amended by the Town Commission. The earlier amendments had been reviewed by the Department of Community Affairs, and there were no comments. She reviewed a slight modification that the board might wish to consider and suggested the addition of “*Town-owned or controlled*,” and dropping the word “public.”

Chair Webb commented that when reviewing her tax bill a large portion goes to parks and recreation in Sarasota County, and asked if it should include reference to the two counties. Attorney Stroud responded the reason they would not include other jurisdictions in the policy statement was because the Town had no control over those jurisdictions. She commented that it did not mean in implementing the plan the Town could not include policies that encourage cooperation and use of other revenue sources.

Mr. Wild asked if by using ‘Town-owned or controlled’ would that mean the town would control the Albritton property that was owned by the county and would the acreage be included. Monica Simpson, Planning, Zoning & Building Director, explained that when referring to the Data & Analysis (D&A) of the Recreation and Open Space Element it gave an inventory of all the public lands (county owned and owned by the Town). She noted that it was her understanding that even those properties that were owned by Manatee or Sarasota Counties, either by agreement or Interlocal Agreement, the Town controlled those properties. In reference to the Albritton property, the memorandum of understanding that would be developed, and would be amended, would emphasize the fact the Town had control of those lands. Mr. Wild asked if those properties would be counted in the 12 acres. Ms. Simpson replied yes.

Mr. Hackett suggested the reference to “Town-wide” should be changed to “island-wide.” Chair Webb commented that with a comprehensive plan document that was specifically addressing the municipality’s plans and ordinances, she believed they needed to continue to refer to the municipality. She was not sure that the word ‘island’ would have the same legal standing.

Mr. Hackett recommended: 1) changing town-wide to Longboat Key Recreation and Open Space level; and 2) public-owned or controlled, rather than town-owned or controlled.

Ms. Simpson explained the reason the Town used the language 'town-wide,' noting the calculation was meant for the entire 10 miles of the island, not just each parcel or each development. Ms. Goldner asked why it could not state "The Town of Longboat Key has adopted a town-wide...". Mr. Hackett believed it should also reference 'public-owned or controlled' as it would bring the community into the ownership and partnership.

Mr. Wild asked Mr. Hackett if when he stated 12 acres of public owned or controlled, how did the public control something. He noted that governmental entities controlled, and because of that he favored 'town-owned or control' and not the word 'public.' He could accept Mr. Hackett's recommendation provided he allowed the word 'town' to remain and remove the word 'public.' Mr. Symanski reiterated Ms. Goldner's suggestion of "The Town of Longboat Key...".

There was consensus to state "The Town of Longboat Key."

Attorney Stroud discussed whether the LOS for land acquisition was too low. She reviewed a PowerPoint slide entitled "Deficit in Town Owned Land." Mr. Garner commented that year 2020 showed a population of 17,760 and year 2010 showed a smaller population, and asked why the land deficit would be larger with a smaller population since there was still the same amount of town-owned land. Chair Webb questioned if the peak season population number included transient. Steve Schield, Planner, explained that it included all the uses on the island as opposed to census figures, which only counted the permanent population. Discussion ensued on LOS. Mr. Wild believed the island would rely on passive recreation, and he did not see a lot of active recreation. Mr. Hackett pointed out that the town had not developed the current acreage to its full potential. Mr. Garner believed inclusion of the golf courses, which were used by transient, should be considered. Chair Webb commented she was not sure it was realistic to think the Town would have the ability to continue to acquire tracts of land for open space and active recreation. She believed the town would need to work with the current inventory.

Mr. Symanski referred to the statement about developer donations and asked if there was any monetary donation or was it just a land donation. Attorney Stroud explained that the Town had a land acquisition ordinance, which required a developer to contribute a certain amount of land based on development. It was not an impact fee. The ordinance also provided that a developer could contribute fees in lieu of land, and there was a formula for determining how much the fee was, which was based on the value of the land that would otherwise be dedicated. She believed there was a question if they had met the LOS and exceeded the LOS, whether they could continue to require those fees. Mr. Symanski asked if the board should review possible revisions to the fee side of the ordinance to assist development. Attorney Stroud commented the more revisions made, the more questions might be raised. She believed the consensus was the board was not interested in the land acquisition, but wished to move towards facility improvement, and if so, then the board needed to discuss how to do that.

