

**MINUTES
LONGBOAT KEY TOWN COMMISSION
SPECIAL MEETING
DECEMBER 11, 2013 - 4:34 P.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 David Persson,

Present: Town Clerk Trish Granger

CALL TO ORDER

Mayor Brown called the Regular Workshop Meeting to order at 4:34 p.m. in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.

PUBLIC TO BE HEARD

1. Opportunity for Public to Address Town Commission - No items were presented.

NEW BUSINESS

Mayor Brown requested consideration to reorder the Agenda, advancing Item 6, without objection.

Town Manager Dave Bullock requested consideration to hear Item 2 following Item 6, advised that Item 5 was deferred to the Regular Meeting on January 6, 2014, at 7:00 p.m., and distributed information relating to Items 3 (Quasi-Judicial) and 4 (Legislative), noting that the Building Official's report will be considered during Item 4.

5. Resolution 2013-41, Modifying the Town Board and Committee E-Mail Policy

As part of the Town's continued diligence in ensuring observance of State Sunshine Laws and Public Records Laws Resolution 2013-41 was presented for Commission consideration at the December 11, 2013, Regular Meeting and forwarded to the December 11, 2013, Special Meeting for formal action. The Resolution strengthens and reinforces the e-mail policy for Town Boards and Committees. Recommended Action: Pending discussion, pass Resolution 2013-41.

Note: This item was deferred to the January 6, 2014, Regular Meeting during consideration of the Resolution at the December 11, 2013, Regular Workshop Meeting.

6. Request to Close Portions of Roadways Within the Village for a Holiday Parade From 3:30 P.M. to 4:00 P.M.

The Town has received correspondence from Mr. Michael Drake requesting that the Town Commission consider closing various roadways on December 14, 2014, between the hours of 3:30 p.m. and 4:00 p.m. in order to hold a Holiday Parade within the Village. The roadways identified by Mr. Drake include Broadway Street, Longboat Drive North, Longboat Court, Longboat Drive East, Russell Street, and Bayside Drive. Recommended Action: Pending discussion, approve the request for December 14, 2013, temporary road closures within the Village.

6. Request to Close Portions of Roadways Within the Village for a Holiday Parade From 3:30 P.M. to 4:00 P.M. - Continued

Following comments, Commr. Zunz moved to approve the temporary road closures as outlined in the request from Mr. Michael Drake. The motion, seconded by Commr. Larson, carried by a 7-0 roll call vote, as follows: Zunz, aye; Larson, aye; Younger, aye; Gans, aye; Duncan, aye; Brenner, aye; Brown, aye.

ORDINANCE – FIRST READING

2. Ordinance 2014-02, Amending Chapter 34, Composition of Police Officers' Retirement System Board of Trustees

Ordinance 2014-02 provides for a change to the composition of the current Police Officers' Retirement System Board of Trustees. The Commission considered Ordinance 2014-02 and the proposed membership and structure of the Board of Trustees at the December 11, 2013 Regular Workshop Meeting and forwarded the Ordinance to the December 11, 2013 Special Meeting for first reading. Recommended Action: Pending first reading and discussion, forward Ordinance 2014-02 to the January 6, 2014 Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2014-02 on record for first reading by title only.

Commr. Larson moved to pass Ordinance 2014-02 and to forward to the January 6, 2014, Regular Meeting for second reading and public hearing. The motion, seconded by Commr. Gans, carried by a 7-0 roll call vote, as follows: Larson, aye; Gans, aye; Zunz, aye; Brenner, aye; Brown, aye; Duncan, aye; Younger, aye.

4. Resolution 2013-40, Providing for Public Hearing Date to Determine Whether a Public Nuisance Exists on Property Located at 1620 Gulf of Mexico Drive, Longboat Key, Florida

Chapter 150.22(A) provides procedures for setting a public hearing date to determine whether a public nuisance exists on property located at 1620 Gulf of Mexico Drive. Resolution 2013-40 provides for a date for public hearing as provided for in Section 150.22(D). Recommended Action: Pending discussion, pass Resolution 2013-40.

Town Clerk Trish Granger placed Resolution 2013-40 on record by title only.

Commr. Zunz moved to pass Resolution 2013-40. The motion was seconded by Commr. Younger.

Town Manager Dave Bullock provided an overview of the restructuring of the agenda order, noting that the Building Official's report was pulled from Item 3 and would be considered during this item.

Assistant Town Manager Anne Ross gave a PowerPoint presentation outlining the issues to be discussed relating to the setting of a public hearing at a later date. Planning, Zoning, and Building Department Building Official Wayne Thorne gave a PowerPoint presentation on the building deficiencies on the Colony property. Discussions were held throughout the presentation with Town Manager Bullock, Assistant Town Manager Ross, Building Official Thorne, and Town Attorney David Persson on the following topics/issues:

4. Resolution 2013-40, Providing for Public Hearing Date to Determine Whether a Public Nuisance Exists on Property Located at 1620 Gulf of Mexico Drive, Longboat Key, Florida
- Continued

- intent of the report to depict condition of buildings and evidence to support setting a public hearing to determine whether a public nuisance exists on property
- Building Official's Findings
- 177 serious items not qualified as public nuisance
- Town Code process requirements
- property owner notice requirements
- action that may be required by the Town Commission during the public hearing
- items to be considered by the Commission at the current time
- impacts to abutting property owners for unanticipated weather events or acts of nature.

