

**MINUTES
LONGBOAT KEY TOWN COMMISSION
SPECIAL MEETING
SEPTEMBER 28, 2015 - 5:01 P.M.**

Present: Mayor Jack Duncan, Vice Mayor Terry Gans, Commrs. Jack Daly, Lynn Larson, Irwin Pastor, Phill Younger, Pat Zunz

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

(Note: Commr. Daly arrived at 5:11 p.m.)

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Mayor Duncan called the September 28, 2015, Special Meeting to order at 5:03 p.m., in the Town Hall Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida. Commr. Younger led the Pledge of Allegiance.

Mayor Duncan noted and read the Pledge of Public Conduct.

PUBLIC TO BE HEARD

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

ORDINANCES – SECOND READING AND PUBLIC HEARING

2. Ordinance 2015-22, Adopting Millage Rates for the Town of Longboat Key (Town) for Fiscal Year (FY) Beginning October 1, 2015 and Ending September 30, 2016 (2015-2016)
Fiscal Year 2015-2016 operating millage rates for the Town of Longboat Key were established pursuant to first reading, public hearing, and discussion at the September 9, 2015, Regular Meeting held at 7:00 p.m. and forwarded to the September 28, 2015, Special Meeting for formal action.

3. Ordinance 2015-23, Adopting a Budget for the Town of Longboat Key (town) for the Fiscal Year (FY) Beginning October 1, 2015 and Ending September 30, 2016 (2015-2016)
Following first reading, public hearing, and discussion at the September 9, 2015, Regular Meeting the Town Commission and Town Manager forwarded proposed millages (Ordinance 2015-22) and a proposed budget (Ordinance 2015-23) to be adopted for Fiscal Year 2015-2016. In accordance with State law, three separate motions are required. Discussion of the millage rates and the budget must be heard in the following format:

- a. Discussion of rolled-back millage rate
- b. Ordinance 2015-22:
Motion on approval of millage rates for the Beach Erosion Control Districts
Motion on adoption of millage rate for Town
- c. Ordinance 2015-23:
Motion on Town's Budget

Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2015-22 and Ordinance 2015-23.

Mayor Duncan commented on the process for consideration of the Town's Fiscal Year 2015-2016 millage rates and budget and opened the public hearings for second reading.

2. Ordinance 2015-22, Adopting Millage Rates for the Town for FY 2015-2016 - Continued
3. Ordinance 2015-23, Adopting a Budget for the Town for FY 2015-2016 - Continued
Town Clerk Trish Granger placed Ordinance 2015-22 on record for second reading and public hearing by title only.

Town Manager Dave Bullock provided an overview of the budget process and Finance Director Sue Smith gave a PowerPoint presentation on Ordinance 2015-22 and Ordinance 2015-23 and advised of the rolled-back rate change.

Mayor Duncan recessed the Longboat Key Town Commission and convened as the Longboat Key Beach Erosion Control District A Governing Body.

Following comments by Town Manager Bullock, Mr. Gene Jaleski, Cedar Street, commented on the millage levied on the Beach Erosion Control Districts.

Commr. Pastor moved to recommend approval of levying 0.8328 mill ad valorem tax on all real and personal property within the Longboat Key Beach Erosion Control District A to pay the principal and interest on general obligation beach bonds for fiscal year beginning October 1, 2015 and ending September 30, 2016. The motion, seconded by Vice Mayor Gans, carried by a 7-0 roll call vote, as follows: Pastor, aye; Gans, aye; Zunz, aye; Younger, aye; Larson, aye; Daly, aye; Duncan, aye.

Mayor Duncan noted that live video streaming was not available this date.

Mayor Duncan adjourned the Longboat Key Beach Erosion Control District A Governing Body, and convened as the Longboat Key Beach Erosion Control District B Governing Body.

Following comments on the millage levy by Town Manager Bullock, Commr. Pastor moved to recommend approval of levying 0.2082 mill ad valorem tax on all real and personal property within the Longboat Key Beach Erosion Control District B to reimburse District A for payment of the principal and interest on general obligation beach bonds for fiscal year beginning October 1, 2015 and ending September 30, 2016. The motion, seconded by Commr. Zunz, carried by a 7-0 roll call vote, as follows: Pastor, aye; Zunz, aye; Duncan, aye; Gans, aye; Younger, aye; Larson, aye; Daly, aye.

Mayor Duncan adjourned the Longboat Key Beach Erosion Control District B Governing Body, and reconvened the Longboat Key Town Commission.

