

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

JANUARY 15, 2013

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

Members Present: Chair BJ Webb, Vice Chair Jack Daly, Secretary Lauren Goldner, Members Andrew Aitken, Leonard Garner, Walter Hackett, Allen Hixon, George Symanski, John Wild

Also Present: David Persson, Town Attorney; Robin Meyer, Planning, Zoning & Building Director; Steve Schield, Planner; Amanda Nemoytin, Code Enforcement Officer; Donna Chipman, Office Manager

AGENDA ITEM #1
ORDINANCE 2013-04, COMPREHENSIVE PLAN AMENDMENT, INFRASTRUCTURE
ELEMENT OF THE COMPREHENSIVE PLAN

Pursuant to published notice, the public hearing was opened.

MR. WILD MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2013-04 AS WRITTEN. MR. DALY SECONDED THE MOTION.

Discussion ensued on the following:

- Objective 1.1 and Table 2 which showed reduced water consumption by 28 percent;
- that the Town wanted to maintain below the 120 gallons per capita day allowed by Southwest Florida Water Management District (SWFWMD);
- that over the past several years the rates had increased due to Manatee County raising their rates;
- what was being done to remind residents or re-enforce the need for conservation; the Town had a water conservation presentation that staff provided to homeowners associations, and the Town's website listed tips and links to other websites offering tips;
- that the Town provided low-flow showerheads to residents for their showers.

No one else wished to be heard, and the hearing was closed.

MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

AGENDA ITEM #2
ORDINANCE 2012-26, PROPERTY MAINTENANCE CODE

Pursuant to published notice, the public hearing was opened.

Steve Schield, Planner, provided a PowerPoint presentation outlining the proposed ordinance. He noted the following:

- Staff held a community meeting on January 24, 2012 where staff reviewed the International Property Maintenance Code (IPMC)
- The meeting was attended by approximately 40 people, and participants supported the higher maintenance standards required by the IPMC, as well as restrictions regarding trailer and boat parking
- Additional maintenance requirements regarding vegetation/landscaping were not supported by those in attendance
- Concerns were raised over the last several years that due to absentee owners, or other factors, the general aesthetic condition of some structures and the properties on the key had deteriorated to an unacceptable level
- The Town did not have adopted property maintenance standards beyond high weeds and grass and conditions that might pose a threat to health and safety
- Many communities have adopted the IPMC, either in whole or part, or have adopted similar code provisions that are effective in maintaining the desired aesthetic condition
- The proposed ordinance incorporates sections of the IPMC into a new Chapter 104 titled, "Property Maintenance Code"
- The higher standards will allow staff to better enforce both our current requirements and allow staff to enforce a minimum aesthetic condition for structures and for properties

Chair Webb questioned how the Town was going to monitor the real estate signs. Amanda Nemoytin, Code Enforcement Officer, explained that she monitored the signs on weekends and provided education to the realtors on the sign regulations.

Mr. Hixon commented that in the beginning the board was discussing chipping paint and aesthetics, which have little to do with health and safety, and voiced concern that the board should be cautious about infringing on people's rights. Mr. Symanski believed there were a lot of problems that needed to be addressed, but the ordinance was vague. It seemed as if the Town was making Longboat Key a very highly regulated community. Mr. Daly noted that items in a carport should be required to be removed, or convert the carport into a garage. He agreed with Mr. Symanski's comments.

Discussion ensued on the following:

- if an owner could screen one side of a carport from public view
- if codes would be enforced by complaints or periodic survey by code enforcement staff; most would be dependent upon staffing levels

- the Town could not address most complaints, because there were no codes to allow enforcement
- questioning the word 'blight' and what it meant, along with 'right of entry' asking if Code Enforcement had the right to enter premises without a search warrant.
- if an unmaintained pool would be considered stagnant water
- if there was a way to differentiate between commercial property and residential property since most of the 'blight' was from the commercial properties
- that the board should appoint a subcommittee to study the issues, remove the more "egregious" items, and then come back to the board
- believing the issue was large and complex, and in agreement with previous statements that it was aesthetics and 'Big Brother'
- providing an opportunity to allow an inspector to grant a timeframe for compliance and provide flexibility to the inspector

David Persson, Town Attorney, commented the board could set a standard for commercial that was different than residential as long as it was reasonable. Mr. Meyer noted that staff was concerned with the enforcement, because the Town only had one code enforcement officer. They were not only discussing chipping paint, but rotting materials, broken seawalls, etc. and items that might impact the neighborhood. Mr. Hixon pointed out that the ordinance would need to be written to address those issues. Chair Webb believed the board was not prepared to vote, or have a lengthy discussion, on the ordinance at this meeting. She commented that the ordinance needed to be worked on.