Attorney Stroud reviewed the options for 'tweaking' the policy to encourage the facility part of the Recreation and Open Space element. One of those policies was Policy 1.1.7, which was now focused on the Bayfront Park Recreation Center and broaden it. The policy would read, "*The Town will support public facilities, activities, and services, including those at the Bayfront Park Recreation Center that make appropriate use of town-owned and controlled recreation and open space lands.*" Chair Webb noted if they include the language, then she believed they would need to include the other active recreation facility, because at some point the tennis center would need financial improvements.

Attorney Stroud suggested the second option (Policy 1.1.11), which did not mention specific facilities, might be more appropriate. The language would read, "*The Town will support the appropriate improvement of Town-owned and controlled recreation and open space lands with facilities that expand public enjoyment of those lands, while balancing the needs of the environment and neighborhood compatibility.*" Mr. Hackett suggested it state the "The Town will support existing, and new or proposed public facilities." Attorney Stroud amended Mr. Hackett's suggestion to state, "The Town would support the appropriate improvement of existing and new Town-owned and controlled." Mr. Garner believed the language was redundant, because if it was not owned at this time, then they would not be able to do anything with the property; however, as soon as it was acquired, then it would be included. Mr. Wild commented mentioning only Bayfront Recreation Center, without mentioning other areas on the island, would place a lot of focus on the Bayfront Recreation Center.

There was consensus to move forward with Policy 1.1.11 as written.

Attorney Stroud continued with discussing funding options for improving facilities. She referred to the Land Acquisition ordinance that gave some ability, but should not be relied on solely for funding. She reviewed the list she prepared, which included: user fee principle, developer contributions, general operating revenues, and grants. Mr. Wild asked if she was requesting the Board pick several from the list, rank the list, or adopt all of them. Mr. Garner asked if the one percent tax imposed by the county was available for public recreation use. Attorney Stroud responded yes; the county had a dedicated tax that went to open space recreation. Mr. Garner believed it should be included on the list as a funding source. Chair Webb asked if Mr. Garner wanted a separate bullet addressing the one percent county funds. Mr. Garner reiterated that it should be included because it was a source of revenue.

Mr. Hackett suggested individuals be included under partnerships. Attorney Stroud noted the purpose of the list was to provoke discussion to determine if the Town was using the resources available. Chair Webb commented the Town needed to do as much as possible to have revenues available for public recreation and open space. Mr. Wild suggested that they be ranked in alphabetical order so no one determined they were ranked. He agreed with Mr. Hackett that they should also include individuals under partnerships.

There was consensus to list alphabetically and under partnerships, list individuals, non-profits, and governments; and list clarification of county revenues that specifically come to Longboat Key.

The Board recessed from 9:55 am – 10:06 am.

Chair Webb asked that "county revenues" be included as a separate bullet.

Tom Kelley, Finance Director, discussed the Infrastructure Surtax noting that in 2009, Sarasota County voted for an additional penny in sales tax. They collected \$500,000 per year and it was a 15 year program. The funds could be used on projects for infrastructure that have a life of five years or more, and also police cars, fire trucks, beach nourishment, etc. It was expected that \$12.5 million would be collected over the 15 year period.

Chair Webb asked for clarification of the bed tax. Mr. Kelley responded that the bed tax could only be used for beach related expenditures as referenced in agreements with the counties.

Mr. Wild asked if the agreements could be modified to allow for use for parks and recreation. Mr. Kelley was not sure whether the agreements could be re-negotiated or not. Mr. Wild asked if there were other monies coming from the counties. Mr. Kelley noted there was a gas tax. Mr. Wild mentioned that he would like to know whether the Board could “advocate to the Town Commission that certain monies coming from certain sources go specifically to certain uses.” Mr. Kelley pointed out that governmental accounting was also referred to as ‘fund accounting,’ and the reason for the various types of funds was because the money that came in could only be used for certain things; the taxes that came in were not co-mingled with the general fund.

Stormwater

Attorney Stroud discussed stormwater, specifically a new stormwater regulation that was developing referred to as “Low Impact Development” (LID) regulation. She explained it was a way to allow stormwater to percolate in place using the physical characteristics of the property. She commented that if the Town wished to move towards that type of regulation, then it would require changes in the land development regulations (LDRs).

