

**MINUTES  
LONGBOAT KEY TOWN COMMISSION  
REGULAR MEETING  
FEBRUARY 1, 2016 - 7:00 P.M.**

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

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

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

**Mayor Duncan called the February 1, 2016, Regular Meeting to order at 7:00 p.m., in the Town Hall Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida. Commr. Zunz led the Pledge of Allegiance.**

Mayor Duncan noted the Civility Policy and read the Pledge of Public Conduct.

Mayor Duncan noted the attendance of Mr. Len Garner, Planning and Zoning Board Member, and Manatee County Commissioner John Chappie.

**PUBLIC TO BE HEARD**

**1. Opportunity for Public to Address Town Commission**

**A. Organizations**

Town Manager Dave Bullock provided an overview of a Memorandum of Understanding for an Arts, Culture, and Education Center and Ms. Cheryl Loeffler, Chair of the Ringling College Board of Trustees, commented on the potential project and partnership with the Town.

**B. Town Commission**

Mr. Samir Ragheb, Bayside Drive, inquired as to a statement made relating to subsidizing neighborhoods on the undergrounding project. Individual comments followed.

**C. Emergency Management**

Mr. George Spoll, Harbourside Drive, commented on the recent tornado/storm event that impacted Siesta Key in January and recommended that sirens be installed in the Town for the safety of the Town's residents and visitors.

**D. Public Works**

Mr. Gene Jaleski, Cedar Street, commented on the removal of peacocks from the Village.

**E. Public Works**

Mr. Steve Reid, Longboat Key News, inquired as to the costs of the undergrounding project and costs to be paid by residents living on the North end.

Individual comments followed.

**APPROVAL OF MINUTES**

2. January 4, 2016 Regular Meeting Minutes

**There was consensus to approve the January 4, 2016, Regular Meeting Minutes as presented.**

**COMMITTEE REPORTS AND COMMUNICATIONS**

3. Manatee County Special Liaison Report

A. Organizations

Commr. Zunz noted attendance at the Bradenton Area Economic Development Corporation meeting and reviewed the issues discussed.

4. Sarasota County Special Liaison Report - No items were presented.

5. Manasota League of Cities Report - No items were presented.

6. Other Reports

A. Organizations

Commr. Larson noted an upcoming meeting of the Sarasota Bay Estuary Program Board of Directors.

B. Organizations

Commr. Daly noted attendance at the Metropolitan Planning Organization (MPO) meeting and reviewed the issues discussed. Individual comments followed.

11. Appointment to Code Enforcement Board

Due to the resignation of Mr. Jack Brill, one vacancy exists on the Code Enforcement Board. Advertisements were placed in the Longboat Key Observer and Longboat Key News seeking interested applicants to fill the position. Mr. Neal Colton has submitted an application for consideration and has indicated availability for meetings based on his full-time residency. Recommended Action: Pending discussion, appoint member to Code Enforcement Board.

Mayor Duncan noted that Commissioners had the opportunity to speak to Mr. Colton individually prior to the meeting. Individual comments followed on the composition of the Code Enforcement Board.

**Mayor Duncan noted the appointment process and Commr. Pastor moved to appoint Mr. Neal Colton to the Code Enforcement Board for a term to expire in May 2017. The motion, seconded by Commr. Zunz, carried by a 7-0 roll call vote, as follows: Pastor, aye; Zunz, aye; Gans, aye; Duncan, aye; Younger, aye; Larson, aye; Daly, aye.**

**ORDINANCES - FIRST READING**

**7. Ordinance 2016-06, Amending Chapter 57, Rights-of-Way Use; Establishing a New Chapter 58, Undergrounding of Utilities; and Amending Chapter 98, Trees**

Anticipated implementation of the voter approved Gulf of Mexico Drive Utility Undergrounding Project prompts amendments to Town Code Chapters 57 and 98, and creation of a new Code Chapter 58 to establish regulations for underground utilities on Longboat Key. Ordinance 2016-06 provides for the appropriate revisions and additions to the Code for compliance and regulatory issues. Recommended Action: Pending discussion, forward Ordinance 2016-06 to the March 7, 2016, Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2016-06 on record for first reading by title only.

**Commr. Pastor moved to pass Ordinance 2016-06 on first reading and to forward to the March 7, 2016, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Larson.**

Following comments by Town Manager Dave Bullock on the requested action and forwarding the Ordinance to the April Regular Meeting pending the results of the March Referendum, Planning, Zoning, and Building Department Director Alaina Ray gave a PowerPoint presentation on Ordinance 2016-06. Discussions were held on the following topics/issues:

- applicability to Gulf of Mexico Drive (GMD) undergrounding project
- establishing second reading and public hearing date of April 4, 2016.

**Following comments by Town Attorney Maggie Mooney-Portale, Mayor Duncan noted consensus to forward Ordinance 2016-06 to the April 4, 2016, Regular Meeting for second reading and public hearing.**

Upon inquiry, Ms. Ray noted existing Code provisions relating to undergrounding developments.