Mr. Hackett discussed that there needed to be clearer definitions. He asked if there was a disagreement on the interpretation between code enforcement and the homeowner, would it go to the Code Enforcement Board. Mr. Schield replied yes. Mr. Daly asked if rather than adopting detailed IPMC provisions would there be a way to survey, or appoint a task force, to prioritize certain areas that need attention, and perhaps incrementally start the process on the major items. Mr. Aitken agreed with the idea of prioritization and that the board should begin with those things that appear unsafe or present a health hazard; they should not focus so much on those items that were clearly aesthetic.

Larry Grossman, St. Judes Drive North, wished to ensure that the code addressed the issue of vacant buildings and their being secured. There should be adequate staffing to ensure a uniform enforcement and also have adequate resources so residents did not feel they were being targeted.

Gene Jaleski, Cedar Street, supported the ordinance and hoped it moved forward. He believed the Town should look at other communities where this had been adopted and had gone through an implementation period. He noted there needed to be discussion of "sight lines." He discussed how boat lifts obscure views and should be addressed.

George Spoll, Harbourside Drive, explained that when he proposed forming a revitalization task force, one of the discussions was the conditions on Longboat Key. He agreed there needed to be some guidelines, but there should be clear guidelines for items that were clearly offensive to neighbors.

Chair Webb asked if anyone was comfortable adopting any portion of the ordinance at this meeting. She asked if the ordinance was adopted was the staff sufficient so it was pro-active and not reactive. Mr. Meyer replied no; at this point in time Code Enforcement was reactive. Mr. Wild suggested appointing a subcommittee to work with staff on revisions. Mr. Garner did not believe the ordinance, as submitted, would be satisfactory to everyone. The problems with adopting an international ordinance were because there were so many different requirements; it should be reviewed and customized for Longboat Key. Mr. Hackett commented that the board had identified problems, but questioned if the proposed ordinance was not creating a bigger problem. He agreed with Mr. Spoll that there needed to be a list of guidelines. Mr. Symanski noted there were a number of items that needed to be addressed, but he could not imagine voting on an ordinance that gave the Town right of entry; there were many vague terms in the ordinance.

Mr. Aitken supported the creation of a subcommittee and offered to participate. Mr. Hixon agreed and asked if Mr. Daly would chair the subcommittee, and if Mr. Wild and Mr. Garner would participate. Mr. Daly agreed to chair the subcommittee, and Mr. Aitken, Mr. Wild and Mr. Garner volunteered as members.

Chair Webb commented that the subcommittee would meet and bring back recommendations for an ordinance that was “usable and palatable” on this issue.

MR. WILD MOVED THE P&Z BOARD TABLE ORDINANCE 2012-26 UNTIL THE SUBCOMMITTEE BROUGHT FORTH THEIR RECOMMENDATIONS WITHIN 90 DAYS OR THE APRIL 16, 2013, P&Z BOARD MEETING. MS. GOLDNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

AGENDA ITEM #3
ORDINANCE 2013-03, AMENDING CHAPTER 72, STOPPING, STANDING, AND
PARKING, SECTION 72.06, RESTRICTIONS ON PARKING AND USE OF TRAVEL
TRAILERS

Chair Webb noted that Ordinance 2013-03 would be remanded to the subcommittee for review with the Property Maintenance Code and brought back as a comprehensive package.

Mr. Jaleski commented that there were more boat trailers in yards and side yards in the Village than any other areas on the island. He asked if they could be hidden within a yard, but not where it would be more unattractive.

Mr. Symanski noted that the ordinance referred to locating within a carport, garage, or other building. He knew of situations where the boat and trailer were mostly in the carport/garage, but the ordinance was requiring all the way. Mr. Schield informed the board that the ordinance allowed one boat to be parked in a yard, not multiple boats.

There were only a few owners that had multiple boats and trailers. Mr. Wild questioned whether a jet ski was considered a boat. Mr. Schield responded yes, if it was licensed.

The Board recessed from 10:24 am to 10:34 am.

AGENDA ITEM #4
ORDINANCE 2013-07, AMENDING CHAPTER 158, SECTION 158.180,
DISTRIBUTION OF 250 TOURISM UNITS

Pursuant to published notice, the public hearing was opened.

