

**MINUTES  
LONGBOAT KEY TOWN COMMISSION  
SPECIAL WORKSHOP  
APRIL 24, 2013**

**Present:** Mayor Jim Brown, Vice Mayor David Brenner, Commrs. Terry Gans, Lynn Larson, Phill Younger, Pat Zunz

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

**Electronic  
Participation:** Commr. Jack Duncan

**CALL TO ORDER**

**Mayor Brown called the Special Workshop Meeting to order at 1:02 p.m. in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, FL.**

**Mayor Brown noted that Commr. Duncan would be participating via Skype technology. Mayor Brown requested and there was consensus to allow public input following Item 7, noting that the Revitalization Task Force had elected to not make a presentation.**

Mayor Brown commented on the purpose and intent of the meeting, provided an overview of the agenda order, and identified representatives who would be speaking.

**1. Town Current Understanding of Property Ownership**

Summary of the property ownership as understood from property appraiser research.

Town Manager Dave Bullock provided an overview of the agenda order and advised that formal action would be taken at the May 6, 2013, Regular Meeting.

Assistant Town Manager Anne Ross displayed an aerial view of the Colony property and gave a PowerPoint presentation on the Colony's property noting the following:

- size of the parcel and existing zoning
- ownership of the parcels and outparcels
- property appraiser's assessed value.

**Commr. Duncan requested a copy of all slides that were not included in the agenda material.**

**2. Resolution 2012-07**

Review of Resolution 2012-07 requirements/status update.

Town Manager Dave Bullock noted previous Commission action through the passage of Resolution 2012-07 granting an extension for the non-conforming use.

Assistant Town Manager Anne Ross gave a PowerPoint presentation updating the status of action and timeframe outlined in Resolution 2012-07, noting the Town's authority to take additional action granted in Section 5 of the Resolution.

### 3. Property Maintenance Issue Status Update

Update on the maintenance issues cited in letter to recorded Colony representatives dated March 19, 2013. Staff conducted a site inspection on Friday, April 12, 2013. Status of rectified deficiencies, remaining deficiencies, and newly noted deficiencies will be presented.

Town Manager Dave Bullock noted the inspections that have occurred and the pattern observed when discussions are scheduled before the Town Commission.

Assistant Town Manager Anne Ross gave a PowerPoint presentation on the identified Code violations and deficiencies and the noncompliance procedures that are required for the various Sections of the Town Code dealing with Code violations.

Town Manager Bullock advised that the bond posted cannot be utilized for the noncompliance issues identified on the outparcels.

Assistant Town Manager Ross continued the presentation addressing the noncompliance process for the sign issues and provided an overview of the noncompliance status as of April 15, 2013 and April 24, 2013, and total police calls responded to through April 21, 2013.

### 5. Building and Zoning Codes

Review of Codes (FEMA/NFIP, Town and State building Codes, ADA, etc.) affecting any work proposed for the 1620 Gulf of Mexico Drive property. Discussion of tourism unit designation and 30 day rule.

Following comments by Town Manager Dave Bullock, Assistant Town Manager Anne Ross gave a PowerPoint presentation relating to the Building and Zoning Codes pertinent to the Colony property. Ms. Ross displayed an aerial photo of the property showing the depicting the Erosion Control Line (ECL) and Coastal Construction Control Line (CCCL) and noted the flood zones and elevations on the property. Ms. Ross advised that the elevations were mixed throughout the property.

Town Manager Bullock advised that the Town may only enforce Code requirements and cannot be involved in private property agreements and reviewed the definition of "Tourism Use" suggesting that Staff develop a definition that clarifies the tourism use.

**There was consensus for Staff to draft language to define "Tourism Use" for consideration by the Commission.**

Town Manager Bullock reviewed occupancy restrictions currently in place, advised that the agenda packet included the Code violations identified, and noted that Staff would schedule the issue relating to the definition of "Tourism Use" on a future agenda.

### 6. Court Proceedings and Status Update

Town Attorney David Persson noted that Assistant Town Attorney Kelly Fernandez prepared a memorandum dated April 18, 2013, outlining the Colony's litigation status.