Mr. Robert Lesser, Sand Points Road, commented on Resolution 2013-40.

There was consensus to set the public hearing date on March 4, 2014, at 9:00 a.m.,

The motion to pass Resolution 2013-40 establishing a public hearing on March 4, 2014, at 9 a.m. to determine whether a public nuisance exists on property located at 1620 Gulf of Mexico Drive, carried by a 7-0 roll call vote, as follows: Zunz, aye; Younger, aye; Larson, aye; Brenner, aye; Brown, aye; Duncan, aye; Gans, aye.

QUASI-JUDICIAL RESOLUTION AND PUBLIC HEARING

3. Quasi-judicial – Resolution 2013-39, Request from the Colony Beach and Tennis Club Association, Inc. for Extension of Time to Comply with Regulations Governing Nonconforming Uses and Structures

Chapter 158.138(B)(8)(b) of the Town's Zoning Code provides for property owners to file a petition with the Town Commission seeking a time extension for legally nonconforming land use and structures. A nonconforming use or structure not used for a period of one year is considered abandoned unless an extension is granted by the Town Commission. At the September 24, 2012, Special Meeting, the Commission adopted Resolution 2012-07 providing the Colony Beach and Tennis Club Association, Inc., with an extension of time until December 31, 2013, regarding its nonconforming uses and structures. On November 17, 2013, the Colony Beach and Tennis Club Association, Inc. petitioned the Town Commission to extend the deadline from December 31, 2013 through September 30, 2014. Discussion of this request, and consideration of Resolution 2013-39, is scheduled for the December 11, 2013 Special Meeting. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

Town Clerk Trish Granger placed Resolution 2013-39 on record by title only and administered the Oath to those presenting testimony.

Town Attorney David Persson inquired as to any ex-parte communications or identified conflicts in proceeding with the hearing.

3. Quasi-judicial – Resolution 2013-39, Request from the Colony Beach and Tennis Club Association, Inc. for Extension of Time to Comply with Regulations Governing Nonconforming Uses and Structures - Continued

Commr. Larson advised of a luncheon meeting and reviewed the issues discussed relating to the bankruptcy hearings.

Town Manager Dave Bullock provided an overview of the Staff report and requested Commission action. Discussions were held with Town Manager Bullock and Town Attorney Persson on the following topics/issues:

- Town's liability if conditions on the property endanger surrounding property owners
- time frame for consideration of public nuisance determination
- information provided to judge in bankruptcy proceedings relating to demolition of the buildings
- correspondence received alleging refusal to issue permits and/or sleeping at the site
- Commission options to consider this date and proposed amount of cash bond.

Attorney Don Hemke, representing the Colony Beach and Tennis Club Association, advised that hearing notices will be provided to the Clerk, opined that legal constraints are justification for the extension requested, requested that the agenda packet for Item 13 (regarding the Comprehensive Plan and Land Development Code) from the December 11, 2013, Regular Workshop Meeting be made a part of this hearing record, and discussed the conditions outlined relating to the demolition of the buildings on the property.

Attorney Jeffrey Warren, representing the Colony Association, provided an overview of the bankruptcy proceedings and the status on resolving the outstanding items. Following comments by Commr. Younger, Attorney Warren commented on the terms of the proposed settlement agreement.

Upon inquiry, Attorney Hemke and Attorney Warren confirmed that they had viewed the site and condition of the buildings and noted the intent to bring the outstanding issues to resolution. Upon inquiry, Attorney Warren confirmed that the owners have seen the photographs of the condition of the buildings and are negotiating for property redevelopment.

RECESS: 6:27 p.m. - 6:47 p.m.

The following individuals, duly sworn, commented on the proposed extension. Discussions were held throughout the public comments:

Mr. Joseph Jacobson, Gulf of Mexico Drive
Mr. Larry Grossman, St. Judes Drive North
Mr. Ralph Radtke, of the MW Group, Sarasota
Mr. George Spoll, Harbourside Drive
Dr. Murf Klauber, Gulf of Mexico Drive

Individual comments followed.

3. Quasi-judicial – Resolution 2013-39, Request from the Colony Beach and Tennis Club Association, Inc. for Extension of Time to Comply with Regulations Governing Nonconforming Uses and Structures - Continued

Upon inquiry, Town Manager Bullock commented on the options for Commission consideration this date pertaining to an extension of time for compliance.

Following individual comments, Commr. Larson moved to pass Resolution 2013-39, proceed with the condemnation hearings scheduled for March 2014, and to grant an extension of time until April 1, 2014.

