

**MINUTES  
LONGBOAT KEY TOWN COMMISSION  
REGULAR MEETING  
FEBRUARY 6, 2012 - 7:00 P.M.**

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

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

**Absent:** Commr. Phillip Younger

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

**Mayor Brown called the meeting to order at 7:00 p.m. and Commr. Lenobel led the Pledge of Allegiance.**

**Following comments, Mayor Brown noted that Commr. Younger was not in attendance due to illness.**

**PROCLAMATIONS AND SPECIAL PRESENTATIONS**

**1. Community Foundation of Sarasota County – Roxie Jerde, President and CEO**

Vice Mayor Brenner commented on service organizations and advised that Ms. Roxie Jerde, President and CEO of the Community Foundation of Sarasota County was invited to make a presentation.

Ms. Jerde presented an overview of the Community Foundation and the services available to the public through the assistance of the Community Foundation, and noted the partnerships with Manatee County and the Lakewood Ranch Community Fund. Upon inquiry, Ms. Jerde commented on the opportunity to create a Community Foundation of Longboat Key.

Ms. Jerde reviewed the staffing and upcoming initiative for non-profit organizations.

**APPROVAL OF MINUTES**

**2. December 5, 2011 Regular Meeting and December 15, 2011 Regular Workshop Meeting Minutes**

**Mayor Brown noted there was consensus to approve the Minutes as submitted.**

**COMMITTEE REPORTS AND COMMUNICATIONS**

**A. Organizations**

Commr. Zunz noted she was interviewed regarding the Revitalization Task Force-North End Project, conducted by New College, advised of a meeting on January 28, 2012, at the Education Center to review the results of all interviews conducted, and provided information on subsequent actions that will be taken on the Project.

**B. Agencies**

Vice Mayor Brenner noted receipt of an e-mail requesting local governments to correspond with Southwest Airlines regarding their termination of Air Tran services from the Sarasota-Bradenton International Airport.

Minutes in draft form and are not official until approved by the Town Commission.

**COMMITTEE REPORTS AND COMMUNICATIONS-** Continued

**B. Agencies - Continued**

**Town Manager Dave Bullock read the letter for the record and there was consensus to authorize the Mayor's signature on the correspondence to Southwest Airlines.**

**PUBLIC TO BE HEARD**

**3. Opportunity for Public to Address Town Commission**

**A. Public Works**

Mr. Bob Apel, President of Longbeach Condominiums, commented on the consideration of dogs on the beach, noting objection to modifying current regulations prohibiting animals on the beaches.

**ORDINANCES - SECOND READING AND PUBLIC HEARING**

**4. Ordinance 2011-16, Amending Chapter 158, Screening and Landscaping Regulations for Transition Yards**

At their November 15, 2011 Regular Meeting, the Planning & Zoning Board recommended approval, and forwarded, Ordinance 2011-16 to the Town Commission for consideration. Ordinance 2011-16 amends the Zoning Code to provide for alternative methods to meet Code requirements for landscape buffers in transition yards. Ordinance 2011-16 was forwarded from the January 9, 2012 Regular Meeting for second reading and public hearing. Recommended Action: Pending second reading and public hearing, adopt Ordinance 2011-16.

Town Clerk Trish Granger placed Ordinance 2011-16 on record for second reading and public hearing by title only.

Commr. Zunz inquired as to page 2, Section 2, and Mayor Brown advised the strikethrough deleted the entire section and that subsection (C) would be reserved for future use.

**Vice Mayor Brenner moved to adopt Ordinance 2011-16. The motion was seconded by Commr. Lenobel.**

**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: Brenner, aye; Lenobel, aye; Larson, aye; Brown, aye; Duncan, aye; Zunz, aye.**

**5. Ordinance 2011-21, Amending Chapter 158.006, Landscaping Required**

At the June 6, 2011 Regular Meeting the Town Commission adopted Ordinance 2011-10, amending Section 158.152 of the Town Code. Commissioner Younger asked that provisions of Section 158.152 be reviewed pertaining to the time frame for replacement of non-compliant hedges. Pursuant to the Town Code, the Planning & Zoning Board reviewed the issue and forwarded Ordinance 2011-21 to the Town Commission for consideration. Ordinance 2011-21 was forwarded from the January 9, 2012 Regular Meeting for second reading and public hearing. Recommended Action: Pending second reading and public hearing, adopt Ordinance 2011-21.

