

**MINUTES
LONGBOAT KEY TOWN COMMISSION
REGULAR MEETING
MARCH 3, 2014 - 7:00 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 Maggie Mooney-Portale,
Present: Town Clerk Trish Granger

CALL TO ORDER

Mayor Brown called the March 3, 2014, Regular Meeting to order at 7:00 p.m., in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida, and Commr. Gans led the Pledge of Allegiance.

OTHER BUSINESS

A. Manatee County Government

Mayor Brown noted that Manatee County Commissioner John Chappie was in attendance.

B. Town Commission

Following comments by Mayor Brown, there was consensus to advance consideration of Agenda Item 10 prior to consideration of Item 4.

Commr. Larson requested consideration to reorder Agenda Item 14 to earlier on the agenda. There was consensus to advance Agenda Item 14.

PROCLAMATIONS AND SPECIAL PRESENTATIONS - No items were presented.

PUBLIC TO BE HEARD

1. Opportunity for Public to Address Town Commission

A. Organizations

Mr. George Spoll, Harbourside Drive, commented on the scheduled meeting on March 4, 2014, relating to the Colony property.

Individual comments followed on the complexity of the Colony issues and items to be considered.

OTHER BUSINESS - Continued

C. Town Commission

Following comments by Mayor Brown, there was consensus to add an additional Agenda Item, Number 15, for consideration pertaining to a proposed Resolution relating to the Colony litigation.

APPROVAL OF MINUTES

2. December 11, 2013 Special Meeting; January 6, 2014 Regular Meeting; January 17, 2014 Special Meeting (Attorney-Client); January 21, 2014 Regular Workshop; January 21, 2014 Special Meeting; and January 31, 2014 Special Meeting Minutes

There was consensus to approve the Minutes as submitted.

COMMITTEE REPORTS AND COMMUNICATIONS

A. Legislation

Commr. Duncan noted distribution of draft legislation relating to proposed revisions to the Federal Tax Code.

B. Government Agencies

Commr. Zunz noted that on April 16, 2014, there was a "Community Conversation" scheduled relating to Manatee County Schools and suggested that Commissioners attend.

Commr. Zunz noted that the Manatee County School Board has adopted a new budget and reviewed the issues facing the educational programs in Manatee County.

C. Organizations: Commr. Zunz, North End Property Owner's Coalition meeting

Commr. Zunz noted formation of the North End Property Owner's Coalition and advised that the first meeting was scheduled for March 20, 2014, at 7:00 p.m., and will be held at the Longboat Key Center for the Arts, 6860 Longboat Drive South.

D. Organizations

Vice Mayor Brenner noted attendance at the Sarasota County Economic Development Corporation, the Sarasota Art Alliance, and the Sarasota Chamber of Commerce meetings and reviewed the issues discussed.

CLOSING AND ACTION ON CONSENT AGENDA

3. Interlocal Agreement With Manatee County for Solid Waste Disposal

The current Interlocal Agreement with Manatee County for Solid Waste Disposal expired January 17, 2014. Manatee County is honoring the terms and conditions of this agreement until a new agreement is effective. Manatee County and Town staffs propose a new twenty-year contract that also provides for one additional ten-year extension. This item was forwarded from the February 18, 2014 Regular Workshop Meeting for formal action. Recommended Action: Approval of the Consent Agenda will authorize the Mayor to sign the Interlocal Agreement.

There was consensus to approve the Consent Agenda in accordance with Staff's report and to authorize the Mayor's signature.

QUASI-JUDICIAL - RESOLUTION AND PUBLIC HEARING

10. Quasi-judicial Public Hearing - Resolution 2014-04, Approving a Site Plan Application for the Villa Am Meer (Aria), 2251 Gulf of Mexico Drive

At their January 21, 2014 Regular Meeting the Planning & Zoning (P&Z) Board recommended approval of Resolution 2014-04, site plan application for the Villas Am Meer (Aria). Resolution 2014-04 was forwarded for public hearing and Commission consideration at the March 3, 2014 Regular Meeting. Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this hearing.

10. Quasi-judicial Public Hearing - Resolution 2014-04, Approving a Site Plan Application for the Villa Am Meer (Aria), 2251 Gulf of Mexico Drive - Continued

Following comments by Mayor Brown on the procedural process, Town Clerk Trish Granger administered the oath to those presenting testimony.

Following comments by Town Attorney Maggie Mooney-Portale, Vice Mayor Brenner inquired as to a perceived conflict noting the property under development abuts his residence. Town Attorney Mooney-Portale advised it did not present a conflict.