Robin Meyer, Planning, Zoning & Building Director, discussed the reason for the ordinance noting that as part of the judge's decision on the Longboat Key Club and the Town Code, the Outline Development Plan (ODP) process was questioned and the result was it affected the application that was before the Town to redevelop the Hilton. The Town Attorney decided to review the actual tourism section in Section 158.180, and it was felt, based on past experience, that there was a need to hire someone who was an expert in writing codes. Mr. Meyer introduced Bill Spikowski, Spikowski Planning Associates, who the Town had asked to review the code and the judge's decision in the Islandside case.

Mr. Spikowski discussed:

- That the larger assignment was dealing with everything in Judge Hayworth's Order
- The need to provide clearer standards for departures
- Restore requirement to prepare written Findings of Fact
- Making it clear that a referendum was needed before allowing tourism units in certain areas
- MUC districts did not have standards; will have dimensional standards included in the code and the zoning map would need to be amended to show the proper zoning
- Reviewed the history of the reason for the development of 250 tourism ordinance and the referendum
- The referendum was not specific on how the units were to be allocated
- In 2009, the Zoning Code was amended to use the Outline Development Plan (ODP) process and allow individual landowners to file an application
- There would be a second ordinance developing the criteria for the granting of departures
- Reviewed a map showing the T-6 zoned properties on the key
- The ordinance deleted several pages of the competitive process

Mr. Spikowski continued with reviewing the ordinance and changes. He noted:

- The previous code required applicants to request departures
- Section (D) was modeled after the Hilton Hotel application, but would be applicable to all T-6 zoned properties

- Section (E) provides standards of all other applications
- Section (F), approval process, followed the concept of the current code and if someone submitted an ODP application for units and did not come in within six months with a concept plan, or a site plan within 24 months, then the applicant would lose the units

Mr. Garner referred to page 5 asking if there was something more definitive than the word 'similar.' Mr. Spikowski commented the easiest thing would be to remove the word; however, it would not be good in the long run. Mr. Garner asked if there was language that could be inserted somewhere removing 'similar,' but providing the board discretion. Mr. Spikowski pointed out that if the language was removed, and the board used their judgment, that was what the judge said they could not do. There had to be some criteria. He commented that the word 'similar' should remain, because he believed if someone was to challenge it, they would be challenging whether it was truly similar, rather than guessing why the decision was made by the board.

Mr. Hixon questioned if the ordinance applied to any non water-fronting parcels. Mr. Spikowski responded that all T-6 properties were waterfront. Mr. Hixon asked if the properties were not a waterfront parcel then how they would control water access for tourists. Mr. Spikowski explained they would either obtain access or utilize a public beach access nearby. Mr. Hixon commented that he wished to ensure that any of the internal tourist development parcels were compatible with the surrounding neighborhood and their quality of life. It was previously included in (D)(4), but was deleted, and believed it would be simple to reinsert. He noted that whatever application was considered he wanted to ensure they had access, because if access was not provided, then people would be trespassing on private property to gain access. Mr. Meyer reiterated that all T-6 properties had water access. Mr. Hixon questioned the reason to not include the requirement. Mr. Spikowski explained they would be placing a requirement on a tiny subset of applications, but requiring everyone to comply. Mr. Hixon believed it would be simple as adding the four items back into the ordinance. He continued with voicing concern with valet parking and diminishing the size of the parking.

Discussion ensued on the following points:

- What was the result of this ordinance and what will it provide; are there restraints, or does it "trigger" other issues
- the judge had noted that the way the Town handled departures in the MUC district was not acceptable, and they believed it would be the same for the departures for the tourism districts
- it was recommended to limit the ordinance to the T-6 properties, because those were high density zones
- what would be missing with not having a binding concept plan; when someone submitted an ODP application, the Town had a lot more discretion to return, or issue with departures; however, if they went directly to a final site plan, there was still a review, but they did not have the same discretion

Mr. Hixon commented that he believed the board was discussing T-6 properties and the overall regulations; however, if the board was discussing the Hilton Hotel property details, then he voiced concern with the possibility of a conflict of interest. He explained that he and his band had worked for them for three nights per week for years. Attorney Persson asked if Mr. Hixon still had a relationship with the Hilton. Mr. Hixon replied not with the Hilton. Attorney Persson questioned whether Mr. Hixon could make a fair and impartial decision. Mr. Hixon pointed out that he was not at the Hilton, but elsewhere. Attorney Persson explained that this was a legislative act, and not quasi-judicial. He did not believe it would disqualify Mr. Hixon from participating on this ordinance. No one voiced any objections.