#### 6. Court Proceedings and Status Update - Continued

Attorney Fernandez provided an overview of the litigation status and responded to inquiry regarding the relationship between the Colony Beach and Tennis Club, Limited (Ltd.), and the Colony Beach and Tennis Club Association, Incorporated (Inc.).

Assistant Town Manager Anne Ross noted the various entities registered with the State of Florida and discussions were held on Unit "A" versus Outparcel "A".

Attorney Jeffrey Warren, legal counsel for the Colony Association, commented on the difference between the Colony Beach and Tennis Club, Inc. versus the Colony Beach and Tennis Club, Ltd., reviewed the proceedings in the bankruptcy court relating to the partnership agreements, discussed the ownership of the outparcels (Colony Beach, Inc., Colony Beach and Tennis Club, Inc., Colony Lender, LLC, and Breakpointe, LLC) noting the Colony Beach and Tennis Club Association, Inc. did not have a vested right in the outparcels. Attorney Warren reviewed the parcel ownership and individual unit owner responsibility. Discussions were held with Attorney Warren and Town Attorney Persson on the following topics/issues:

- identification of the units as a tourism unit versus a condominium unit
- distinction of a condominium as a tourism unit
- residential versus tourism unit
- use of property versus ownership of the property and the Statutory requirements relating to condominium ownership
- form of ownership created as a condominium association/Statutory voting requirements for properties designated as a condominium
- control of property of outparcels versus unit ownership.

Attorney Fernandez commented on the foreclosure action by the Colony lender and the status as it relates to the bankruptcy case.

#### 7. Invited Presentations

##### Colony Beach & Tennis Club Association, Inc.

Attorney Donald Hemke, representing the Colony Beach and Tennis Club Association, Inc., commented on the work accomplished to date relating to the clean up on the 15-acre parcel and expanded efforts on abutting property not under the Association's control, efforts to expedite owner access to the units, and introduced Attorney Jeffrey Warren to provide an overview of the Settlement status.

Attorney Jeffrey Warren noted the date of the Settlement proposal, advised that the quarterly reports have been filed in accordance with the governing Resolution, commented on the new bankruptcy proceedings of the Colony Beach, Inc., Colony Beach and Tennis Club, Inc., and Resorts Management, Inc., and opined of opportunities to resolve some of the outstanding issues. Attorney Warren noted that April 30, 2013, was the established deadline for the three entities (new bankruptcy cases) to file their plans with the Court.

7. Invited Presentations - Continued

Colony Beach & Tennis Club Association, Inc. - Continued

Mr. Stu Ross, Colony Beach and Tennis Club Association, Inc., Board of Directors, commented on the recent "straw" vote of the ownership (non-binding) and an upcoming Board member election. Upon inquiry, Mr. Ross commented on the lack of a viable proposal for the unit-owners to consider, costs incurred by the unit owners, and the existing condition of the property.

Mayor Brown advised of the extensive staff time and associated costs relating to the Colony issue, noting that the taxpayers were also paying for the lack of progress on the resolutions of the Colony property issues.

Mr. Ross commented on the condition of the property and his disappointment with the existing situation.

Upon inquiry by Commr. Duncan, Attorney Warren opined that a 75% majority vote for material changes/alterations may be required on the property.

Dr. Murf Klauber

Attorney Charles Bartlett, representing Dr. Murf Klauber, commented on the efforts being expended to reach a resolution to the legal issues.

Aquarius Condominium

Mr. Greg Van Howe, representing the Aquarius Condominium, gave a PowerPoint presentation on the existing conditions (as of April 21, 2013) on the Colony property and outlined the concerns of the residents of the Aquarius Condominium relating to the condition of structures, safety issues pertaining to vandalism and vagrancy on the property, and requested consideration for the Town to utilize the cash bond to improve the conditions on the Colony property.

Mayor Brown noted the Town's intent to move forward on the issues that can be addressed under the current legal proceedings.