Town Clerk Trish Granger placed Resolution 2014-04 on record for public hearing by title only.

Mayor Brown opened the public hearing.

Planning, Zoning, and Building Department Planner Steve Schield, duly sworn, gave a PowerPoint presentation on the proposed redevelopment of the property located at 2251 Gulf of Mexico Drive.

Town Attorney Mooney-Portale inquired and Vice Mayor Brenner noted his residence address, the number of owners within the building, and advised that he would receive no benefit from the construction of the redevelopment.

Mr. Jay Tallman, duly sworn, commented on previous developments accomplished on Longboat Key and Mr. Joel Freedman, Planning Consultant and duly sworn, noted he had provided the Town Clerk with the required notice requirements and gave a brief overview of the project.

Upon inquiry, Mr. Tallman commented on the existing fencing and advised that it was anticipated that the sand dunes would eventually cover the existing fence and displayed a development rendering for the property. Mr. Tallman noted his office would be located in the remodeled home.

As no others wished to speak, Mayor Brown closed the public hearing.

Commr. Duncan moved to pass Resolution 2014-04. The motion, seconded by Commr. Zunz, carried by a 7-0 roll call vote, as follows: Duncan, aye; Zunz, aye; Gans, aye; Younger, aye; Larson, aye; Brenner, aye; Brown, aye.

Commr. Larson inquired and Mayor Brown noted that discussion of site plan approval process would be placed on a future agenda for consideration.

NEW BUSINESS

14. Town Center

A. Update on Town Center

Town staff will provide an update on the status of discussions with property owners, interested developers and others.

B. Consideration of Contract for Land Acquisition of 2.81 Acres - Enclave Parcel B-1

South Located at 594 Bay Isles Road, Longboat Key. Recommended Action: Pending discussion, provide direction to Manager.

14. Town Center - Continued

A. Update on Town Center - Continued

B. Consideration of Contract for Land Acquisition of 2.81 Acres - Enclave Parcel B-1 - Continued

Town Manager Dave Bullock provided a historical overview on previous consideration of establishing a Town Center. Planning, Zoning, and Building Department Director Alaina Ray provided an overview of previous development concept plans for a Town Center. Town Manager Bullock displayed the existing conditions on the property under consideration and the surrounding development, reviewed a possible concept plan for a Town Center, commented on the opportunity for a public-private partnership, and noted his recommendation to purchase the property.

Town Manager Bullock reviewed the contract purchase, noted receipt of two appraisals for the parcel, provided information on the funding mechanisms for the purchase, and advised of the purchase price. Discussions were held on the following topics/issues:

- funding to be utilized
- the source of funding to the Land Acquisition Fund
- the amount of taxes paid to the Town of Longboat Key for the property under final ownership
- restriction on use of Land Acquisition funds
- option to partner with private developer.

The following individuals commented on the proposed acquisition of the property.

Mr. Gene Jaleski, Cedar Street
Mr. Larry Grossman, St. Judes Drive North
Mr. David Novak, Harbour Links Drive
Mr. Walter Hackett, Buttonwood Drive
Mr. Jerry Whitehead, Gunwale Lane
Ms. Cheryl Loeffler, L'Ambiance Drive
Mr. Tom Aposporos, Anna Maria resident
Mr. George Spoll, Harbourside Drive.

Discussions were held throughout the speaker comments relating to utilization of the property, elevation of the surrounding parcels, location of the parcel, and the draft Concept Plan displayed.

Following public input, individual comments on the opportunity to purchase the land, comments from surrounding property owners and business, options for public/private partnerships, commendation of efforts of the Town Manager.

Commr. Duncan moved to approve the request to move forward with property purchase as outlined in the Staff report. The motion, seconded by Commr. Zunz carried by a 7-0 roll call vote, as follows: Duncan, aye; Zunz, aye; Brenner, aye; Younger, aye; Gans, aye; Larson, aye; Brown, aye.

RECESS: 8:20 p.m. - 8:30 p.m.

ORDINANCES - FIRST READING AND PUBLIC HEARING

4. Ordinance 2014-06, Comprehensive Plan Amendment, Annual Capital Improvements Element (CIE) Update

At their January 21, 2014 Regular Meeting, the Planning & Zoning (P&Z) Board recommended Town Commission approval and forwarded proposed Ordinance 2014-06 to the February 18, 2014 Regular Workshop for Commission consideration. Ordinance 2014-06 provides for adoption of the required annual update to the five-year schedule of Capital Improvements Elements of the Town of Longboat Key Comprehensive Plan. Ordinance 2014-06 was forwarded to the March 3, 2014 Regular Meeting for first reading and public hearing. Recommended Action: Pending first reading, public hearing and discussion, forward Ordinance 2014-06 to the April 7, 2014 Regular Meeting for second reading and public hearing.

