

**MINUTES
LONGBOAT KEY TOWN COMMISSION
SPECIAL MEETING
MARCH 4, 2014 - 9:00 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 David Persson,
Present: Town Clerk Trish Granger

CALL TO ORDER

Mayor Brown called the meeting to order at the Temple Beth Israel, 567 Bay Isles Road, Longboat Key, Florida, at 9:01 a.m.

PUBLIC TO BE HEARD

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

At each meeting the Town Commission sets aside a time for the public to address issues that are not on the agenda.

RESOLUTION AND QUASI-JUDICIAL PUBLIC HEARING

2. Quasi-judicial Public Nuisance Hearing, 1620 Gulf of Mexico Drive (Commonly Known as The Colony)

At the December 11, 2013 Town Commission Special Meeting, the Town Building Official gave his report in regard to the current condition of the buildings and structures at 1620 Gulf of Mexico Drive (GMD), more commonly referred to as the Colony Beach and Tennis Resort. Based on this report, the Town Commission adopted Resolution 2013-40 scheduling a quasi-judicial public hearing to determine whether the structures and buildings at 1620 GMD are a public nuisance. The Town Manager and staff will present updated investigations and status of the buildings and structures to include:

- A – General Overview of Public Nuisance process PowerPoint
- B – Building by Building PowerPoint Presentations
- C – Inspection Reports
- D – Expert Witness Resumes

Recommended Action: The Town Commission will base its decision on competent substantial evidence presented at this public hearing.

Following comments by Mayor Brown on the public hearing process, Town Clerk Trish Granger administered the oath to all intending to present testimony.

Town Manager Dave Bullock provided opening comments on the process to be followed.

Town Attorney David Persson provided an overview on the process and reviewed Code provisions on the issues to be considered and asked Commissioners if any conflict of interest existed, with none stated. Town Attorney Persson inquired as to ex-parte communications. The following Commissioners noted communications (verbal and/or written) relating to the Colony property and provided a summary of the discussions:

- Commr. Lynn Larson
- Mayor Jim Brown
- Commr. Terry Gans
- Commr. Pat Zunz

2. Quasi-judicial Public Nuisance Hearing, 1620 Gulf of Mexico Drive (Commonly Known as The Colony) - Continued

Upon inquiry, all Commissioners indicated that they could render a fair and impartial decision based upon the testimony and evidence presented during the public hearing process.

Following comments, Attorney Donald Hemke, duly sworn, representing the Colony Association, requested consideration to continue the hearing based on the following procedural provisions:

- the delay in posting available information/documentation advising that due process requires information be provided sooner to allow the parties to have adequate time to review and engage experts to respond to the reports filed
- lack of notice to the mortgage holders who were not served individually in accordance with the process used for the property owners and opined that a written public hearing notice should have been provided to the mortgage holder.

Town Attorney Persson commented on the issues raised, opined that the process to notify the mortgage holders would be required at a later date and were not necessary for this hearing.

Assistant Town Manager Anne Ross, duly sworn, reviewed the dates that information was provided through the Town's website and to the Colony representatives.

Town Attorney Persson noted Commission options for a continuation.

Mayor Brown inquired and individual comments followed on the consideration of a continuance. Discussions were held on the following topics/issues:

- ability of opposing party to engage their own experts
- impact on process if new Commissioners were seated following the General Election on March 25, 2014
- ability of newly elected Commissioners to review the proceedings prior to the next public hearing
- impact on owners who were properly noticed and traveled to Longboat Key for the public hearing scheduled this date
- timing issues in providing the Staff reports to the Colony property owners
- option to recess and request attendance by Commission candidates
- consideration to notice mortgage holders
- intent to hold additional meetings relating to the property.

There was majority consensus to continue the public hearing.

Commr. Larson inquired as to any additional procedural questions.

Mr. Blake Fleetwood, duly sworn, requested consideration to continue for a period longer than 30 days to allow time to seek expert testimony on the repair of foundations seaward of the Coastal Construction Line (CCL).

2. Quasi-judicial Public Nuisance Hearing, 1620 Gulf of Mexico Drive (Commonly Known as The Colony) - Continued

Following comments, Commr. Larson inquired and Town Attorney Persson advised that no testimony should be provided as to the evidence/condition of the property if the hearing was to be continued due to the quasi-judicial process allowing cross-examinations of those presenting testimony.

Attorney Persson requested that any additional procedural questions or comments from the public be presented at the current time, with no responses received from members of the public.

Discussion ensued with Town Attorney Persson on the following topics/issues:

- the recommended time frame to continue the public hearing
- impact in seeking a determination on the time needed to reach an opinion on the repair of the foundations
- process to seek determination on foundation repairs
- previous action (submittal of building permits) sought by property owners on the foundation issues
- length of time to consider for a continuance
- additional deterioration that may occur on the property/buildings.

Discussion ensued on available hearing dates.

RECESS: 10:12 a.m. - 10:17 a.m.

Commr. Younger moved to continue the public hearing to May 28, 2014, with the possibility of additional continuances to May 29 and May 30, 2014, at 9:00 a.m., to be held in the Town Commission Chambers, 501 Bay Isles Road, Longboat Key, Florida. The motion, seconded by Commr. Zunz, carried by a 7-0 roll call vote, as follows: Younger, aye; Zunz, aye; Gans, aye; Duncan, aye; Larson, aye; Brenner, aye; Brown, aye.

ADJOURNMENT

Mayor Brown adjourned the March 4, 2014, Special Meeting at 10:20 a.m.

Minutes Approved: 05-05-2014