5. Ordinance 2011-21, Amending Chapter 158.006, Landscaping Required - Continued  
Town Clerk Trish Granger placed Ordinance 2011-21 on record for second reading and public hearing by title only.

**Commr. Duncan moved to adopt Ordinance 2011-21. 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; Lenobel, aye; Zunz, aye; Brown, aye; Brenner, aye.**

6. Ordinance 2012-07, Amending Chapter 30.01(D) Workshop Meetings

At the December 5, 2011 Regular Meeting, Mayor Brown proposed amending the Town Code to provide for future workshop meetings to begin at 2:00 PM. Ordinance 2012-07 was forwarded from the January 9, 2012 Regular Meeting for second reading and public hearing. Recommended Action: Pending second reading and public hearing, adopt Ordinance 2012-07.

Town Clerk Trish Granger placed Ordinance 2012-07 on record for second reading and public hearing by title only.

**Commr. Zunz moved to adopt Ordinance 2012-07. The motion was seconded by Commr. Lenobel.**

**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: Zunz, aye; Lenobel, aye; Larson, aye; Brown, aye; Brenner, aye; Duncan, aye.**

#### **QUASI-JUDICIAL ORDINANCES - SECOND READING AND PUBLIC HEARING**

7. Quasi-Judicial – Ordinance 2012-03, Parcel B-1, Bay Isles (MODA), 594 Bay Isles Road, Outline Development Plan (ODP) Amendment

At their December 13, 2011 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval and forwarded Ordinance 2012-03 for Commission consideration. First reading and public hearing of Ordinance 2012-03 was held at the January 9, 2012 Regular Meeting and forwarded to February 6, 2012 for second reading and public hearing. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

8. Quasi-judicial – Ordinance 2012-04, Parcel B-2, Bay Isles, (Town Plaza II), 545 Bay Isles Parkway, Outline Development Plan (ODP) Amendment

At their December 13, 2011 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval and forwarded Ordinance 2012-04 for Commission consideration. First reading and public hearing of Ordinance 2012-04 was held at the January 9, 2012 Regular Meeting and forwarded to February 6, 2012 for second reading and public hearing. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

**9. Quasi-judicial – Ordinance 2012-02, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix), 525 Bay Isles Parkway, Outline Development Plan (ODP) Amendment**

At their December 13, 2011 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval and forwarded Ordinance 2012-02 for Commission consideration. First reading and public hearing of Ordinance 2012-02 was held at the January 9, 2012 Regular Meeting and forwarded to February 6, 2012 for second reading and public hearing. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

**RESOLUTION AND PUBLIC HEARING**

**10. Quasi-judicial – Resolution 2012-01, Parcel A, Bay Isles (Shoppes of Bay Isles-Publix) 525 Bay Isles Parkway, Site Plan Amendment**

At their December 13, 2011 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval and forwarded Resolution 2012-01 for Commission consideration. Public hearing on Resolution 2012-01 was opened at the January 9, 2012 Regular Meeting and continued to February 6, 2012. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

**Mayor Brown provided an overview of the procedural process, noted that Items 7, 8, 9, and 10 would be heard together, and opened the public hearings simultaneously.**

Town Clerk Trish Granger administered the oath to those presenting testimony.

Town Attorney David Persson reviewed disclosure requirements and inquired as to any conflicts or ex-parte communication by the Commissioners. Commr. Larson noted receipt of phone calls relating to the proposal on set-backs and opined of her ability to consider the evidence presented this date in her determination on the petition. Upon inquiry, the Applicant's Representative, Mr. Michael Leeds, and Town staff noted no objection to participation by Commr. Larson.

Commr. Duncan noted receipt of phone calls relating to the buffering and setbacks and opined of his ability to consider the evidence presented this date in determination of the petition. Upon inquiry, the Applicant's Representative, Mr. Michael Leeds, and Town staff noted no objection to participation by Commr. Duncan.