Town Clerk placed Ordinance 2014-06 on record for first reading and public hearing by title only.

Commr. Zunz moved to pass Ordinance 2014-06 and to forward to the April 7, 2014, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Gans.

Town Manager Dave Bullock provided an overview of the proposed Ordinance.

Mayor Brown opened the public hearing. As no one wished to be heard, the public hearing was closed.

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

5. Ordinance 2014-07, Amending Chapter 158, Special Exception Expirations

At their January 21, 2014 Regular Meeting, the Planning & Zoning (P&Z) Board recommended Town Commission approval and forwarded proposed Ordinance 2014-07 to the February 18, 2014 Regular Workshop for Commission consideration. Ordinance 2014-07 amends Chapter 158 to modify the expiration date for special exception uses. Ordinance 2014-07 was forwarded to the March 3, 2014 Regular Meeting for first reading and public hearing. Recommended Action: Pending first reading, public hearing and discussion, forward Ordinance 2014-07 to the April 7, 2014 Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2014-07 on record for first reading and public hearing by title only.

Commr. Gans moved to pass Ordinance 2014-07 and to forward to the April 7, 2014, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Duncan.

Planning, Zoning, and Building Department Director Alaina Ray provided an overview of the proposed amendments to Chapter 158.

5. Ordinance 2014-07, Amending Chapter 158, Special Exception Expirations - Continued
Mayor Brown opened the public hearing. As no one wished to be heard, the public hearing was closed.

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

6. Ordinance 2014-09, Amending the Fiscal Year (FY) 2013-2014 Budget to Eliminate Infrastructure Surtax Funds from General Fund

Following an internal audit of the Infrastructure Surtax Fund, the Finance Director recommends a change in accounting practice to reduce revenue and expenditures within the General Fund and create appropriations within the Infrastructure Surtax Fund. Ordinance 2014-09 will amend the FY 2013-14 Budget to eliminate Infrastructure Surtax Funds from the General Fund. Ordinance 2014-09 was forwarded to the March 3, 2014 Regular Meeting for first reading and public hearing. Recommended Action: Pending first reading, public hearing and discussion, forward Ordinance 2014-09 to the April 7, 2014 Regular Meeting for second reading and public hearing.

Mayor Brown noted the Staff and PowerPoint presentation would encompass Agenda Items 6 through 9 and 11 through 13.

Town Manager Dave Bullock and Finance Director Sue Smith gave a PowerPoint presentation reviewing the Budget Amendments outlined in Agenda Items 6 through 9 and 11 through 13. Town Manager Bullock commented on the permit for the North end groins and confirmed the costs incurred to date.

Town Clerk Trish Granger placed Ordinance 2014-09 on record for first reading and public hearing by title only.

Commr. Zunz moved to pass Ordinance 2014-09 and to forward to the April 7, 2014, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Gans.

Mayor Brown opened the public hearing. As no one wished to be heard, the public hearing was closed.

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

7. Ordinance 2014-10, Amending the Fiscal Year 2013-2014 Budget in the Amount of \$296,000 for Expenses Related to The Colony and Other Professional Services

The Planning, Zoning, and Building Department is requesting additional funding for contracted services relating to expenses associated with the Building Code enforcement related to The Colony property and additional departmental funding for contracted building inspection services and staff training to secure additional licensing for current staffing. Ordinance 2014-10 will amend the FY 2013-2014 Budget to provide for an appropriation from the Building Fund, unappropriated fund balance. Ordinance 2014-10 was forwarded to the March 3, 2014 Regular Meeting for first reading and public hearing. Recommended Action: Pending first reading, public hearing and discussion, forward Ordinance 2014-10 to the April 7, 2014 Regular Meeting for second reading and public hearing.

7. Ordinance 2014-10, Amending the Fiscal Year 2013-2014 Budget in the Amount of \$296,000 for Expenses Related to The Colony and Other Professional Services

Town Clerk Trish Granger placed Ordinance 2014-10 on record for first reading and public hearing by title only.

Commr. Zunz moved to pass Ordinance 2014-10 and to forward to the April 7, 2014, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Gans.

Mayor Brown opened the public hearing. As no one wished to be heard, the public hearing was closed.

