

**MINUTES  
LONGBOAT KEY TOWN COMMISSION  
REGULAR MEETING  
JULY 2, 2012 - 7:00 P.M.**

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

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

**Absent:** Commr. Lenobel

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

**Mayor Brown called the meeting to order at 7:00 p.m. in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida and Commr. Zunz led the Pledge of Allegiance.**

**Mayor Brown noted Commr. Lenobel was not in attendance.**

**APPROVAL OF MINUTES**

**1. May 7, 2012, Regular Meeting; May 21, 2012 Special Meeting; May 21, 2012, Special Workshop Meeting; May 24, 2012 Regular Workshop Meeting Minutes.**

Mayor Brown noted submission of an amendment to the May 24, 2012, Regular Workshop Minutes and inquired as to additional amendments, with no items stated.

**There was consensus to approve the Minutes, with the amendments to the May 24, 2012, Regular Workshop Meeting.**

**COMMITTEE REPORTS AND COMMUNICATIONS** - No items were presented.

**PUBLIC TO BE HEARD**

**2. Opportunity for Public to Address Town Commission** - No items were presented.

At each meeting the Town Commission sets aside a time for the public to address issues that are not on the agenda.

**CLOSING AND ACTION ON CONSENT AGENDA**

**3. Adoption of Revised 2012 Town Commission Meeting Dates**

The Town Commission adopts their annual meeting schedule each November for the upcoming calendar year. At the June 21, 2012 Regular Workshop Meeting there was consensus to adopt revised Town Commission Meeting dates for the remainder of 2012. This item is placed on the July 2, 2012 Regular Meeting Consent Agenda for formal action. Recommended Action: Approval of the Consent Agenda will adopt revised 2012 Town Commission Meeting dates

**4. Town Manager Employment Agreement Amendment**

At the June 21, 2012 Regular Workshop Meeting the Town Attorney was directed to prepare an Amendment to the Town Manager Employment Agreement. The Commission requested the amendment provide for a 3-year term with a renewal option for an additional 3-year term. Recommended Action: Approval of the Consent Agenda will approve Town Manager Employee Agreement Amendment.

**CLOSING AND ACTION ON CONSENT AGENDA**

3. Adoption of Revised 2012 Town Commission Meeting Dates - Continued

4. Town Manager Employment Agreement Amendment - Continued

**Commr. Larson requested removal of Agenda Item 4. Mayor Brown noted consensus to approve Consent Item 3. (See Item 4 later this meeting.)**

**ORDINANCES - SECOND READING AND PUBLIC HEARING**

5. Ordinance 2012-08, Amendments to Chapter 158, Zoning Code

At their May 1, 2012 Regular Meeting the Planning & Zoning (P&Z) Board voted to recommend Commission approval of Ordinance 2012-08 which amends Chapter 158, the Town's Zoning Code. First reading of Ordinance 2012-08 was held on June 4, 2012 and was forwarded for second reading and public hearing at the July 2, 2012 Regular Meeting. Recommended Action: Pending second reading and public hearing, adopt Ordinance 2012-08.

Town Clerk Trish Granger placed Ordinance 2012-08 on record for second reading and public hearing by title only.

**Commr. Zunz moved to adopt Ordinance 2012-08. The motion was seconded by Commr. Larson.**

**Mayor Brown opened the public hearing.**

Planning, Zoning, and Building Department Planner Ric Hartman noted the intent of the Ordinance and advised that Assistant Town Attorney Kelly Fernandez would provide an overview.

Assistant Town Attorney Kelly Fernandez provided a PowerPoint presentation reviewing the proposed amendments to Chapter 158, the Zoning Code. Discussions were held with Mr. Hartman, Attorney Fernandez, and Town Attorney David Persson on the following topics/issues:

- page 9, (D)(1) - identifying specific sheets of building plans and should reflect "drawings"
- page 11, reference to subsection (g) on page 10
- page 11, reference reflected in subsection viii(b) and (c) regarding a definition of "adequate distance" and determination of the Town Commission at the public hearing.

Ms. Debra McKenna, Marbury Lane, commented on the proposed Ordinance, noting support of the amendments.

Mr. Terry Gans, Grand Bay Boulevard, commented on the proposed Ordinance, noting support of the amendments.

Mr. Tom Aposporos, Gulf of Mexico Drive, the proposed Ordinance, noting support of the amendments.

