

**MINUTES  
LONGBOAT KEY TOWN COMMISSION  
SPECIAL MEETING  
AUGUST 14, 2013 - 9:30 A.M.**

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

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

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

**Mayor Brown called the August 14, 2013, Special Meeting to order at 9:30 a.m. in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida and Vice Mayor Brenner led the Pledge of Allegiance.**

**ORDINANCE - SECOND READING AND PUBLIC HEARING**

**1. Ordinance 2013-15, Amending Chapter 34, Employment Policies**

Continued public hearing and second reading on Ordinance 2013-15, providing 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. Second reading and public hearing was held at the July 1, 2013 Regular Meeting at which time the Commission requested amendments to the Ordinance as well as additional information for consideration. The public hearing was continued to the August 14, 2013 Special Meeting. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2013-15.

Town Clerk Trish Granger placed Ordinance 2013-15 on record for second reading and public hearing by title only.

**Commr. Duncan moved to adopt Ordinance 2013-15, as amended on July 1, 2013. The motion was seconded by Commr. Zunz.**

Town Manager Dave Bullock gave a historical review of the pension plans offered to the Town's employees and the increased costs to maintain the plan, and steps taken to date to freeze the Firefighters' and General Employees' pension plans. Finance Director Sue Smith gave a PowerPoint presentation and overview of the agenda material provided to the Commission on Ordinance 2013-15 (original Ordinance and five versions labeled A through E with various options outlined). Discussions were held with Town Manager Bullock, Finance Director Smith, Human Resources Manager Lisa Silvertooth, Foster and Foster Representative Doug Lozen, and Attorney Jim Linn (via telephone) on the following topics/issues:

- rate of return assumption utilized
- payout of vacation and sick leave to a 401K or 457 retirement account
- interest rate payable on general employees' funds in the DROP (Deferred Retirement Option Program)
- process required to amend the guaranteed interest rate of 6.5% on DROP funds

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

- option for employee to select guaranteed interest rate in lieu of current market/investment return rate
- five year versus three year DROP period for firefighters versus general employees
- effect of providing a five year "window" for DROP participation
- DROP participants subject to compliance with existing Personnel Rules and Regulations (PRR) as working employees
- qualification for normal retirement (age and years of service)
- options for waiver of penalties for early retirement
- elimination of penalties if five year window is utilized
- number of employees (eight) that would be eligible for DROP if five year window is incorporated
- evaluation/determination of the employees reflected to be eligible for participation
- actuarial determination of eligible employees
- number of firefighters eligible to enter the DROP under Contract terms (eight eligible with seven electing to participate)
- one time enhancement to offer DROP at this time/no future option to enroll in DROP
- number of current general employees (three) eligible to enter and number of general employees (one) electing to enter DROP under current provisions
- estimated costs provided for in Fiscal Year (FY 2012-2013) for eligible DROP participants
- deadline for current employees eligible to enter the DROP and employees included in the five year extension (September 30, 2013)
- no early retirement provisions offered for firefighters or police officers
- additional retirement options available to employees (401K match and social security benefits)
- social security benefit calculations
- historical participation in early retirement options
- unquantifiable variables utilized in the actuarial estimates
- amortization schedule utilized (30 year amortization versus 20 year amortization)
- amortization schedule approved by the State of Florida
- unfunded liability based on inclusion of DROP provision and/or early retirement program
- estimated tax increase for a homeowner for amortization of pension costs
- anticipated total cost if a payment (\$800,000 based on 7.75% assumption rate of return) would be made on December 31, 2013 (includes all future payments from the fund)
- annual cost of program to include DROP.