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

8. Ordinance 2014-11, Budget Transfer Amending the Fiscal Year 2013-2014 Budget in the Amount of \$300,000 from Utility Commission Contingency and Utility Unallocated Unrestricted Reserve Fund Balance for Rehabilitation of Lift Station E

Improvements to Lift Station E, which are part of the Public Works 5-year Capital Improvement Plan, were competitively bid in January 2014. The engineering design, construction, and engineering construction observation costs are higher than the available budget. Ordinance 2014-11 will amend the FY 2013-2014 Budget, transferring \$300,000 from the Utility Commission Contingency and the Utility Unallocated Unrestricted Reserve Fund Balance to the Lift Station E budget. Ordinance 2014-11 was forwarded to the March 3, 2014 Regular Meeting for first reading and public hearing. Recommended Action: Pending first reading, public hearing and discussion, forward Ordinance 2014-11 to the April 7, 2014 Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2014-11 on record for first reading and public hearing by title only.

Commr. Zunz moved to pass Ordinance 2014-11 and to forward to the April 7, 2014, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Gans.

Mayor Brown opened the public hearing. As no one wished to be heard, the public hearing was closed.

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

9. Ordinance 2014-12, Budget Transfer Amending the Fiscal Year 2013-2014 Budget in the Amount of \$250,000 from the Beach Fund to Provide for Legal Costs for Administrative Hearing

During the defense of a third party challenge associated with the North End Structures, additional funding for the legal services and expert testimony at the administrative hearings is required. Ordinance 2014-12 will amend the FY 2013-2014 Budget, transferring the required funding from the Beach Fund to provide for the associated costs for the administrative hearing. Ordinance 2014-12 was forwarded to the March 3, 2014 Regular Meeting for first reading and public hearing. Recommended Action: Pending first reading,

9. Ordinance 2014-12, Budget Transfer Amending the Fiscal Year 2013-2014 Budget in the Amount of \$250,000 from the Beach Fund to Provide for Legal Costs for Administrative Hearing

public hearing and discussion, forward Ordinance 2014-12 to the April 7, 2014 Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2014-12 on record for first reading and public hearing by title only.

Commr. Younger moved to pass Ordinance 2014-12 and to forward to the April 7, 2014, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Larson.

Mayor Brown opened the public hearing. As no one wished to be heard, the public hearing was closed.

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

RESOLUTIONS

11. Resolution 2014-06, Budget Transfer in the Amount of \$200,000 from Commission Contingency for Planning and Zoning Expenses

Resolution 2014-06 provides for a budget transfer of \$200,000 from Commission Contingency to provide funds for planning services related to developing the Town Center concept and for consulting services to amend the Town's Zoning Code. Resolution 2014-06 was forwarded to the March 3, 2014 Regular Meeting for formal action. Recommended Action: Pending discussion, pass Resolution 2014-06.

Town Clerk Trish Granger placed Resolution 2014-06 on record by title only.

Commr. Duncan moved to pass Resolution 2014-06. The motion was seconded by Commr. Zunz.

Vice Mayor Brenner noted previous discussion relating to the transfer of \$200,000.00 and suggested that the transfer be for \$100,000.00 in lieu of the proposed amount.

Town Manager Dave Bullock noted review of the consulting services expenditures and the upcoming schedule relating to Zoning Code amendments and the Town Center Overlay issues. Discussions were held with Town Manger Bullock and Planning, Zoning, and Building (PZB) Department Director Alaina Ray on the following topics/issues:

- on accomplishing the assignments in a timely manner and the associated funding
- payment for University of South Florida (USF) contract planner
- estimated review for the Town Center Project
- future Code modifications
- funding mechanisms to incorporate projects directed by Town Commission
- positions/salaries included in the current Fiscal Year budget for the PZB Department
- limitation of funding sources/regular reporting on budgeted fund balances

11. Resolution 2014-06, Budget Transfer in the Amount of \$200,000 from Commission Contingency for Planning and Zoning Expenses - Continued

- Staff's intent to work within budgetary limits
- need for flexibility to complete the assigned tasks.

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

12. Resolution 2014-07, Budget Transfer in the Amount of \$37,885 from Planning, Zoning and Building Department to Police Department for Transfer of Code Enforcement Officer

A new full-time Code Enforcement Officer was recently hired and the position now is placed within the Police Department. Resolution 2014-07 provides for the funding allocated for this position to be transferred from the Planning, Zoning, and Building Department to the Police Department. Resolution 2014-07 was forwarded to the March 3, 2014 Regular Meeting for formal action. Recommended Action: Pending discussion, pass Resolution 2014-07.

Town Clerk Trish Granger placed Resolution 2014-07 on record by title only.

Commr. Larson moved to pass Resolution 2014-07. The motion, seconded by Commr. Gans, carried by a 7-0 roll call vote, as follows: Larson, aye; Gans, aye; Brown, aye; Brenner, aye; Duncan, aye; Zunz, aye; Younger, aye.