Subsequent to comments, Commr. Pastor moved accept the recommendations of the Longboat Key Beach Erosion Control Districts A and B to levy 0.8328 mill ad valorem tax within the Longboat Key Beach Erosion Control District A and a levy of 0.2082 mill ad valorem tax within the Longboat Key Beach Erosion Control District B for Fiscal Year beginning October 1, 2015 and ending September 30, 2016. The motion, seconded by Vice Mayor Gans, carried by a 7-0 roll call vote, as follows: Pastor, aye; Gans, aye; Larson, aye; Daly, aye; Zunz, aye; Duncan, aye; Younger, aye.

2. Ordinance 2015-22, Adopting Millage Rates for the Town for FY 2015-2016 - Continued
3. Ordinance 2015-23, Adopting a Budget for the Town for FY 2015-2016 - Continued
As no one wished to speak, Mayor Duncan closed the public hearing on Ordinance 2015-22.

Following comments, Commr. Younger moved to adopt Ordinance 2015-22 on second reading and public hearing levying ad valorem tax of 2.1300 mills for general operating purposes for the Town of Longboat Key and 0.0576 mills for general obligation facility improvement bonds and 0.8328 mills for the Longboat Key Beach Erosion Control District A and 0.2082 mills for the Longboat Key Beach Erosion Control District B, for a total millage rate for Beach District A of 3.0204 and 2.3958 for Beach District B for the fiscal year beginning October 1, 2015 and ending September 30, 2016. The motion, seconded by Commr. Pastor, carried by a 6-1 roll call vote, as follows: Younger, aye; Pastor, aye; Gans, aye; Duncan, aye; Larson, aye; Daly, aye; Zunz, no.

Mayor Duncan commented on Ordinance 2015-23 reflecting the budget for the Town of Longboat Key for Fiscal Year 2015-2016.

Town Clerk Trish Granger placed Ordinance 2015-23 on record for second reading and public hearing by title only.

Mayor Duncan noted the public hearing on Ordinance 2015-23. As no one wished to speak, the public hearing was closed.

Commr. Pastor moved to adopt Ordinance 2015-23 on second reading and public hearing, adopting a budget for the Town of Longboat Key, Erosion Control District A and Erosion Control District B, for the fiscal year beginning October 1, 2015, and ending September 30, 2016. The motion, seconded by Vice Mayor Gans, carried by a 6-1 roll call vote, as follows: Pastor, aye; Gans, aye; Duncan, aye; Zunz, no; Daly, aye; Larson, aye; Younger, aye.

4. Ordinance 2015-27, Amending the FY 2014-2015 General Fund Budget to Appropriate an Additional \$1,268,000 Contribution to the Pension Trust Fund and Adjust Assignment of Fund Balance to Pensions

At the July 6, 2015, Budget Workshop, the Town Commission directed staff to prepare an Ordinance amending the Fiscal Year (FY) 2014-2015 Budget to place \$300,000 of the Fund Balance in the Pension Trust Fund. The Town Commission voted to increase the transfer to include the BP Oil settlement (Deepwater Horizon oil spill) of \$968,000.00. First reading and public hearing on Ordinance 2015-27 was held at the September 9, 2015, Regular Meeting and forwarded to the September 28, 2015, Special Meeting for second reading and public hearing. Recommended Action: Pending second reading, public hearing, and discussion, adopt Ordinance 2015-27.

Town Clerk place Ordinance 2015-27 on record for second reading and public hearing by title only.

4. Ordinance 2015-27, Amending the FY 2014-2015 General Fund Budget - Continued
Commr. Larson moved to adopt Ordinance 2015-27. The motion was seconded by Commr. Pastor.

Mayor Duncan opened the public hearing.

Mr. Larry Grossman, St. Judes Drive North, commented on Ordinance 2015-27.

Town Manager Dave Bullock noted previous presentations on Ordinance 2015-27.

As no others wished to be heard, the public hearing was closed.

The motion carried by a 4-3 roll call vote, as follows: Larson, aye; Pastor, aye; Younger, aye; Zunz, no; Daly, no; Gans, no; Duncan, aye.

DISCUSSION ITEMS

5. Discussion Regarding Undergrounding Referendum 2 and Future Public Input

At the September 9, 2015, Regular Meeting, the Town Commission discussed inviting additional public input regarding Referendum 2 on a neighborhood/side street undergrounding project prior to developing methodologies. There was consensus that the framework and funding of a neighborhood/side street undergrounding project was undecided and needed further public input. Decisions on a second referendum will be postponed until the Gulf of Mexico Drive (GMD) Undergrounding Referendum 1 results are known. This item was further discussed at the September 21, 2015, Regular Workshop and forwarded to the September 28, 2015, Special Meeting for formal action. Recommended Action: Pending discussion, provide direction to Manager.

Town Manager Dave Bullock provided an overview of previous Commission action relating to the undergrounding of utilities and noted action required this date.