5. Ordinance 2012-08, Amendments to Chapter 158, Zoning Code - Continued  
**Mayor Brown closed the public hearing.**

**Mayor Brown moved to amend Ordinance 2012-08 by amending Section 158.067, subsection (D)(1), deleting the words "plan sheets, renderings." The motion was seconded by Commr. Younger.**

**Following clarification by Town Attorney Persson, the motion to amend Ordinance 2012-08 carried by a 6-0 roll call vote, as follows: Brown, aye; Younger, aye; Larson, aye; Brenner, aye; Duncan, aye; Zunz, aye.**

**The main motion to adopt Ordinance 2012-08, as amended, carried by a 6-0 roll call vote, as follows: Zunz, aye; Larson, aye; Younger, aye; Duncan, aye; Brenner, aye; Brown, aye.**

7. Ordinance 2012-14, Providing for a Referendum Regarding Change of Density for Property Located at 5440 Gulf of Mexico Drive

Ordinance 2012-14 provides for a referendum as requested by the property owner to change density of property located at 5440 Gulf of Mexico Drive. First reading of Ordinance 2012-14 was held on June 4, 2012 and was forwarded for second reading and public hearing at the July 2, 2012 Regular Meeting Recommended Action: Pending second reading and public hearing, adopt Ordinance 2012-14.

Mayor Brown advised that Mr. Peter Dailey, Agent, had a conflict and would be arriving late and requested input from the Commission on postponing the public hearing until his arrival. No objections were stated and Mayor Brown proceeded with the agenda item.

Town Clerk Trish Granger placed Ordinance 2012-14 on record for second reading and public hearing by title only.

**Commr. Duncan moved to adopt Ordinance 2012-14. The motion was seconded by Commr. Larson.**

**Mayor Brown opened the public hearing. As no one wished to be heard, the public hearing was closed.**

**The motion carried by a 6-0 roll call vote, as follows: Duncan, aye; Larson, aye; Zunz, aye; Brown, aye; Younger, aye; Brenner, aye.**

6. Ordinance 2012-12, Amending Chapter 111, Business Tax Receipts

The Florida Legislature has amended Florida Statutes Chapter 205 to provide an exemption for Real Estate Associates and Broker Associates. Ordinance 2012-12 amends Chapter 111 to align the Town Code with Florida Statutes. First reading of Ordinance 2012-12 was held on June 4, 2012 and was forwarded for second reading and public hearing at the July 2, 2012 Regular Meeting. Recommended Action: Pending second reading and public hearing, adopt Ordinance 2012-12.

6. Ordinance 2012-12, Amending Chapter 111, Business Tax Receipts - Continued

Town Clerk Trish Granger placed Ordinance 2012-12 on record for second reading and public hearing by title only.

**Commr. Larson moved to adopt Ordinance 2012-12. The motion was seconded by Commr. Zunz.**

**Mayor Brown opened the public hearing. As no one wished to be heard, the public hearing was closed.**

Vice Mayor Brenner advised that the Town had lost home rule status on the legislative exemption. Commr. Duncan requested that Staff review alternatives to provide for the lost revenue. Discussion ensued on the position of the Florida League of Cities on instituting an alternative business fee for the real estate category and the estimated amount of lost revenues.

**The motion carried by a 6-0 roll call vote, as follows: Larson, aye; Zunz, aye; Duncan, aye; Brenner, aye; Brown, aye; Younger, aye.**

8. Ordinance 2012-15, Providing for a Referendum Regarding Change of Density for Property Located at 521 Broadway

Ordinance 2012-15 provides for a referendum as requested by the property owner to change density of property located at 521 Broadway. First reading of Ordinance 2012-15 was held on June 4, 2012 and was forwarded for second reading and public hearing at the July 2, 2012 Regular Meeting Recommended Action: Pending second reading and public hearing, adopt Ordinance 2012-15.

Town Clerk Trish Granger placed Ordinance 2012-15 on record for second reading and public hearing by title only.

**Commr. Younger moved to adopt Ordinance 2012-15. 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.**

Commr. Zunz commented on the impact an Overlay District may have on the property under consideration.

**The motion carried by a 5-1 roll call vote, as follows: Younger, aye; Duncan, aye; Zunz, no; Larson, aye; Brenner, aye; Brown, aye.**

**RESOLUTIONS**

9. Resolution 2012-16, Budget Transfer in the Amount of \$5,000 for Studio 26 Production Services for the Remainder of FY 2011-12

The FY 2011-12 Budget provided funding for production services, filming and live-stream broadcast of Town Commission meetings for a 6 month trial period. Resolution 2012-16 provides for a budget transfer of \$5,000 to fund video services for the remainder of FY 2011-12. Recommended Action: Pending discussion, pass Resolution 2012-16.

9. Resolution 2012-16, Budget Transfer in the Amount of \$5,000 for Studio 26 Production Services for the Remainder of FY 2011-12 - Continued

Town Clerk Trish Granger placed Resolution 2012-16 on record by title only.