13. Resolution 2014-08, Budget Transfer in the Amount of \$13,000 from Town Commission Contingency to Public Works Professional Services, Other, for Consulting Services for Solid Waste Services Bid (Kessler)

Resolution 2014-08 provides for a budget transfer of \$13,000 from Commission Contingency to provide funds for consulting services related to the Requests for Proposals for Solid Waste Services for the Town. Resolution 2014-08 was forwarded to the March 3, 2014 Regular Meeting for formal action. Recommended Action: Pending discussion, pass Resolution 2014-08.

Town Clerk Trish Granger placed Resolution 2014-08 on record by title only.

Commr. Gans moved to pass Resolution 2014-08. The motion, seconded by Commr. Larson, carried by a 7-0 roll call vote, as follows: Gans, aye; Larson, aye; Zunz, aye; Younger, aye; Duncan, aye; Brenner, aye; Brown, aye.

Commr. Duncan requested that Staff provide information defining the funds, the sources of funds, restriction on uses, and to provide a quarterly report on the fund balances. Town Manager Dave Bullock advised that Staff will provide the information.

15. Resolution 2014-10, Colony Beach and Tennis Association (Added to the Agenda)

On February 20, 2014, the Town Commission held an Attorney-Client session pertaining to the pending litigation in the matter of *Colony Beach & Tennis Association, Inc. vs. Town of Longboat Key*, Case No. 2014 CA 000181 NC, in the Circuit Court of the Twelfth Judicial

15. Resolution 2014-10, Colony Beach and Tennis Association

Circuit in and for Sarasota County, Florida. Resolution 2014-10 was drafted following that Attorney-Client session and reflects settlement negotiations with the attorney for the Colony Beach & Tennis Association. Resolution 2014-10 amends Resolution 2013-39 which was adopted on December 11, 2013. Recommendation: Pending discussion, pass Resolution 2014-10.

Town Clerk Trish Granger placed Resolution 2014-10 on record by title only.

Town Attorney Maggie Mooney-Portale requested minor modifications to the Resolution as follows:

- 4th Whereas clause: Resolution number should be reflected as 2013-39
- Section 4 - include the phrase "and shall be" following the word "adoption"

Town Attorney Mooney-Portale reviewed the settlement discussions and advised that the Resolution does not modify any other claims, testimony, extension application, or other items directed in Resolution 2013-39.

Town Manager Dave Bullock advised that Staff is anticipating that an application for further consideration of an extension will be submitted before the end of April.

Commr. Larson moved to pass Resolution 2014-10 as amended. The motion was seconded by Mayor Brown.

Discussion ensued on the impact of the bankruptcy court ruling, the current cash bond in effect, performance requirements outlined in the extension document, a legal assessment of the recent hearings and rulings, and the impact the rulings may create.

There was consensus to have Town Attorney Mooney-Portale provide a legal assessment as to the Town's standing.

The motion carried by a 6-1 roll call vote, as follows: Larson, aye; Brown, aye; Brenner, aye; Duncan, aye; Zunz, no; Gans, aye; Younger, aye.

TOWN COMMISSION COMMENTS

A. Planning, Zoning, and Building

Vice Mayor Brenner commented on the Site Plan Approval Process and requested that it be placed on a future workshop agenda for discussion.

B. Land Acquisition

Vice Mayor Brenner inquired and Town Manager Dave Bullock noted that the bank which held the mortgage on the property located at 6541 Gulf of Mexico Drive was the successful bidder at the foreclosure sale.

TOWN COMMISSION COMMENTS - Continued

B. Land Acquisition - Continued

Vice Mayor Brenner requested consensus to seek two appraisals on the vacant property on the North end of the island. Following comments by Mayor Brown, no action was taken.

TOWN ATTORNEY COMMENTS- No items were presented.

TOWN MANAGER COMMENTS

A. School Board

Town Manager Dave Bullock noted an upcoming discussion at the Manatee County School Board meeting advising that Staff would attend and determine what type of Workshop may be appropriate following that meeting.

PRESS TO BE HEARD- No items were presented.

ADJOURNMENT

Mayor Brown noted the Special Meeting on March 4, 2014, to be held at the Temple Beth Israel, 567 Bay Isles Road, Longboat Key, Florida, to consider issues existing at the Colony Beach Tennis Resort, beginning at 9:00 a.m. and would be subject to continuances.

Mayor Brown adjourned the March 3, 2014, Regular Meeting at 9:38 p.m.

Minutes Approved: 05-05-2014