Further discussion was held on the ordinance's impact to the Hilton and the Colony Beach and Tennis Resort concerning:

- Whether they would be eligible for the involuntary or voluntary rebuild procedures if they requested units from the 250 tourism units; it was dependent upon the type of application that was received, because there was an issue with the condition of the buildings
- If they used the voluntary rebuild, then they would have to go through the ODP process
- Discussed the Floor Area Ratio (FAR) and minimum living space ratio
- Concern with developing specific standards for the Hilton that might not apply to other T-6 properties
- Ensuring that any rewriting of the language in the Zoning Code was written so it was understood by the average citizen
- Concern with whether this was considered 'spot-zoning;' it would be considered 'spot-zoning' if it was applying new zoning to one property in an area where it did not make sense
- What was being lost going from a binding concept plan to a site plan; more detail was provided in the site plan versus a binding concept plan

John Patterson, attorney representing the owner of the Hilton – Oprock Longboat Key, LLC, provided a historical background of the project and reviewed an illustration of the Hilton Hotel site noting that they would like to begin in June 2013 and it would be an 18-month cycle. He provided suggested modifications to the ordinance in Section (D)(3) and Section 3(2).

Ken Metcalf, director of planning at Greenburg Traurig Law Firm based in Tallahassee, reviewed the revised ordinance and the changes they had suggested to staff.

Mr. Symanski asked if staff agreed with the recommendations. Mr. Meyer responded that staff agreed with the requested changes. Attorney Persson referred to Section 3, and pointed out the notice for today's hearing did not include that revision; staff would prepare a "housekeeping" ordinance and bring back to the board for an opportunity to be heard.

Larry Grossman, St. Jude's Drive North, discussed the process and the development of the ordinance.

Gene Jaleski, Cedar Street, noted his support for the Hilton expansion, increasing the number of units at the Colony Beach, and a “purported agreement” at the Longboat Key Club as long as there were no repercussions in the future from the revisions; the Town should move forward, but he did not recommend passing the ordinance at this time.

No one else wished to be heard, and the hearing was closed

Discussion ensued on passing the ordinance, or possibly considering it at a special meeting where it could be brought back in final form. Attorney Persson recommended the ordinance be in final form and to provide specific direction to Mr. Spikowski as to the changes. Chair Webb noted concerns with the size of the valet parking space language and to ensure the language was feasible for tourism use facility.

MR. GARNER MADE A MOTION TO CONTINUE THE HEARING UNTIL JANUARY 29, 2013, AND RECOMMEND THE TWO MODIFICATIONS SUBMITTED FROM ATTORNEY JOHN PATTERSON BE INCLUDED ALONG WITH THE SUGGESTIONS FROM MR. HIXON. MR. SYMANSKI SECONDED THE MOTION.

Mr. Hixon believed some modifications were listed, but one was not, that “*all tourist units have reasonable legal access to the water respecting the sovereignty of the surrounding neighborhood quality of life.*” Attorney Persson clarified that all T-6 were on the water. Mr. Spikowski commented he would include Mr. Hixon’s language and another suggestion and review both. Chair Webb asked if there was concurrence with the language and the other language for the beach access. Mr. Daly questioned what type of provisions would there be for legal access. Mr. Hixon noted they existed on page 7; Section d(4) was being deleted. Mr. Daly asked if it was simple as using the language. Mr. Hixon replied yes.

MR. AITKEN MOVED THE P&Z BOARD ADJOURN THE MEETING UNTIL 2:30 PM TO ALLOW STAFF AND THE TOWN ATTORNEY TIME TO REVISE THE ORDINANCE FOR CONSIDERATION BY THE BOARD AT THIS HEARING. MR. WILD SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Mr. Symanski left the meeting at this time.

The meeting was adjourned at 12:45 pm and reconvened at 2:30 pm.

Mr. Spikowski reviewed the changes with the board. Discussion ensued on the following points:

- Interpretation of the use of ‘better’ and ‘best’ and how it applied to the application
- That the word ‘eight’ should be stated in section ‘E’
- Making the list alphabetically so there was no priority noted
- Concern with a development that was not providing access to the water where tourists want to go

Attorney Patterson addressed the width of the parking spaces for required valet parking noting that he had an opportunity to speak with the manager of the Hilton and the owners of Ocean Properties. He pointed out that Ocean Properties owns and manages over 100 facilities, and they have experience with this issue and with as small as eight feet. It was a management issue and should not be a conflict. He requested the board leave the valet parking at 8.5 feet, which will result in additional parking spaces for the Hilton and for the valet parking.