**Commr. Duncan moved to pass Resolution 2012-16. The motion, seconded by Commr. Larson, carried by a 5-1 roll call vote, as follows: Duncan, aye; Larson, aye; Brown, aye; Brenner, aye; Younger, no; Zunz, aye.**

Vice Mayor Brenner requested that the anticipated costs for Fiscal Year 2012-2013 be reviewed to provide for an upgrade of the internet connection be included as potential advertisers are having difficulty accessing the live stream broadcast.

10. Resolution 2012-17, Providing the Town Manager Authorization to Post Signage Closing North Shore Beach Access and Parking

At the June 21, 2012 Regular Workshop Meeting the Town Manager discussed the Inlet Management Plan, the upcoming beach project for the North end, and requested authorization to close the beach access and parking in the event unsafe conditions develop. Resolution 2012-17 provides for Town Manager authorization to post signage closing the North Shore beach access and parking in the event of unsafe conditions. Recommended Action: Pending discussion, pass Resolution 2012-17.

Town Clerk Trish Granger placed Resolution 2012-17 on record by title only.

Town Attorney David Persson noted that the final version was not included in the agenda packet and requested consideration to postpone consideration of Resolution 2012-17 following discussion of Item 11.

Commr. Zunz inquired as to authority to close other beach accesses if needed and Town Manager Dave Bullock advised that other areas could be closed if there are public safety issues.

(See Item later this meeting.)

**NEW BUSINESS**

11. Setting of Maximum Millage

In accordance with Florida Statutes the Town must establish a proposed maximum millage rate in July so that it can be included in the Notice of Proposed Property Taxes mailed in August by each County. Although it can be reduced in later budget hearings, these millage rates cannot be increased. Recommended Action: Set Maximum Millage Rates and forward ordinances to adopt millage rates and budget based on these tentative rates to September 4, 2012 Regular Meeting for first reading and public hearing.

Town Manager Dave Bullock advised that the recommended millage rate proposed was the same as the current rate and noted Finance Department Budget Analyst and Risk Specialist Sandi Henley would provide an overview of the recommended millage and the Beach Districts A and B millages.

Ms. Henley gave a PowerPoint presentation reviewing the proposed maximum millage rates. Discussions were held on the following topics/issues:

11. Setting of Maximum Millage - Continued

- proposed millage rates for Beach Erosion Control Districts A and B
- ability of Town Commission to lower, or not adopt, the proposed millage for the Erosion Control Districts in September depending on the project timeline and type of debt to be utilized
- assumed debt of \$16,000,000, anticipated amortization, and term of debt
- non-assessment of beach debt in past two years
- identification of assessment on TRIM (Truth in Millage) notice.

**Commr. Younger moved to set the tentative maximum millage rate of 1.8872 mills and to forward ordinances to adopt the millage rates and the budget based on these rates to the September 4, 2012, Regular Meeting for first reading and public hearing. The motion was seconded by Vice Mayor Brenner.**

Commr. Larson inquired and Ms. Henley advised that the maximum millage rate that could be set is 2.4644 and noted that this millage rate was for the operating budget and did not include the Beach Erosion Control District millages.

**The motion carried by a 6-0 roll call vote, as follows: Younger, aye; Brenner, aye; Zunz, aye; Larson, aye; Brown, aye; Duncan, aye.**

10. Resolution 2012-17, Providing the Town Manager Authorization to Post Signage Closing North Shore Beach Access and Parking - Continued

Town Attorney David Persson noted distribution of revised Resolution 2012-17 and advised that a new Section 1 had been added and Section 2 had been expanded to clarify the Town Manager's authority.

**Commr. Zunz moved to pass Resolution 2012-17, as amended. The motion, seconded by Commr. Duncan, carried by a 6-0 roll call vote, as follows: Zunz, aye; Duncan, aye; Larson, aye; Younger, aye; Brenner, aye; Brown, aye.**

4. Town Manager Employment Agreement Amendment - Continued

At the June 21, 2012 Regular Workshop Meeting the Town Attorney was directed to prepare an Amendment to the Town Manager Employment Agreement. The Commission requested the amendment provide for a 3-year term with a renewal option for an additional 3-year term. Recommended Action: Approval of the Consent Agenda will approve Town Manager Employee Agreement Amendment.

Commr. Larson noted previous discussion of the Employment Agreement for Town Manager Dave Bullock, requested consideration to draft a new Agreement in lieu of amending the existing Agreement, and commented on the proposed amendment to Section 3, Termination, paragraph D2, relating to the reference to a majority vote (four) versus the Charter requirements of five votes for removal of the Town Manager.

