

**MINUTES  
LONGBOAT KEY TOWN COMMISSION  
SPECIAL MEETING  
MAY 20, 2013 - 5:20 P.M.**

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

**Also Present:** Town Manager Dave Bullock, Assistant Town Attorney Maggie Mooney-Portale, Town Clerk Trish Granger

**CALL TO ORDER**

**Mayor Brown called the Special Meeting to order at 5:20 p.m. in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.**

**8. Reconsideration of Resolution 2013-12, Site Plan Approval for Mar Vista**

At the request of Commissioner Younger, this matter is being placed on the May 20, 2013 Special Meeting agenda for discussion and possible action. Discussion must be confined to whether the Commission wants to re-notice and reschedule a public hearing to further consider the Mar Vista site plan application. The motion must come from someone who voted in the majority. Recommended Action: Pending discussion, provide direction to Manager.

Following comments by Mayor Brown, Assistant Town Attorney Maggie Mooney-Portale commented on consideration of the application and noted that no discussion on the merits of the application can be held on this date. Upon inquiry, Assistant Town Attorney Mooney-Portale advised that the procedural notice would be reviewed.

Mayor Brown noted that there are advertising requirements that cannot be met for the June 3, 2013, Regular Meeting to hold a public hearing and that a public hearing will be scheduled in the future.

Assistant Town Attorney Mooney-Portale advised that the applicant had requested a rehearing which supersedes the Town Commission request to discuss the matter.

The following individuals commented on the Mar Vista Restaurant Site Plan Amendment:

Ms. Cathy Niarchos  
Mr. Samir Ragheb  
Ms. Corrine Ragheb  
Ms. Peggy Watkins (submitted a petition)  
Mr. Joe Mazza  
Mr. Larry Grossman  
Mr. Gene Jaleski  
Mr. Pete Rowan  
Ms. Georgia Walters  
Ms. Carla Rowan  
Mr. Bus Fischer

**8. Reconsideration of Resolution 2013-12, Site Plan Approval for Mar Vista - Continued  
Commr. Younger moved to reschedule the hearing to ensure all proper notifications.  
The motion was seconded by Commr. Duncan.**

Discussion ensued on the following topics/issues:

- verification of the required notifications to surrounding property owners
- requirements to process a reapplication through the Planning and Zoning (P&Z) Board
- authority of P&Z Board to approve/deny Special Exception petitions.

**Commr. Duncan moved a substitute motion to remand the issue to the Town Attorney for legal assessment to review timing of public hearing, notice requirements, and procedure to grant a rehearing on the Site Plan application and to schedule for public hearing in October 2013. The motion was seconded by Commr. Zunz. (Commr. Younger noted agreement with the substitute motion.)**

**Following comments, Commr. Duncan moved to amend the substitute motion to provide for a public hearing date to be determined with appropriate notice at the soonest time possible, without objection.**

**The substitute motion, as amended, carried by a 5-2 roll call vote, as follows: Duncan, aye; Zunz, no; Gans, aye; Younger, aye; Brown, aye; Brenner, no; Larson, aye.**

Individual comments followed on the timing/scheduling of public hearings, public participation, and residents responsibility to be aware and participate in issues important to the community.

### **ORDINANCES - FIRST READING**

#### **1. Ordinance 2013-13, Amending Chapter 34, Employment Policies**

Ordinance 2013-13 amends Chapter 34, Employment Policies and provides for a freeze of the Firefighters' Retirement System defined benefit plan effective September 30, 2013. Current and future firefighters will be enrolled in the Florida Retirement System (FRS). The ordinance was considered at the May 20, 2013 Regular Workshop Meeting and forwarded to the May 20, 2013 Special Meeting for first reading. Recommended Action: Pending first reading and discussion, forward Ordinance 2013-13 to the June 3, 2013 Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2013-13 on record by title only.

**Commr. Zunz moved to pass Ordinance 2013-13 on first reading and forward to the June 3, 2013, Regular Meeting for second reading and public hearing. The motion, seconded by Commr. Gans, carried by a 7-0 roll call vote, as follows: Zunz, aye; Gans, aye; Younger, aye; Larson, aye; Brenner, aye; Brown, aye; Duncan, aye.**

2. Emergency Ordinance 2013-21, Providing for the Town of Longboat Key to Withdraw from Participation Under Chapter 175, Florida Statutes

Through Collective Bargaining the Town is enrolling all future firefighters in the Florida Retirement System (FRS) and withdrawing participation under Chapter 175. Ordinance 2013-21, withdraws the Town from participation under Chapter 175 and from all previously adopted ordinances and resolution imposing the premium tax authorized by F.S., Section 175.101. The ordinance was considered at the May 20, 2013 Regular Workshop Meeting and forwarded to the May 20, 2013 Special Meeting for adoption. Recommended Action: Pending first reading and discussion, adopt Emergency Ordinance 2013-21.