Mr. Aitken questioned how many valet spots were intended. Attorney Patterson responded 209. Mr. Wild asked about the regular parking. Mr. Metcalf explained there were around 209 valet and 40 standard spaces.

The board discussed the valet parking noting:

- This facility, and others, were used for local functions, and most people seldom take advantage of valet parking
- Did not believe the ratio would work
- That the code required one-for-one for hotel rooms
- That it was a peak season issue

Mr. Hixon voiced his concern with speaking of the Hilton project and its stacked parking due to a possible conflict. Attorney Persson pointed out that he did not believe Mr. Hixon had a conflict, but if he felt uncomfortable, he could recuse himself from the proceedings if he wished.

Discussion continued on:

- The stacked parking was currently allowed by code and was not unique to the Hilton
- It was fine if on single side of circulation lane, but if stacking 2-3 deep so they had to move a vehicle to get one out, then it became a crucial issue
- Whether standard parking guides allowed 8.5 feet
- How many rooms were anticipated at the hotel (187)
- The use of banquet rooms and the parking; there was a period of time, in season, where the parking was a problem

Chair Webb reviewed the final changes: on page 5, the need to correct the language in (e) to move it from meeting all seven, to meeting all eight 'best' criteria; and alphabetize the 'better' and 'best' practices so they have no weight, but only alphabetical.

There was a majority consensus (5) to retain the 8.5 feet for parking spaces for valet parking.

MR. WILD MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2013-07 AS AMENDED. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, NO; WEBB, AYE; WILD, AYE.

Minutes amended at the March 19, 2013, Planning & Zoning meeting as follows:

“Mr. Hackett noted the legal talent in the room, specifically David Persson, Town Attorney, John Patterson, Ken Metcalf and consultant Bill Spikowski. He asked if what they had drafted, and were proposing, how well they believed they could defend it and if they saw any weaknesses; will it serve the purpose. Mr. Spikowski responded that it will solve the Town’s short term problem. Mr. Hackett asked if he was referring to what was written and before the board. Mr. Spikowski replied he believed it was solid. Mr. Hackett commented that was what he wanted to hear and asked if the others agreed. Attorney Persson responded it was the best approach available.”

AGENDA ITEM #5
DISCUSSION ITEMS

CHAPTER 156, SIGN CODE, SECTIONS 156.06(b)(6)(iii) and (iv) AND APPENDIX:
SIGN CODE ILLUSTRATIONS (A) AND (C)

Mr. Hackett explained that he had attempted to install a sign on a property recently that was eight square feet. The sign would be on the ground and elevated, because the post had to be higher. Mr. Hixon believed if the sign hung horizontally it would not be a problem. Chair Webb questioned whether Mr. Hackett would receive a benefit from discussing the sign issue. Mr. Hackett commented the relevance was to be able to provide signage for a contractor. Attorney Persson asked if the sign was a construction sign. Mr. Hackett replied yes. Attorney Persson asked if Mr. Hackett would receive any financial benefit from the construction business. Mr. Hackett replied no.

Mr. Meyer believed the issue was the size of the sign and the arm, and apologized for the miscommunication. He did not believe there should be a problem with installing the sign.

AGENDA ITEM #6
CONSENT AGENDA

MR. GARNER MOVED APPROVAL OF THE MINUTES OF THE NOVEMBER 20, 2012, MEETING AND SETTING THE FUTURE MEETING DATE FOR FEBRUARY 19, 2013. MS. GOLDNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; WEBB, AYE; WILD, AYE.

Chair Webb provided an update on the RFP Planning Committee, and the status of their review of submitted proposals. The committee made a recommendation on December 11, 2012, to the Town Commission, but no decision had been made to-date. Mr. Wild asked if the recommendation was forwarded to the Town Commission from the Town Manager. Chair Webb explained it was moved forward to the Town Commission and most of the commissioners had attended the interviews.

The Property Maintenance Code Subcommittee will hold their first meeting on January 29, 2013, at 9:00 AM in the Planning, Zoning & Building Department conference room. The board should have their recommendations within 90 days.

Chair Webb thanked Attorney Persson for all his work over the years on behalf of the Board.

ADJOURNMENT

The meeting was adjourned at 3:10 pm.

Laurin Goldner, Secretary
Planning and Zoning Board