Following individual comments on options for the Commission to consider, Vice Mayor Brenner moved to amend the motion to have staff proceed with remedies for the most critical of the code enforcement issues, to remove the demolition clause from Resolution 2013-39, to hold a public hearing in March, and to extend the compliance time for the property from December 31, 2013, until February 3, 2014. The motion was seconded by Commr. Younger

Subsequent to discussion on the lack of progress relating to code enforcement issues, the time frame for parties to file appeal of any decision, and a realistic date to schedule a public hearing, Town Attorney Persson commented on the issues for consideration, supported an extension to April 30, 2014, and proffered the following language amendments to Resolution 2013-39 (additions shown as underlined text/deletions shown as ~~strikethrough~~ text):

~~SECTION 3. An extension of time to develop the Colony property as a tourism use of 237 grandfathered tourism units is granted until April 30, 2014, subject to the conditions herein. under the condition that during the time between enactment of this Resolution and April 30, 2014, the Association shall enter into a binding contract for the demolition of all or substantially all of the structures, as defined in Town Code Section 158.006, on the Association property (the "Demolition Contract"). An original or true copy of the Demolition Contract shall be provided to the Town Manager prior to April 30, 2014. The Demolition Contract shall require complete demolition and removal of the structures no later than July 30, 2014. If a Demolition Contract is not entered into or is not provided to the Town Manager prior to April 30, 2014, this extension shall terminate on May 1, 2014. If the Demolition Contract is executed but the buildings are not demolished and removed by July 30, 2014, this extension shall terminate on July 31, 2014. If the buildings are demolished and removed in accordance with this condition, this extension shall terminate on December 31, 2016.~~

~~The Association and the Owners of the Out Parcels, by availing themselves of the benefits of the extension provided herein and as a condition for granting the extensions provided herein, shall not bring any suit or cause of action in any court of law or in equity, regarding any matter or issue whatsoever related to or arising out of this grant of extension under this resolution.~~

SECTION 4. The Colony shall:

- 1) Maintain vermin and pest control programs reviewed and approved administratively by the Town;
- 2) Secure and maintain the structures and property in compliance with Longboat Key Code of Ordinances, State, and Federal Regulations;

3. Quasi-judicial – Resolution 2013-39, Request from the Colony Beach and Tennis Club Association, Inc. for Extension of Time to Comply with Regulations Governing Nonconforming Uses and Structures - Continued

- 3) In anticipation of structure demolition, decommission and secure the potable water and wastewater system to the satisfaction of the Town.
- 4) Restore and maintain the landscaping, irrigation, and property on the portions of its property that are visible to the public and neighbors in a pre-shutdown condition; and
- 5) The Colony shall maintain with the Town a cash bond in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) ~~One Hundred Thousand Dollars (\$100,000.00)~~, approved by the Bankruptcy Court, if necessary, in a form acceptable to the Town, guaranteeing the performance of conditions 1 through 4 above.

Discussion ensued on a proposed date to extend the nonconforming use for the property.

Following comments, Commr. Larson restated her motion to pass Resolution 2013-39, to proceed with the public hearing on March 4, 2014, and to grant an extension to the grandfathering of units until April 30, 2014.

Commr. Younger withdrew his second to Vice Mayor Brenner's motion and seconded the motion by Commr. Larson.

Town Manager Bullock presented a revised Resolution incorporating the recommended language as suggested by Town Attorney Persson. Discussion ensued with Town Manager Bullock and Town Attorney Persson on the following topics/issues:

- options to modify Resolution 2013-39 as suggested by the Town Attorney
- the purpose and suggested amount of the cash bond
- inclusion of hold harmless terms/clauses to protect the Town from any liability for the conditions on the property.

There was consensus to incorporate the modifications to the language in Sections 3 and 4 of Resolution 2013-39.

Attorney Warren noted disagreement with the increase to the cash bond. Town Manager Bullock noted the difficulties in obtaining compliance on items that were to be remedied under the past agreements/Resolutions passed. Discussion ensued with Attorney Warren on the proposed bond amount, condition of the property and buildings, and the lack of progress in reaching any agreements between the parties relating to a redevelopment plan.

Mayor Brown requested and Town Clerk Granger restated the motion under consideration, as follows:

Commr. Larson moved to pass Resolution 2013-39, amending Sections 3 and 4 as proffered by the Town and Attorney and further outlined by the Town Manager, and to proceed with a public hearing on March 4, 2014, to determine if a public nuisance exists on the property. The motion was seconded by Commr. Younger.

3. Quasi-judicial – Resolution 2013-39, Request from the Colony Beach and Tennis Club Association, Inc. for Extension of Time to Comply with Regulations Governing Nonconforming Uses and Structures - Continued

Following comments on the proposed date of the extension (April 30, 2014) and the public hearing date, the motion carried by a 6-1 roll call vote, as follows: Larson, aye; Younger, aye; Gans, aye; Zunz, aye; Duncan, aye; Brenner, no; Brown, aye.

ADJOURNMENT

Mayor Brown adjourned the December 11, 2013, Special Meeting at 7:57 p.m.

Minutes Approved: 03-03-2014