**RECESS:** 11:00 a.m. - 11:15 a.m.

**Mayor Brown noted that due to the length of the hearing, the Commission would be taking a lunch recess at approximately 12:30 p.m.**

Discussions continued with Town Manager Bullock, Mr. Lozen, and Finance Director Smith, on the following topics/issues:

- determination of annual DROP and early retirement costs

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

- utilization of the higher assumption rate to develop estimates provided
- actuarial estimate prepared for the firefighters' DROP enhancement
- intent to modify the pensions to end the growth of additional unfunded liabilities related to pension payments/benefits
- current Town sponsored retirement programs (401A, 401K, social security, and the defined benefits plan)
- anticipated costs for retirement benefits for Fiscal Year 2013 versus 2014
- cost of long term disability policy for general employees.

**Mayor Brown opened the public hearing.**

The following individuals commented on Ordinance 2013-15:

Ms. Shannon Gault, Ranger Lane  
Mr. Steve Schield, Town employee and resident  
Mr. Gene Jaleski, Cedar Street  
Mr. Larry Grossman, St. Judes Drive North.

**As no others wished to speak, the public hearing was closed.**

Individual comments followed on the following topics/issues:

- review of total compensation package offered to employees
- options to offer a "cafeteria" style benefit program
- impact on costs for younger employees to "opt out" of health care plans
- setting assumption rate of return higher than has been achievable
- historical comparison of general employee versus fire and police employee benefits
- enacting changes to benefits agreed to upon employment
- intent to stop the growth of unfunded liabilities
- effort to achieve fairness/balance between the three employee groups
- election of firefighters to retain a defined benefit plan through the Florida Retirement System (FRS) plan in lieu of a defined contribution plan.

**Commr. Larson moved to amend Ordinance 2013-15 to remove the DROP program and to include an early retirement option. The motion was seconded by Commr. Younger.**

**Commr. Duncan moved a second amendment to the motion to adopt Ordinance 2013-15, with Option C as presented this date, inclusive of a five-year DROP option and the early retirement option. The motion was seconded by Commr. Zunz.**

**Following comments, the second amendment to the motion to adopt Ordinance 2013-15, Option C, carried by a 4-3 roll call vote, as follows: Duncan, aye; Zunz, aye; Gans, aye; Younger, no; Larson, no; Brenner, no; Brown, aye.**

**The motion to amend Ordinance 2013-15 removing the DROP option and including an early retirement option failed by a 2-5 roll call vote, as follows: Larson, aye; Younger, aye; Brenner, no; Brown, no; Duncan, no; Zunz, no; Gans, no.**

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

**The motion to adopt Ordinance 2013-15, as amended to Option C as presented this date, carried by a 4-3 roll call vote, as follows: Duncan, aye; Zunz, aye; Younger, no; Brenner, no; Brown, aye; Gans, aye; Larson, no.**

**RESOLUTIONS**

2. Resolution 2013-24, Authorization for Agreement Providing for Membership in Florida Retirement System

Over the last several months the Town has taken steps to freeze the Firefighters' current defined benefit plan and enroll current and future firefighters in the Florida Retirement System (FRS) effective October 1, 2013. Resolution 2013-24 provides authority to the Town Manager to execute an Agreement with Department of Management Services for coverage of eligible firefighters in FRS. Recommended Action: Pending discussion, pass Resolution 2013-24.

Town Clerk Trish Granger placed Resolution 2013-24 on record by title only.

**Commr. Zunz moved to pass Resolution 2013-24. The motion was seconded by Commr. Gans.**

Town Manager Dave Bullock presented an overview of Resolution 2013-24 advising that a Resolution was required by the State of Florida to provide membership in the FRS program.

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

3. Resolution 2013-25, Establishing General Employees' Defined Contribution Plan through ICMA-RC

Over the last several months the Town has taken steps to freeze the General Employees' current defined benefit plan and enroll current and future employees in a defined contribution plan administered by ICMA effective October 1, 2013. Resolution 2013-25 authorizes establishment of the General Employees' defined contribution plan through ICMA-RC. Recommended Action: Pending discussion, pass Resolution 2013-25.

Town Clerk Trish Granger placed Resolution 2013-25 on record by title only.

**Commr. Duncan moved to pass Resolution 2013-25. The motion was seconded by Commr. Zunz.**

Town Manager Dave Bullock presented an overview of Resolution 2013-25 advising that a Resolution was required by ICMA-RC to establish the General Employees' defined contribution plan.