Juan Florensa, Public Works Director, explained that stormwater was one of the tasks that were handled by the Town Public Works Department. LID was a way to use natural features of the land when designing or redeveloping a property to take advantage of the natural characteristics. He pointed out that rather than dumping water off site, it used low areas of the site (bio swales) to retain the water. He noted that some of the benefits were that it helped to recharge the aquifer, and there was a reduction of pollutants that went into the bay. He believed it could be accomplished without a major cost increase to the developer or homeowner.

Mr. Symanski voiced his surprise of that, because for several years the Town discussed porous driveways and encouraged that, but the feedback from the Southwest Florida Water Management District (SWFWMD) was that it did not do any good. Mr. Florensa explained that the difference was for a particular single-family driveway, the benefits of having a porous driveway did not offset the cost to design a porous pavement properly; shell was a porous surface, but only for the first couple of inches. He was suggesting a low impact design for larger facilities (i.e. church, convenience store, etc). Mr. Garner discussed retention ponds and saw no reason to not consider the LID as a positive as far as stormwater management. This would be something that fell back on the designers of the facilities, along with examination of the soil characteristics and floodplain areas. He believed it should be a major consideration and should be encouraged, but it had to be supervised, and the characteristics of the property must also be compatible with the disposition of collected stormwater. Discussion ensued on projects that were utilizing the bio swale method.

Mr. Wild asked if it should be a goal to recommend the use of LID in projects. Mr. Florensa responded he did not know if he would go as far as suggesting using LID for single-family lots, but believed the LID concept would work well with larger projects. Mr. Symanski asked if the idea was to urge or require the use of LID. Mr. Florensa believed staff’s task was to provide the information to the board, and believed LID for large developments was something the Town should pursue. There was a benefit to the environment, and the Town, if LIDs were used. Mr. Symanski questioned the maintenance. Mr. Florensa explained there was maintenance required; every two years they would have to get an engineer to certify to SWFWMD that the stormwater system was being maintained in accordance with the approved plan.

Attorney Stroud commented that she was hearing there was an appreciation for the use of LID, and believed it might be appropriate to show in the plan that the Town “encouraged” those types of designs.

There was consensus to include that the Town would encourage use of LID.

Telecommunications:

Ms. Simpson commented the Town had worked diligently in the past to look at the telecommunication ordinance, and at one point, staff had brought forward a recommendation to expand zoning districts to allow towers. She pointed out that currently towers were only allowed in an Institutional (INS) Zoning District, which was limited. She mentioned that commercial zones were also limited, but in staff’s opinion, it would be controlled enough to where appropriate sites could be found and appropriate towers constructed. The Town Commission, after deliberating for several years, decided to only include minor tweaks in the code to allow a zero collapsible zone, but still mandate a setback of 200 feet, or twice the height of the tower. The Town also amended the code to allow antennas through the Distributive Antenna System (DAS) and the right-of-way permits for the Town. The basic question was whether the Town wished to consider amendments to the LDRs, and make the necessary amendments in the Comprehensive Plan to allow something for telecommunications.

Mr. Wild asked if the 200 foot collapse zone took into consideration the towers falling upon themselves. Ms. Simpson replied that even if a tower had a collapse zone that collapsed on itself, it still had a setback of 200 feet, or twice the height of the tower, whichever was greater. She heard testimony from attorneys for the carriers that if a tower was engineered to collapse on itself, they could do that.

Mr. Wild asked if they might wish to encourage a height standard (maximum), and take into consideration there were only so many vendors that could co-locate. Ms. Simpson explained that the Town ordinance did require co-location when possible. The south end of the island was well covered by most of the carriers with the use of the taller buildings. The recent discussions were possibly looking at two tower locations on the north end and central area. Mr. Wild asked if staff would have a recommendation that could be forwarded to the Town Commission, as to the setting of a maximum height so they were aware of the concern from the height of the towers. Ms. Simpson believed it would be reasonable to state they could set a maximum height, as long as they provided criteria that the applicant had to meet. Discussion ensued on the height of towers, and the lack of coverage in areas on the island.