Mr. Gene Jaleski, Cedar Street, commented on public information for Referendum 2.

Upon inquiry, Town Attorney Maggie Mooney-Portale advised of the Town's ability to post and/or remove postings from the Town's website advising that the information is a public record and available through a records request for public records.

Mr. Larry Grossman, St. Judes Drive North, commented on the referendums.

Following comments, Commr. Pastor moved to reverse the Commission's selection of a funding option for the undergrounding of the neighborhood/side streets for Referendum 2 and to delay the Commission's determination on this particular issue until after the November election and additional public input is received. The motion, seconded by Vice Mayor Gans, carried by a 5-2 roll call vote, as follows: Pastor, aye; Gans, aye; Younger, no; Larson, no; Daly, aye; Zunz, aye; Duncan, aye.

6. Consideration of Medical Director's Contract Renewal

Dr. Steven Newman has served as the Town's Medical Director for 31 years and has supervised and accepted direct responsibility for the medical performance of all Town EMTs and Paramedics. Dr. Newman's contract is up for renewal effective October 1, 2015. The Commission directed staff to revise the contract to remove references to COLA (Cost of Living Adjustment) in years 2 and 3 or move forward with a one year contract until further

6. Consideration of Medical Director's Contract Renewal - Continued

negotiations could be held. This item was forwarded from the September 21, 2015, 6. Regular Workshop for formal action. Recommended Action: Pending discussion, approve Medical Director Contract renewal.

Town Manager Dave Bullock provided background information on the Medical Director's contract renewal.

Following comments, Commr. Pastor moved to approve the contract renewal for Medical Director Steven Newman as presented this date. The motion, seconded by Vice Mayor Gans, carried by a 6-1 roll call vote, as follows: Pastor, aye; Gans, aye; Duncan, aye; Younger, aye; Larson, no; Daly, aye; Zunz, aye.

7. David Ramba Presentation on 2016 Legislative Session

Mr. David Ramba, of Ramba Consulting Group LLC, will be present at the September 28, 2015, Special Meeting to discuss legislative issues of interest to the Town that are likely to be addressed during the 2016 Legislative session. Recommended Action: None, informational only.

Following introductory comments by Town Attorney Maggie Mooney-Portale, Mr. David Ramba provided an overview of anticipated 2016 legislative issues. Mr. Ramba commented on the funding process for beach restoration projects.

Mayor Duncan thanked Mr. Ramba for his presentation.

8. Update on Colony Issues

The Town Attorney and Assistant Town Attorney will discuss the status of the Colony Bankruptcy and State Court proceedings. Recommended Action: None, informational only.

Assistant Town Attorney Kelly Fernandez provided an update on the status of the Colony bankruptcy and court proceedings. Discussions were held on the following topics/issues:

- appeal granted relating to sale of assets
- consideration of appeal by the District Court system
- funds being held by Trustee/distribution of funds.

Town Attorney Maggie Mooney-Portale commented on the interpretation of the court filings versus the "on-the-street" comments by interested parties. Following individual comments, Assistant Town Attorney Fernandez commented on the time frame for resolution of appeals.

9. Discussion Regarding State of Florida and Town Ethics Code

In 1990 the Town adopted a Code of Ethics (Town Code Chapter 39) which was last amended in 1999. The Florida Code of Ethics for Public Officers and Employees is found in Chapter 112, Part III, Florida Statutes. Many provisions are identical, some unique to the Town or, in some cases, conflict with State law. The Town Attorney will discuss her concerns regarding the variations and conflicts between the State Statute and Town Code and seek Town Commission direction on amending the Town's Ethics Code. Recommended Action: Pending discussion, provide direction to Manager.

9. Discussion Regarding State of Florida and Town Ethics Code- Continued

Following comments by Town Attorney Maggie Mooney-Portale, Assistant Town Attorney Kelly Fernandez and Town Attorney Mooney-Portale provided an overview on the State versus the Town's Ethics Code. Discussions were held on the following topics/issues:

- option to amend the Town's Code to defer to Florida Statutes
- locally adopted procedures
- lack of enforcement by the Florida Commission on Ethics for locally adopted procedures.

Commr. Younger moved to amend the Town Code to adopt the provisions of Florida Statutes relating to the Ethics Code. The motion was seconded by Commr. Larson.

Discussion ensued on the options to adopt the State's Ethics Code and to review current Town Code requirements with possible incorporation into a revised Code.

The motion failed by a 3-4 roll call vote, as follows: Younger, aye; Larson, aye; Pastor, no; Zunz, no; Daly, no; Gans, aye; Duncan, no.