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

4. Request for Consideration of Resolution 2013-26, Support for Repeal of House Bill 883 - F.S. 509.032(7)(b)

Commissioner Duncan serves as the Town's representative to the ManaSota League of Cities and has been serving as their Acting President. At their September 12, 2013 Meeting, ManaSota League will consider a resolution supporting repeal of F.S. 509.032 (7)(b) which prohibits local government restrictions on vacation rentals. This item is placed on the August 14, 2013 Special Meeting at the request of Commissioner Duncan who is seeking Commission direction regarding the Town's position on this legislation. Recommended Action: Pending discussion, provide direction.

Town Clerk Trish Granger placed Resolution 2013-26 on record by title only.

Commr. Duncan noted discussions held at recent ManaSota League of Cities meetings pertaining to House Bill 883, noted the intent of the Resolution, and providing authority for him to advocate the repeal of the legislation on behalf of the Town.

Individual comments followed on the erosion of home rule and the impact to other governmental entities on restricting vacation rentals.

**Commr. Zunz moved to pass Resolution 2013-26. 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.**

**NEW BUSINESS**

5. Authorization for Special Environmental Legal Counsel for Florida Department of Environmental Protection (FDEP) Administrative Hearing

On June 28, 2013 the FDEP issued a Notice of Intent to Issue Permit (File No. 0300119-004-JC) for the Longboat Key North End Stabilization Structures Project. On July 5, 2013 a Petition for an administrative proceeding (hearing) was filed. The Town Manager will request Commission authorization for retaining special environmental legal counsel to assist with the Town's response to the administrative challenge. Pending Commission approval, the appropriate budget transfer will be placed on a future meeting for Commission action. Recommended Action: Pending discussion, provide direction to Town Attorney and Manager.

Town Manager Dave Bullock commented on the challenge of the "Notice of Intent to Issue Permit" for the North end structures.

Town Attorney Maggie Mooney-Portale noted that Mr. Joe McClash and Mr. Gene Jaleski had filed administrative hearing requests independently and reviewed the process to be followed relating to the challenges. Attorney Mooney-Portale noted the recommendation to confirm the engagement of Attorney Deborah Getzoff with Lewis, Longman, and Walker, PA, to represent the Town during the administrative hearings process.

Upon inquiry, Mr. Gene Jaleski, Cedars Street, noted ownership of property impacted by erosion, opined that terminal groins will affect the value of his property, and noted his preference for sand savers to be utilized in lieu of groins.

5. Authorization for Special Environmental Legal Counsel for Florida Department of Environmental Protection (FDEP) Administrative Hearing - Continued

Vice Mayor Brown inquired and Attorney Mooney-Portale reviewed the process relating to the permit issuance and time frame to file the administrative hearing request. Discussions were held with Town Attorney Mooney-Portale and Town Manager Bullock on the following topics/issues:

- the engagement of outside counsel prior to receiving a determination on the administrative hearing
- perceived Town responsibility to the property owners if the Town does not prevail in the administrative hearing
- Comprehensive Plan requirements
- options to discuss property purchase at a later date.

Town Attorney Mooney-Portale and Town Manager Bullock recommended that discussions be limited in the public forum due to future litigation issues/strategy that will need to be addressed during Attorney-Client sessions.

**Commr. Gans moved to approve and confirm the engagement of Attorney Getzoff. The motion, seconded by Commr. Zunz, carried by a 7-0 roll call vote, as follows: Gans, aye; Zunz, aye; Duncan, aye; Brown, aye; Brenner, aye; Larson, aye; Younger, aye.**

**RECESS:** 12:50 p.m. - 1:30 p.m.

6. Summary of 2013 Legislation (House Bills 537 and 7019), Construction of the Town Charter, Options and Request for Authorization

The Town Manager and Town Attorney will discuss impacts of recently adopted House Bills 537 and 7019. They will also review a timeline of the legislation that has been adopted by the State and Town regarding House Bills 537 and 7019 and other related actions. Recommended Action: Pending discussion, provide direction to Town Attorney and Manager.