Mr. Symanski noted his willingness to address location standards again. Chair Webb recommended the Board obtain expert information to provide the Board an overview of the current information for this field. Mr. Wild asked if the Town was considering two properties. Ms. Simpson noted the information she received was there was a need for two more towers on the north and central part of the island. Chair Webb pointed out that the new marine building on Bradenton Beach seemed like a natural location to address, and asked if there had been any discussions about the placement on that building. Ms. Simpson commented that Manatee County held strong to their policy to have no towers on their properties; several years ago their county attorney was asked to draft language to allow that, but it did not move forward.

Attorney Stroud believed the direction was to draft a policy to encourage better communication. Chair Webb reiterated that the Board should get expert information on the issue, and then determine if there was language that could provide more substance.

Nonconforming land uses

Attorney Stroud noted there was previous discussion on how the Town treated non-conforming land uses, which was basically to discourage their continuation; however, there could be another way to approach nonconformities, which was to allow them to change the code to reflect their actual existence and make them conforming. Mr. Wild asked if that would not be impacted by recent changes in Tallahassee. Attorney Stroud responded that the new legislation would not allow the Town to go beyond the density that was set in the 1984 Comprehensive Plan, but staff could review the issue. Mr. Symanski asked what staff would propose to be changed. Discussion ensued on older buildings, which had greater density than allowed under the current code (they were built in the 60s and 70s), and whether they would be allowed to be rebuilt in the same cubic square footage.

Tourism

Attorney Stroud commented that related to Tourism Use, there was a question as to whether the Town should relax the 30-day restriction for certain land use categories or districts. Ms. Simpson explained that the Board and the Town had discussions several years ago about possibly changing the 30-day rental rule in general, but they overwhelmingly heard there was a need to protect residential districts. Mr. Symanski voiced concern because someone could rent for a year and not stay; this would be getting into a condominium use and not tourism. Mr. Garner could not see any reason to restrict occupancy to a 30-day period, especially when the Town was trying to encourage tourism on the island. Mr. Wild believed the Town might wish to think about foreign influences on the island's tourism and ensure they were not restricting anything. Ms. Simpson explained that under the tourism zoning, one could not stay for more than 30 consecutive days. She discussed examples of T-3 and T-6 zoning on the island. Mr. Hackett voiced his disagreement with the 30-day restriction, and believed it should be increased. Chair Webb asked if there was a consensus to extend the 30-day restriction.

There was consensus to extend the restriction to beyond 30 days.

Mr. Symanski questioned the difference between a condominium unit and a tourism unit if the restriction was extended. Ms. Simpson noted if the Board allowed an unlimited stay, someone could begin to reside in the unit, but they could not claim it as a residence, register to vote, or homestead. The code discussed what a tourism unit "looks like" so there were distinctions on how a unit could be utilized. She mentioned that violation of the 30-day restriction was a code enforcement issue; if someone remained past 30 days in the unit, then the Town would begin a code enforcement case. For the purpose of discussion, Mr. Wild suggested, since the season currently seemed to run longer, that the restriction be extended to 180 days.

Chair Webb asked if there was concurrence for language suggesting 180 days. Attorney Stroud noted staff would come back with necessary amendments. Mr. Garner suggested six months commencing from the first day of occupancy.

Future Meeting Dates

Ms. Simpson explained there was not availability of the Commission Chamber, and questioned the frequency that the Board wished to meet during the summer.

She noted that every other week was too frequent, but suggested meetings in July, August, and the beginning of September. Ms. Goldner mentioned she would prefer every four weeks. Ms. Simpson pointed out that the Board needed to agree there would not be a problem meeting without a full board. She commented that a comprehensive package of the amendments would be brought back to the Board in the fall for a public hearing. Mr. Wild commented that they should not lose the opportunity to review and move forward during the summer. Ms. Simpson noted that staff would complete the scheduling by the end of the week.

It was asked by Ms. Goldner if meetings could be attended via teleconference. Ms. Simpson responded she would confer with David Persson, Town Attorney. She was aware that the Town Commission had members join in via teleconference, but they were not able to vote on issues.

ADJOURNMENT

The meeting was adjourned at 11:21 am.

John Wild, Secretary
Planning and Zoning Board