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

**8. Ordinance 2016-08, Amending Chapter 151, Shoreline Construction**

As part of the ongoing effort to evaluate existing Town Codes, Staff has identified provisions within Chapter 151, Shoreline Construction, which are problematic regarding implementation, and permitting. Ordinance 2016-08 provides for recommended revisions to address these identified provisions. Recommended Action: Pending discussion, forward Ordinance 2016-08 to the March 7, 2016, Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2016-08 on record for first reading by title only.

8. Ordinance 2016-08, Amending Chapter 151, Shoreline Construction - Continued  
**Vice Mayor Gans moved to pass Ordinance 2016-08 on first reading and to forward to the March 7, 2016, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Larson.**

Following comments by Town Manager Dave Bullock, Planning, Zoning, and Building Department Director Alaina Ray gave a PowerPoint presentation on Ordinance 2016-08. Discussions were held on the following topics/issues:

- notification of all canal property owners
- notifying adjacent property owners versus all property owners on the canal.

**There was consensus to amend the language to require notification to all canal property owners.**

Commr. Younger inquired and Ms. Ray commented on Section 151.03(B)(2) and noted preference for additional staff review before removing the language “and such seawalls about the subject property at the shared property lines.”

Following comments, Town Attorney Maggie Mooney-Portale advised that Staff will review and provide recommendations at the second reading and public hearing regarding the language requested for removal.

Discussions were held on the following topics/issues:

- restrictions for new properties on construction of a seawall
- Staff’s preference on restricting seawall construction
- existing mangroves in canal areas
- available departures in the existing Town Code
- existing Policy embedded in the Town Code
- options available for property owners who do not have a seawall
- impact of sea level rise
- effect on existing Commission Policy if language modifications are made.

**There was consensus to review the Policy Statement outlined in the Town Code.**

**Following comments, Commr. Younger requested and Vice Mayor Gans withdrew his motion to pass Ordinance 2016-08, with consensus.**

Mr. Gene Jaleski, Cedar Street, commented on the proposed Ordinance.

Individual comments followed on seawalls on the Gulf side of the island, regulations for new seawalls on canals only, State and/or Federal regulations, and the sand placement at the North end.

**RECESS:** 8:38 p.m. -8:50 p.m.

**ORDINANCES - SECOND READING AND PUBLIC HEARING**

**9. Ordinance 2016-07, Establishing Town Code Section 37.05, Interfund Loan Authorization for Unrestricted Funds**

Ordinance 2016-07 adds Section 37.05, Interfund Loan Authorization for Unrestricted Funds, to the Town Code and specifically authorizes the adoption of an Interfund Policy by Resolution. This item was considered at the January 4, 2016 Regular Meeting under “New Business” and was forwarded to the January 19, 2016 Special Meeting for first reading. Ordinance 2016-07 is placed on the February 1, 2016 Regular Meeting for second reading and public hearing. Recommended Action: Pending second reading, public hearing and discussion, adopt Ordinance 2016-07.

Town Clerk Trish Granger placed Ordinance 2016-07 on record for second reading and public hearing by title only.

**Commr. Pastor moved to adopt Ordinance 2016-07 on second reading and public hearing. The motion was seconded by Vice Mayor Gans.**

**Mayor Duncan opened the public hearing.**

Following comments by Town Manager Dave Bullock, Finance Director Sue Smith gave a PowerPoint presentation on Ordinance 2016-07. Discussions were held on the following topics/issues:

- past practices when faced with “negative equity”
- impacts (down-side) in providing for interfund loans
- quarterly report requirement to Town Commission
- interest allocation to the lending fund
- short-term loan timeframes between funds
- similarities with spending during emergency situations.

**As no one wished to be heard, Mayor Duncan closed the public hearing.**

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

**RESOLUTIONS**

**10. Resolution 2015-27, Establishing a Policy for Interfund Loans**

Resolution 2015-27 implements and provides for the formal adoption of a Financial Policy related to Interfund Loans, which is specifically authorized in Ordinance 2016-07. Resolution 2015-27 can only be considered following adoption of Ordinance 2016-07. Assuming Ordinance 2016-07 is adopted, Resolution 2015-27 is presented for formal action at the February 1, 2016 Regular Meeting. This item was considered at the January 4, 2016 Regular Meeting under “New Business” for the purpose of workshop discussion. Recommended Action: Pending discussion, pass Resolution 2015-27.

Town Clerk Trish Granger placed Resolution 2015-27 on record by title only.

10. Resolution 2015-27, Establishing a Policy for Interfund Loans- Continued

**Commr. Pastor moved to pass Resolution 2015-27. The motion was seconded by Commr. Zunz.**

**Following review of the Interfund Loan Policy by Town Manager Dave Bullock, the motion carried by a 7-0 roll call vote, as follows: Pastor, aye; Zunz, aye; Larson, aye; Duncan, aye; Gans, aye; Daly, aye; Younger, aye.**

**NEW BUSINESS**

12. Update on Utility Undergrounding for Neighborhoods and Side Streets

The Town Manager will provide an update on the status of the utility undergrounding for neighborhoods and side streets. Recommended Action: Pending discussion, provide direction to Manager.