Town Manager Dave Bullock commented on the impact of House Bill 537 to the Town's Charter pertaining to density referendums. Discussions were held with Town Manager Bullock and Town Attorney Maggie Mooney-Portale on the following topics/issues:

- legislative action in 1995
- previous legislative action relating to density referendum processes
- options to remedy the legislation rendering the Town's referendum process invalid
- utilization of Comprehensive Plan process for density issues in lieu of referendum process
- policy decisions to be considered regarding density issues
- actions taken by Yankeetown, Florida in 2012
- required Charter amendments if remedial legislation is not passed
- impact of legislation on the approval of the 250 tourism units
- Charter Review amendment process versus legislative changes
- impact of submitting a legislative bill/options to pursue all available processes seeking resolution of issue
- previous language included in past legislative bills relating to 5 parcel requirement

6. Summary of 2013 Legislation (House Bills 537 and 7019), Construction of the Town Charter, Options and Request for Authorization - Continued

- inclusion of 5 parcel language currently in the Yankeetown Charter
- draft legislative language removing reference for 5 parcel language/impact of specificity in legislation
- options to utilize the comprehensive plan process in lieu of referendum.

Mr. Larry Grossman, St. Judes Drive North, commented on the referendum process utilized by the Town.

Town Attorney Mooney-Portale commented on the impact to the Town if no action is taken and the referendum process currently utilized. Discussion ensued on the following topics/issues:

- option to proceed with the declaratory process and time frame for determination
- impact of taking no action: density is capped at 1984 allocations/Charter requirements invalidated
- process to consider future changes
- time frame for resolution if a declaratory opinion is sought.

**Following comments by Town Manager Bullock, Vice Mayor Brenner moved to authorize Staff to pursue the declaratory action process. The motion was seconded by Commr. Duncan.**

**Subsequent to comments on the impact of taking no action on past approvals and pending requests, the motion carried by a 7-0 roll call vote, as follows: Brenner, aye; Duncan, aye; Younger, aye; Larson, aye; Brown, aye; Gans, aye; Zunz, aye.**

**Town Manager Bullock inquired and Commr. Younger moved to authorize Staff to proceed with a legislative amendment to remedy the legislation's impact on the Town's Charter. The motion was seconded by Commr. Gans.**

**Following comments on the Town's ability to withdraw a filed bill, the motion carried by a 7-0 roll call vote, as follows: Younger, aye; Gans, aye; Zunz, aye; Duncan, aye; Larson, aye; Brown, aye; Brenner, aye.**

Commr. Duncan noted that the Sarasota County Legislative Delegation will be meeting on September 18, 2013, and suggested that the Town's representatives be present to support the requested legislative bill.

7. Request from Sarasota County for Funding Assistance for Development of Strategic Action Plan to Address Homelessness

The Gulf Coast Foundation and Community Foundation brought Dr. Robert Marbut to Sarasota County to evaluate local area homeless issues. Sarasota County and the City of Sarasota plan to engage Dr. Marbut to develop a Strategic Action Plan to address homelessness in our area. Municipalities have been asked to consider sharing the cost of this effort as it is a community-wide and community planning initiative. Recommended Action: Pending discussion, provide direction to Manager.

7. Request from Sarasota County for Funding Assistance for Development of Strategic Action Plan to Address Homelessness

Town Manager Dave Bullock commented on the request from Sarasota County, noted a meeting with Sarasota County Administrator Randall Reid, and advised that Mr. Reid suggested that any monetary participation the Town would consider will assist with the County-wide initiative.