Planning, Zoning, and Building Department Planner Steve Schield presented an overview of the Outline Development Plan (ODP) and Site Plan amendments for the parcels and noted the following revisions to the Ordinances:

- Ordinances 2012-03, 2012-04, 2012-02: typographical error on the Land Intensity Schedule, Exhibit "D", revised to reflect 4.79 Residential Dwelling Units per acre in lieu of 71.25 incorrectly reflected
- Ordinance 2012-03, amend the last "Whereas" clause relating to the Conclusions and Findings of Fact, Item B, as follows (deletions shown as ~~strikethrough~~ text):
  - B. There are no permitted land uses assigned to Parcel "B-1 South". Future Outline Development Plan amendments shall be found consistent with Policy 1.1.10, Subsection 7 a – Mixed Use Community – Bay Isles (MUC-1), of the Town's Comprehensive Plan, ~~regarding the permitted land uses within the~~

- 7. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA) - Continued
- 8. Ordinance 2012-04, Parcel B-2, Bay Isles, (Town Plaza II) - Continued
- 9. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix - Continued
- 10. Resolution 2012-01, Parcel A, Shoppes of Bay Isles-Publix - Continued

~~future land use category and geographic area of the town, by proposing commercial/office land uses not exceeding four percent of the total property within the MUC.~~

- Ordinance 2012-02, amend the sixth "Whereas" clause, to read as follows (additions shown as underlined text):

**WHEREAS**, Avenue of the Flowers Acquisition Co., LLC, requests approval of an Outline Development Plan amendment with a departure to reduce the required setback to allow existing parking in a street yard from 20 feet to 12.49 feet beginning at the north access driveway on adjacent to Bay Isles Parkway to the north property line; and

- Ordinance 2011-02, amend the last "Whereas" clause relating to the Conclusions and Findings of Fact, Item J and K, as follows (deletions shown as underlined text):

J. The departure granted from Section 158.128 (H)(3)(c) of the Town Zoning Code, pertaining to the required setback for existing parking in a required street yard, is consistent . . .

K. The departure granted from Section 158.128 (H)(3)(c) of the Town Zoning Code, pertaining to the required setback for existing parking in a required street yard, is desirable . . .

- Resolution 2011-01, amend Exhibit "A," Condition 20, to incorporate the following language:

(a) Upon issuance of the certificate of occupancy (CO) for Phase 1 (the new CVS Pharmacy and associated parking and life safety, storm water, utility components necessary for the CVS to obtain a CO) the principal amount of the Phase 1 Bond be reduced to 25% of its original amount for a one-year maintenance period after issuance of the CO for Phase 1, at the end of which the bond shall be shall be released;

(b) Upon issuance of the CO for Phases 2 and 3 (the new Publix store and inline retail shops, parking fields around the new stores and the remainder of the Publix parking on the east side of the store) the principal amount of the Phases 2, 3 and 4 Bond shall be reduced to 25% of its original amount associated with Phase 2 and 3 costs, Phase 4 Bond costs shall remain at 100% of its original amount;

(c) Upon issuance of the CO for Phase 4 (the remainder of site with pad only for future the retail/office building) the Phases 2, 3 and 4 Bond shall be released to 25% of its original amount; and

(d) The Phases 2, 3 and 4 Bond shall remain in effect (at 25% of its original amount) for the one-year maintenance period after issuance of the CO for Phases 2, 3 and 4, at the end of which the bond shall be released

- Resolution 2011-01, amend Exhibit "A," Condition 36, as follows (additions shown as underlined text/deletions shown as ~~strikethrough~~ text):

7. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA) - Continued
8. Ordinance 2012-04, Parcel B-2, Bay Isles, (Town Plaza II) - Continued
9. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix - Continued
10. Resolution 2012-01, Parcel A, Shoppes of Bay Isles-Publix - Continued

A landscape berm of at least two and one half feet in height with vegetation that is a minimum of six feet in height and 80% opacity at installation shall be constructed along Bay Isles Parkway from the south access driveway to the north property line access driveway. The berm shall taper . . .

Discussions were held with Mr. Schield and Town Attorney Persson on the following topics/issues:

- flexibility to work with Staff to create a natural look buffer/landscape berm
- deletion of allowable uses on B-1 site
- Parcel B-1 South relating to the deletion of language from Ordinance 2012-03, Subsection 7a
- applicant's requirement to provide proposed uses for Commission consideration
- horizontal parking on Bay Isles Parkway for oversize/trailer vehicles
- gross square footage for additional building with an unplanned use

Attorney Dan Bailey, duly sworn, noted submission and read correspondence from Mr. W. Howard Rooks dated January 26, 2012, and Publix Super Markets, Inc., dated January 30, 2012.