Town Clerk Trish Granger placed Emergency Ordinance 2013-21 on record by title only.

**Commr. Larson moved to adopt Emergency Ordinance 2013-21. The motion was seconded by Commr. Younger.**

Town Manager Dave Bullock commented on the consideration and adoption of the Emergency Ordinance. Assistant Town Attorney Maggie Mooney-Portale noted provisions in the Town's Charter and applicable Florida Statutes to adopt emergency ordinances.

**The motion carried by a 7-0 roll call vote, as follows: Larson, aye; Younger, aye; Duncan, aye; Brown, aye; Gans, aye; Zunz, aye; Brenner, aye.**

3. Ordinance 2013-14, Amending Chapter 34, Section 34.75, Composition of General Employees' Retirement System Board of Trustees

Ordinance 2013-14 provides for a change to the composition of the current General Employees' Retirement System Board of Trustees. The Commission considered this Ordinance and the proposed membership and structure of the Board of Trustees at the May 20, 2013 Regular Workshop Meeting. The ordinance was forwarded to the May 20, 2013 Special Meeting for first reading. Recommended Action: Pending first reading and discussion, forward Ordinance 2013-14 to the June 3, 2013 Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2013- 14 on record by title only.

**Commr. Duncan moved to pass Ordinance 2013-14 on first reading and to forward to the June 3, 2013, Regular Meeting for second reading and public hearing. The motion, seconded by Commr. Zunz, carried by a 7-0 roll call vote, as follows: Duncan, aye; Zunz, aye; Larson, aye; Gans, aye; Brenner, aye; Brown, aye; Younger, aye.**

4. Ordinance 2013-15, Amending Chapter 34, Employment Policies

Ordinance 2013-15, provides for a freeze of the General Employees' Retirement System defined benefit plan effective September 30, 2013. Current and future employees will be enrolled in a defined contribution plan administered by ICMA-RC. The ordinance was considered at the May 20, 2013 Regular Workshop Meeting and forwarded to the May 20, 2013 Special Meeting for first reading. Recommended Action: Pending first reading and discussion, forward Ordinance 2013-15 to the June 3, 2013 Regular Meeting for second reading and public hearing.

4. Ordinance 2013-15, Amending Chapter 34, Employment Policies - Continued  
Town Clerk Trish Granger placed Ordinance 2013- 15 on record by title only.

**Commr. Gans moved to pass Ordinance 2013-15 on first reading and to forward to the June 3, 2013, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Younger.**

Upon inquiry, Town Manager Dave Bullock noted the freeze applies to the current defined benefit plan that the Town has offered in the past and creates a new defined contribution retirement plan for current and future employees.

**The motion carried by a 7-0 roll call vote, as follows: Gans, aye; Younger, aye; Duncan, aye; Zunz, aye; Larson, aye; Brenner, aye; Brown, aye.**

Discussion ensued on the following topics/issues:

- intent of freezing the General Employees' defined benefit plan
- Item B (page 2 of Ordinance) relating to a defined contribution plan
- references to the DROP (Deferred Retirement Option Plan) program/removal of the DROP option for general employees.

**Commr. Younger moved to eliminate the DROP option. The motion failed for lack of a second.**

Discussion ensued on the following topics/issues:

- authority of Town Manager to oversee benefits for employees
- entry into the DROP program prior to freezing of the defined benefit plan
- provisions granted to firefighters' through the union contract
- ability for current employees to enter the DROP program if eligible, with no special provisions
- differential treatment of one employee group over another
- anticipated additional cost to extend DROP benefits to general employees
- benefit packages offered to high risk employees (police officers/firefighters) over general employees
- intent to relieve Town of pension liability not establish different classes of employees
- number of employees impacted by the deletion of the DROP from the general employees retirement options.