**Subsequent to clarification on the request for participation, Commr. Younger moved to not participate in the funding request. The motion was seconded by Commr. Duncan.**

**Following discussion on the amount of taxes paid by Longboat Key taxpayers to both Counties, funding elimination to Longboat Key organizations, and the amount determined to be contributed, the motion failed by a 2-5 roll call vote, as follows: Younger, aye; Duncan, no; Larson, aye; Brenner, no; Brown, no; Zunz, no; Gans, no.**

**Commr. Duncan moved to participate and contribute \$1,000.00, and to request that the Town be provided the opportunity to have some oversight during the process. The motion, seconded by Commr. Gans, carried by a 5-2 roll call vote, as follows: Duncan, aye; Gans, aye; Brenner, aye; Larson, no; Younger, no; Zunz, aye; Brown, aye.**

8. Town Manager's Update - Status of Negotiations with Police Benevolent Association

The Town Manager will provide a verbal report on the current status of Contract negotiations with the Police Benevolent Association. Recommended Action: None, informational only.

Town Manager Dave Bullock provided an overview on the status of the negotiations with the Police Benevolent Association advising that the Town is awaiting notification from the Public Employee's Relation Commission (PERC) on the assignment of the Special Magistrate. Discussion ensued on the term of the Contract declared under impasse (one year period to September 30, 2014).

**TOWN COMMISSION COMMENTS**

A. Planning, Zoning, and Building

Commr. Duncan inquired as to the status of demolition of the old buildings on the Publix property. (See Item later this meeting.)

B. Town Commission

Commr. Duncan commented on the editorial in a recent Longboat Key News edition by Mr. Dan Dowd opining that the criticism of Vice Mayor Brenner on economic development was unjustified. Individual comments followed on the contributions of time and effort expended by Vice Mayor Brenner on behalf of the Town. (See Item later this meeting.)

**TOWN COMMISSION COMMENTS** - Continued

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

Commr. Younger inquired as to the status of the demolition at Publix and the fire safety equipment issues reported on The Colony property.

Town Manager Dave Bullock advised that the Contractor has been authorized to move forward with the demolition by Publix during the month of September, 2013.

Upon inquiry, Planning, Zoning, and Building Department Director Robin Meyer commented on the remaining development plans for the property and the site requirements following the demolition.

Town Manager Bullock noted concerns regarding the fire protection system in the mid-rise building at The Colony and noted that if the issues have not been remedied over the next several weeks that an item will be included on the September 3, 2013, Regular Meeting agenda for Commission action.

**C. Town Commission/Human Resources**

Vice Mayor Brenner thanked the Commissioners for their comments on his economic development efforts, commented on The Colony and Publix properties, and noted a meeting of the Finance Committee appointing Mr. Armando Linde and Mr. Lou Levy as resident electors on the Finance Committee pertaining to the review of pension issues.

Vice Mayor Brenner commented on the General Employees' pension plan freeze and suggested review on the process to develop a cafeteria type benefit plan for all employees. Individual comments followed on the implementation of a cafeteria plan and the existing analysis performed on salary and benefits.

**B. Town Commission** - Continued

Vice Mayor Brenner requested that Mr. Steve Reid, owner and publisher of the Longboat Key News, introduce Mr. Dan Dowd to the Commissioners.

**D. Human Resources**

Commr. Gans commented on the employee pension issue and the action taken earlier this meeting.

**E. Public Works/Transit**

Mayor Brown advised that he had received confirmation from Manatee County Commissioner John Chappie that the Manatee County Commission took action to cease sending Trolley bills to the Town and noting the County will rescind previous invoices.

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

**TOWN MANAGER COMMENTS**

**A. Ordinances**

Town Manager Dave Bullock commented on receipt of two ordinances drafted by Pension Attorney Lee Dehner, noted that they were required amendments to remain in compliance with the Internal Revenue Service (IRS) requirements, and advised that the Ordinances would be placed on the September meeting agendas for consideration.

**ADJOURNMENT**

**Mayor Brown noted the next Regular Meeting of the Town Commission was scheduled for Tuesday, September 3, 2013, at 7:00 p.m. and adjourned the August 14, 2013, Special Meeting at 2:47 p.m.**

Minutes Approved: 09-03-2013