Mr. Michael Leeds, RMC Development Services representing the applicant, duly sworn, commented on the proposed service vehicle parking (oversized and/or trailer vehicles) and advised that the Store Manager has and will manage the parking issues that arise and the option to removing parking bumpers to provide a forty-foot parking space and perimeter parking to be available. Discussions were held with Mr. Leeds and Mr. Phil Smith, Landscape Architect and duly sworn, on the following topics/issues:

- existing parking issue in the fire/emergency lane
- footage between the proposed pervious parking spaces to property line
- existing buffer of 12.49 feet
- type of plantings in the proposed buffer (80% opacity buffer)
- impact on existing trees/root systems
- proposed landscaping on the west side of the easterly entrance way
- purpose of requested reduced setback to provide for parking spaces
- option for more uniformity of the buffer on Bay Isles Parkway
- option to add parking area for service vehicles to the west of the easterly entrance.

Attorney Steve Rees, representing the Bay Isles Association and duly sworn, requested confirmation on the record presented, commented on the departures relating to parking to be provided, requirements for compliance with the Comprehensive Plan when granting departures, and requested amendment to Condition 26 or Resolution 2012-01.

7. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA) - Continued
8. Ordinance 2012-04, Parcel B-2, Bay Isles, (Town Plaza II) - Continued
9. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix - Continued
10. Resolution 2012-01, Parcel A, Shoppes of Bay Isles-Publix - Continued

Mr. Bill Levine, President of the Bay Isles Association and duly sworn, commented on the proposed departure on the landscaping buffer

Mr. George Spoll, Harbourside Drive and duly sworn, commented on the proposed departure on the landscaping buffer. Upon inquiry,

Mr. Larry Grossman, St. Judes Drive and duly sworn, noted submission of an e-mail relating to the petition, reviewed the items outlined in the correspondence, and commented on pedestrian friendly parking lots.

**RECESS:** 8:37 p.m. - 8:51 p.m.

Following comments by Mr. Leeds, Mr. Smith noted his credentials for the record, and provided a professional opinion that the landscaping and buffering as proposed will provide adequate buffering.

Mr. Leeds noted the time frame for the property development to maintain the proposed demolition and building schedule, a requirement for CVS Pharmacy to remain open during the construction period, compromises and redesigns to date, parking fields for the various development segments, lack of interest by Bank of America, and number of parking spaces to the east of the property.

Upon inquiry, Mr. Leeds advised that the removal of parking spaces on the property was to preserve existing trees, the position of the Publix Corporation on building sufficient services to their customers, existing parking issues, angle versus straight line parking, and the option to reduce buffer on the west side of the easterly access to create service vehicle parking.

**Subsequent to comments by Mayor Brown on the parking and landscaping requirements, Mayor Brown closed the public hearings on Ordinances 2012-03, 2012-04, 2012-02, and Resolution 2012-01.**

**Commr. Lenobel moved to adopt Ordinance 2012-03, as amended. The motion was seconded by Commr. Larson. Following inquiry by Town Attorney Persson and confirmation on the incorporation of amendments this date, the motion carried by a 6-0 roll call vote, as follows: Lenobel, aye; Larson, aye; Duncan, aye; Brenner, aye; Zunz, aye; Brown, aye.**

**Vice Mayor Brenner moved to adopt Ordinance 2012-04, as amended. The motion was seconded by Commr. Zunz. Following inquiry by Town Attorney Persson and confirmation on the incorporation of amendments this date, the motion carried by a 6-0 roll call vote, as follows: Brenner, aye; Zunz, aye; Lenobel, aye; Duncan, aye; Larson, aye; Brown, aye.**

7. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA) - Continued
8. Ordinance 2012-04, Parcel B-2, Bay Isles, (Town Plaza II) - Continued
9. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix - Continued
10. Resolution 2012-01, Parcel A, Shoppes of Bay Isles-Publix - Continued

**Vice Mayor Brenner moved to adopt Ordinance 2012-02, as amended this date in accordance with Staff recommendations. The motion was seconded by Commr. Lenobel. Following inquiry by Town Attorney Persson and confirmation on the incorporation of amendments this date, the motion carried by a 6-0 roll call vote, as follows: Brenner, aye; Lenobel, aye; Brown, aye; Larson, aye; Zunz, aye; Duncan, aye.**

**Commr. Larson moved to adopt Resolution 2012-01. The motion was seconded by Commr. Duncan.**

Town Attorney Persson inquired as to the incorporation of amendments to Condition 36 regarding the North property line and amendments to Condition 26, as follows (additions shown as underlined text):

. . . caused to the road by the applicant, its contractors, subcontractors, and those acting on behalf of the applicant during the time of the construction. The applicant shall pay for any . . .