Town Manager Dave Bullock presented an overview of previous Commission direction relating to the review of areas. Discussions were held on the following topics/issues:

- identification of the Moorings property
- violations that may exist with individuals living at the Moorings property.

Mr. Steve Kerner, Twin Shores Boulevard, commented on the utility undergrounding project.

Commr. Larson inquired and Town Manager Bullock commented on the draft assessments available.

**Commr. Larson moved to post the proposed assessments on the Town's website. The motion was seconded by Commr. Younger. Following comments, Commr. Larson withdrew the motion.**

Mr. Gene Jaleski, Cedars Street, commented on the utility undergrounding project.

Individual comments followed.

13. Consideration of Lawsuit Settlement Offer Negotiated by Florida Attorney General Bondi in the Matter of United States of America et al. ex rel. Perez v. Stericycle, Inc.

A multistate lawsuit was prosecuted by several States' Attorney General, including Florida Attorney General Bondi, against Stericycle, Inc. The settlement is the result of a False Claims Act lawsuit which alleged Stericycle, Inc., may have overcharged many governmental customers through the use of impermissible fuel and energy surcharges. A settlement agreement was reached by the Florida Attorney General and an allocation of the settlement proceeds has been forwarded to the Town for consideration. The suggested pro rata settlement distribution to the Town is an amount totaling \$4,772.70 and, if accepted, the payment will release Stericycle, Inc. from any claims the Town could bring under the False Claim Act. The deadline to accept the settlement is February 15, 2016. If the Town chooses not to accept the offered amount, the Town forfeits the settlement proceeds. Recommended Action: Pending discussion, provide direction to Town Attorney and Town Manager on the acceptance or rejection of the offer.

13. Consideration of Lawsuit Settlement Offer Negotiated by Florida Attorney General Bondi in the Matter of United States of America et al. ex rel. Perez v. Stericycle, (Stericycle) Inc.- Continued

Town Attorney Maggie Mooney-Portale provided an overview of the proposed settlement relating to Stericycle, Inc.

**Following comments, Commr. Larson moved to accept the settlement offer negotiated in the Stericycle, Inc. case in the amount of \$4,772.70. The motion, seconded by Vice Mayor Gans, carried by a 7-0 roll call vote, as follows: Larson, aye; Gans, aye; Younger, aye; Daly, aye; Zunz, aye; Pastor, aye; Duncan, aye.**

**TOWN COMMISSION COMMENTS**

A. Litigation

Commr. Zunz requested consideration to have the validation complaint and link to Florida Statutes placed on the Town's website.

**Following comments, Commr. Zunz moved to have the validation complaint and a link to Florida Statutes Chapter 75 posted to the Town's website. The motion was seconded by Commr. Younger.**

Subsequent to comments on the complaint filed, Attorney Chris Roe, with Bryant, Miller, and Olive, commented on the required language in the validation complaint.

Following individual comments, Town Attorney Maggie Mooney-Portale commented on options to place links to the Florida Statutes and to the Clerk of the Courts websites for public access. Discussion ensued on the purpose of the validation process and providing public access to the process.

**The motion failed by a 2-5 roll call vote, as follows: Zunz, aye; Younger, aye; Gans, no; Duncan, no; Pastor, no; Daly, no; Larson, no.**

**Vice Mayor Gans moved to include the date, time, and location of the validation complaint on the Town's website. The motion was seconded by Commr. Younger.**

**Following comments, Commr. Younger moved to amend the motion to also include a link to the Sarasota County Clerk of the Courts case website be placed on the Town's website. The motion, as amended and seconded by Commr. Daly, carried by a 4-3 roll call vote, as follows: Younger, aye; Daly, aye; Zunz, aye; Pastor, no; Duncan, aye; Gans, no; Larson, no.**

**The main motion, as amended, carried by a 5-2 roll call vote, as follows: Gans, aye; Younger, aye; Larson, no; Daly, aye; Zunz, aye; Pastor, no; Duncan, aye.**

B. State Agencies

Mayor Duncan noted utilization of the newly installed crosswalks advising of the difficulty in determining when to cross and opined of the dangerous situation in the use of the systems

B. State Agencies - Continued

installed by the Florida Department of Transportation (FDOT). Individual comments followed on options to make pedestrian safety improvements to the crosswalk areas.

Town Manager Dave Bullock advised that he would forward correspondence to FDOT representatives regarding the issues raised this date.

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

**TOWN MANAGER COMMENTS**

A. Public Works

Town Manager Dave Bullock provided an update on the sand trucking project.

Upon inquiry, Town Manager Bullock reviewed the timeframe for the truck haul and the remaining beach projects.

**PRESS TO BE HEARD** - No items were presented.

**ADJOURNMENT: 10:25 P.M.**

**Mayor Duncan adjourned the February 1, 2016, Regular Meeting at 10:25 p.m.**

Minutes Approved: 03-07-2016