TenCon Condominium

Mr. Joe Jacobson, representing TenCon Condominium, provided an overview of his relationship with the Colony property, the lack of action taken to date from the various Colony property owners/entities, and recommendations to resolve the issues.

Bay Isles Association, Inc.

Mr. Bill Levine, Bay Isles Association, Inc., commented on the condition of the Colony property.

TenCon Condominium

Ms. Arlene Skversky, owner in TenCon, noted safety concerns relating to the condition of the Colony and requested consideration to provide additional police patrols due to the existing property conditions.

#### 7. Invited Presentations - Continued

Mayor Brown apologized for any perception that the Commission was not concerned with the condition of the property and noted the efforts to remedy the existing issues. Individual Commissioner comments followed, with discussions held on the following topics/issues:

- the presentations made this date
- requirement for a majority vote of 75% by the Colony property owners for required improvements/modifications to the site
- the progression to the current state of the Colony property
- lack of confidence in the parties to resolve the issues
- proposed future "straw polls" and the lack of action taken to date
- options for the Colony property owners to provide the needed security for the premises
- unit owners misinformation that the property will become a year-round residential unit
- Town's authority to allow the exemption of nonconforming status to expire
- **direction for staff to explore options for condemnation of the property** (no objections were stated)
- concern for the abutting property owners relating to safety and health issues raised.

**Mayor Brown requested that the Town Manager report back on the security issues raised.**

#### 4. Resolution 2013-15

Town Manager Dave Bullock noted the issues discussed this date would serve as the required Workshop for placement of issues on the May 6, 2013, Regular Meeting Agenda and reviewed the issues to be reported on:

**Commr. Duncan requested that the Town Manager provide the information to be discussed in writing for Commission review.**

Commr. Larson suggested that an additional Special Workshop be scheduled in June to review the status of the property.

**There was consensus to forward Resolution 2013-15 to the May 6, 2013, Regular Meeting for formal action.**

**RECESS:** 2:56 p.m. - 3:07 p.m.

#### 8. Other Business

##### A. Town Attorney

Town Manager Dave Bullock requested direction on providing information to the two law firms who were interviewed to serve as the Town Attorney.

8. Other Business - Continued

A. Town Attorney - Continued

Commr. Younger suggested that the Commission consider consensus on the selection of a law firm. Individual comments followed on the process to be utilized for the selection of the Town's law firm.

Commr. Zunz noted concern on the selection between the two highest ranked candidates and noted a preference to seek additional candidates.

**There was consensus to schedule the discussion and selection of the Town Attorney on May 6, 2013.**

B. Town Commission

Town Manager Dave Bullock commended Staff on the preparation and presentation of the Colony status information.

C. Public Works

Town Manager Dave Bullock commented on the lack of response to the Beach Nourishment bid and noted those contacted indicated that the borrow areas were impacting the bidders response due to the limitation on the quantity of the sand available and needed.

Following comments, Town Manager Bullock requested consideration to allow additional time to secure a bid utilizing the Port Dolphin borrow areas, and dependent on results of the efforts, to reissue the bid modifying the specifications.

Discussion ensued on the intent to combine projects and options to partner with Manatee County's project.

**There was consensus to authorize the Town Manager to proceed as outlined.**

Commr. Younger noted previous discussions relating to applying for Federal funding and requested consideration to initiate the process for federal funding.

**Following comments from Town Manager Bullock, there was consensus to authorize the Town Manager to proceed with the application process for Federal funding.**

C. Planning, Zoning, and Building

Commr. Duncan noted attendance at the Planning and Zoning (P&Z) Board meeting and noted that the P&Z Board requested that he present the issue of restricting boat trailers/other trailer types for discussion on the May 6, 2013, Town Commission Regular Meeting agenda.

**Following individual comments, there was consensus to include the issue on the May 6, 2013, Regular Meeting for discussion.**

**ADJOURNMENT**

**Mayor Brown adjourned the April 24, 2013, Special Workshop Meeting at 3:35 p.m.**

Minutes Approved: 07/01/2013