Town Attorney Persson noted that discussion regarding parallel parking was not incorporated in the Resolution unless further directed. Vice Mayor Brenner noted his preference to include the allowance for the parallel parking and Town Attorney Persson proposed the following language as Condition 41:

Between the South access and the North access of Bay Isles Parkway, the applicant may construct parallel parking as long as a 20 foot buffer is maintained.

Discussion ensued on the utilization of the word “may” versus “will” or “shall.”

**Following comments, the incorporation of Condition 41 was accepted with the substitution of the word “shall” for “may,” without objection.**

Commr. Larson inquired and following comments by Mr. Schield, Town Attorney Persson suggested the following language for Condition 41 (additions shown as underlined text/deletions shown as ~~strikethrough~~ text):

Between the South access and the North access of Bay Isles Parkway, the applicant ~~may~~ shall construct a pervious paving system for parallel parking as long as a 20 foot buffer is maintained.

Commr. Larson inquired and Town Attorney Persson clarified the modification to the berm and confirmed it was incorporated in the amendments.

**Mayor Brown confirmed the incorporation of amendments to Conditions 26 and 36 and incorporation of Condition 41 in the main motion.**

7. Ordinance 2012-03, Parcel B-1, Bay Isles (MODA) - Continued
8. Ordinance 2012-04, Parcel B-2, Bay Isles, (Town Plaza II) - Continued
9. Ordinance 2012-02, Parcel A, Shoppes of Bay Isles-Publix - Continued
10. Resolution 2012-01, Parcel A, Shoppes of Bay Isles-Publix - Continued

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

## **TOWN COMMISSION COMMENTS**

### A. Organizations

Vice Mayor Brenner noted discussions between representatives of the Longboat Key Library and Town Manager Dave Bullock, advised that the Library staff met with Sarasota County Commr. Joe Barbetta, and requested authorization for the Town Manager to forward correspondence to Commr. Barbetta supporting assistance from the County to enhance the Longboat Key library's services.

Town Manager Bullock provided information included in the correspondence and upon inquiry, advised that the Town does not provide landscaping services to the library and noted he would contact Manatee County to determine if any assistance would be available.

Commr. Larson suggested that the Community Foundation be contacted on the issue.

**There was consensus to authorize the correspondence.**

## **TOWN ATTORNEY COMMENTS**

### A. Litigation

Town Attorney David Persson advised that the Writ of Certiorari was filed in the Islandside litigation and noted he would provide updates as they become available.

## **TOWN MANAGER COMMENTS**

### A. Contracts

Town Manager Dave Bullock advised that the Town has received the Interlocal Agreement from Manatee County relating to the funding of \$30,000.00 for marine patrol services.

### B. Finance

Town Manager Dave Bullock advised that the Budget Module will be available in the near future on the Town's website and that public information meetings would be scheduled to provide instructional assistance on using the program.

### C. Advisory Boards

Town Manager Dave Bullock advised that the Manatee County Public Library Board of Trustees had forwarded two applications from individuals seeking appointment and providing Longboat Key an opportunity to make a recommendation on the appointment.

**TOWN MANAGER COMMENTS** - Continued

**C. Advisory Boards** - Continued

Mayor Brown advised that he had provided information to the Longboat Key Library staff and noted that he had not received notification of any interest from Library representatives to seek appointment.

**TOWN COMMISSION COMMENTS** - Continued

**B. Town Commission**

Mayor Brown noted Commr. Younger's absence was due to illness.

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

**ADJOURNMENT**

Mayor Brown adjourned the February 6, 2012, Regular Meeting at 9:30 p.m.

*Trish Granger*  
Trish Granger, Town Clerk

*James L. Brown*  
James L. Brown, Mayor

Minutes Approved: 04-02-2012

Minutes in draft form and are not official until approved by the Town Commission.