**RECESS:** 6:27 p.m. - 6:32 p.m.

4. Ordinance 2013-15, Amending Chapter 34, Employment Policies - Continued

Discussions continued on the increased benefit packages historically offered to high risk employees and the five-year exemption offered to Firefighters' to enter the DROP program prior to the plan freeze.

**RESOLUTION AND PUBLIC HEARING**

**5. Resolution 2013-17, Declaring the Buildings and Structures of 1620 Gulf of Mexico Drive, Outparcel B (Maintenance Area) per Town Code Section 150.22(H) as a Public Nuisance**

At the May 6, 2013, Regular Meeting the Town Commission discussed conditions at The Colony property and passed Resolution 2013-16, setting a public hearing date for May 20, 2013 to determine if the buildings and structures located on Outparcel B and Unit A at 1620 Gulf of Mexico Drive are to be declared as a public nuisance, in accordance with Section 150.22, of the Town Code. Resolution 2013-17 provides for the abatement of the conditions outlined in Section 150.22(H) located on Outparcel B. Recommended Action: Pending public hearing and discussion, pass Resolution 2013-17.

Town Clerk Trish Granger placed Resolution 2013-17 on record by title only.

Commr. Larson disclosed that she has "friended" Ms. Katie Moulton on Facebook but has not visited Ms. Moulton's Facebook page.

**Commr. Younger moved to pass Resolution 2013-17. The motion was seconded by Mayor Brown.**

Assistant Town Manager Anne Ross gave a PowerPoint presentation on the Code violations and deficiencies timeline pertaining to Outparcel B located at 1620 Gulf of Mexico Drive. Ms. Ross noted Staff's recommendation to pass Resolution 2013-17, Version "A" declaring a nuisance exists.

Planning, Zoning, and Building Department Building Official Wayne Thorne noted a site inspection this date, advising that corrective action has been taken on Unit A of the property however no remedy of deficiencies has been accomplished on Outparcel B.

**Mayor Brown opened the public hearing.**

Ms. Katherine Klauber-Moulton, representing Dr. Murray Klauber, commented on the status of repairs on Outparcel B and responded to Commissioner's inquiry on anticipated completion.

Attorney Don Hemke, representing the Colony Association, commented on the status of repairs.

**Commr. Larson moved to continue the public hearing to June 3, 2013, at 7:00 p.m., (in the Town Commission Chambers, 501 Bay Isles Road, Longboat Key). The motion was seconded by Commr. Gans.**

**Following comments, the motion carried by a 4-3 roll call vote, as follows: Larson, aye; Gans, aye; Brown, aye; Duncan, no; Zunz, no; Younger, aye; Brenner, no.**

6. Resolution 2013-18, Declaring the Buildings and Structures of 1620 Gulf of Mexico Drive, Unit A (Restaurant) per Town Code Section 150.22(H) as a Public Nuisance

At the May 6, 2013, Regular Meeting the Town Commission discussed conditions at The Colony property and passed Resolution 2013-16, setting a public hearing date for May 20, 2013 to determine if the buildings and structures located on Outparcels and Unit A at 1620 Gulf of Mexico Drive are to be declared as a public nuisance, in accordance with Section 150.22, of the Town Code. Resolution 2013-18 provides for the abatement of the conditions outlined in Section 150.22(H) on Unit A. Recommended Action: Pending public hearing and discussion, pass Resolution 2013-18.

Town Manager Dave Bullock advised that the issues have been resolved and suggested that the item not be considered.

Upon inquiry, Attorney Hemke opined that the underlying land of Unit A is condominium land and is controlled by other entities.

**NEW BUSINESS**

7. Authorization to Execute Contract with Town Attorney

At the May 6, 2013, Regular Meeting, the Town Commission selected Attorney Maggie Mooney-Portale with the firm of Persson and Cohen, P.A., to serve as the Town Attorney and directed the Town Manager to draft a contract for Commission consideration at the May 20, 2013, Regular Workshop Meeting. The proposed Contract was forwarded from the May 20, 2013, Regular Workshop Meeting for formal action. Recommendation: Pending discussion, authorize execution of the contract between the Town and Attorney Mooney-Portale.

**Subsequent to comments on insurance limits, there was consensus to defer final action to the June 3, 2013, Regular Meeting.**

**ADJOURNMENT**

**Mayor Brown adjourned the May 20, 2013, Special Meeting at 7:00 p.m.**

Minutes Approved: 07-01-2013