Mayor Duncan moved to adopt the Florida statutory Ethics Code and to incorporate provisions of the Town Code following additional review. Subsequent to comments, the motion died for lack of a second.

Discussion ensued on adoption of the statutory requirements, application of statutory requirements on elected officials, and options to schedule discussion of the issue during a Workshop meeting.

Vice Mayor Gans moved to schedule discussion on the Ethics Code to a future workshop. The motion was seconded by Commr. Pastor.

Commr. Younger moved to adopt the State's Ethics Code. The motion was seconded by Commr. Larson.

Following comments, Vice Mayor Gans withdrew his motion.

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

Following comments by Commr. Pastor, Commr. Younger moved to schedule a Workshop discussion to consider supplementing the State's standards with any of the Town's current Ethics standards. The motion, seconded by Vice Mayor Gans, carried by a 5-2 roll call vote, as follows: Younger, no; Gans, aye; Duncan, aye; Pastor, aye; Zunz, no; Daly, aye; Larson, aye.

Discussion ensued on the reversal of a vote.

10. Update on Sign Ordinance

A recent Supreme Court written opinion in the matter of *Clyde Reed, et al v. Town of Gilbert, Arizona* will be discussed by the Town Attorney. The ramifications of the Supreme Court opinion are that all local government sign codes should be reviewed and are likely to need some modifications to their regulations to comply with the Courts content neutral parameters. Accordingly, the Town's Code needs to be revised and re-examined to bring this section of the Code in line with the *Reed* decision. Recommended Action: Pending discussion, provide direction to Manager.

Town Attorney Maggie Mooney-Portale commented on the Supreme Court ruling in the *Reed* case and reviewed issues for consideration. Discussions were held on the following topics/issues:

- placement of signs on public versus private property
- option for entities to place on private property
- charitable organizations versus private for-profit entities.

Commr. Larson moved to permit a banner on public property for one week by any organization that has been in place for more than one year. Following comments, the motion died for lack of a second.

Commr. Larson moved to allow banners to be placed for one week time on public property. The motion died for lack of a second.

Commr. Pastor moved to continue the current policy. Following comments, the motion died for lack of second.

Following comments by Town Attorney Mooney-Portale, Vice Mayor Gans moved to prohibit signs on public property. The motion, seconded by Commr. Younger, carried by a 4-3 roll call vote, as follows: Gans, aye; Younger, aye; Zunz, aye; Pastor, no; Daly, no; Larson, no; Duncan, aye.

Following comments, Commr. Larson moved to allow banners on public property for a period of 7 days and to direct the Town Attorney to draft revisions to the existing sign code. The motion was seconded by Commr. Pastor.

Discussion ensued on the following topics/issues:

- superseding previous motion/intent of the motion
- sign code models being developed throughout the country
- impact on local charitable organizations if unable to post event signs
- ramifications of allowing signs from any organization
- length of time to allow signage on public property.

Commr. Larson moved to amend the motion to require advanced submission of 60 days for placement of a banner. The motion was seconded by Commr. Pastor.

Subsequent to comments by Town Attorney Mooney-Portale, Commr. Larson withdrew her motion.

10. Update on Sign Ordinance - Continued

Discussion ensued on the required action, national review of the issue, and the recommendation to postpone amendments at the current time to the sign code.

Town Manager Dave Bullock reviewed the current process and noted that all review, with exception of the sign content, would be required to meet current criteria.

Subsequent to comments, Commr. Younger moved to reconsider the motion to prohibit banners on public property. The motion, seconded by Commr. Larson, carried by a 6-1 roll call vote, as follows: Younger, aye; Larson, aye; Gans, no; Duncan, aye; Pastor, aye; Zunz, aye; Daly, aye.

The motion to prohibit banners on public property failed by a 5-2 roll call vote, as follows: Gans, aye; Younger, no; Larson, no; Daly, no; Zunz, aye; Pastor, no; Duncan, no.

Commr. Larson withdrew the motion to allow signs on public property for a period of 7 days.

Discussion ensued on the following topics/issues:

- process utilized to consider topic
- revisions necessary to comply with ruling
- current code provisions.

Following comments by Town Attorney Mooney-Portale, Commr. Larson moved to direct staff to draft amendments to the Sign Code to remove content based provisions relating to signage on public property. The motion was seconded by Commr. Younger.

Following individual comments and clarification on pending special event sign permits, the motion carried by a 7-0 roll call vote, as follows: Larson, aye; Younger, aye; Gans, aye; Duncan, aye; Pastor, aye; Zunz, aye; Daly, aye.

ADJOURNMENT

Mayor Duncan adjourned the September 28, 2015, Special Meeting at 7:45 p.m.

Minutes Approved: _____