Town Attorney Persson clarified that Section 3 is not a removal/termination of the Town Manager under Charter provisions but provides for non-renewal of the Agreement, wherein no severance benefits would be paid.

4. Town Manager Employment Agreement Amendment - Continued

Discussion ensued on the following topics/issues:

- contract renewal versus termination
- Charter requirements of five votes for termination
- lack of Charter provisions for non-renewal of the Agreement
- intent of the Charter to require a super majority
- ability to require five votes for non-renewal of the Agreement

**Commr. Larson moved to draft a new Employment Agreement and to include reference to the Town Charter provisions for termination in lieu of simple majority. The motion died for lack of a second.**

**Commr. Younger moved to approve the First Amendment to Employment Agreement for Town Manager Bullock. The motion, seconded by Commr. Zunz, carried by a 6-0 roll call vote, as follows: Younger, aye; Zunz, aye; Larson, aye; Brenner, aye; Duncan, aye; Brown, aye.**

**TOWN COMMISSION COMMENTS**

A. Town Manager

Commr. Duncan commented on a car allowance policy and recommended that the Town Manager be provided with a vehicle allowance as provided to other Town staff.

Discussion ensued on the time frame for consideration of the vehicle allowances provided and future consideration and review of the existing Personnel Rules and Regulations (PRR) and other operating policies and past practices in place not addressed in the PRR.

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

**TOWN MANAGER COMMENTS**

A. Information Technology (IT)/Professional Services

Town Manager Dave Bullock noted the retirement of IT's Office Automation Specialist Barb Murr and commended Ms. Murr's service to the Town.

Town Manager Bullock advised that the position will be evaluated prior to hiring a full time employee and noted that the Town will utilize a contract employee during the interim requiring a budget amendment be accomplished in September 2012.

B. Emergency Management/Public Works

Town Manager Dave Bullock gave a PowerPoint presentation providing an update on the impacts of Tropical Storm Debby. (See Item later this meeting.)

C. Planning, Zoning, and Building

Town Manager Dave Bullock noted previous consideration of the issues relating to The Colony Beach and Tennis Resort in March 2012 and provided an update on the recent inquiries of unit owners relating to reopening individual units.

**TOWN MANAGER COMMENTS** - Continued

**C. Planning, Zoning, and Building** - Continued

Discussions were held with Town Manager Bullock and Town Attorney David Persson on the following topics/issues:

- landscaping (palm tree) in front entryway of The Colony
- Historic Sign designation
- impact of granting permit applications when property ownership in litigation
- individual unit ownership/legal issues to be considered.

**B. Emergency Management/Public Works** - Continued

Vice Mayor Brenner commended Staff's response to Tropical Storm Debby, noted that an e-mail criticizing the response omitted factual information (unlocked vehicles/houses), and suggested that Town Manager Bullock respond with factual information to correct the information. (See Item later this meeting.)

**C. Planning, Zoning, and Building** - Continued

Discussions continued with Town Manager Bullock and Town Attorney Persson on the following topics/issues pertaining to The Colony property:

- concern with individual owners trying to repair single units
- sewer/lift stations non-functioning
- no water to units due to lack of payment
- determination of function by engineer of utility system and lift station
- increasing water bills due to penalties
- concern of unit owners on the possible loss of grandfathered status
- unusable condition of common areas and amenities on the site
- determination of opening several units versus substantial use of property to retain grandfathered status
- in-fighting between the parties
- lack of insight on when legal issues will be resolved between the parties
- anticipated request for an additional extension by the parties involved past the December 31, 2012 deadline
- loss of tax revenues if grandfather status is lost/review of previous year tax appraisals
- impact on tourist population visiting Longboat Key
- occupancy by owners/concerns with allowing partial inhabitation of property
- wastewater system issues/permitting requirements for private lift stations by the Florida Department of Environmental Protection (FDEP)
- engineering inspection and certifications to the Town in addition to the FDEP requirements for lift station/wastewater lines
- status and impact on wastewater system with Dr. Murf Klauber's residence/one unit load on sewer system versus 237 additional units
- options for the parties to provide a monthly status report on the progress being made.

**TOWN MANAGER COMMENTS** - Continued

**B. Emergency Management/Public Works** - Continued

Commr. Zunz commented on the break-ins that occurred during the storm event, advised that one of the homes was unlocked, and suggested that some type of public information needs to be distributed advising individuals of their responsibility to secure their property.

Town Manager Bullock reported that of the approximately sixteen burglaries (vehicles and houses) reported all but one was unlocked.

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

**ADJOURNMENT**

**Mayor Brown adjourned the July 2, 2012, Regular Meeting at 8:40 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: 09-04-2012