

**MINUTES
LONGBOAT KEY TOWN COMMISSION
SPECIAL MEETING
June 6, 2016 - 1:00 P.M.**

Present: Mayor Jack Duncan, Vice Mayor Terry Gans, Commrs. Armando Linde, Irwin Pastor, Phill Younger, Ed Zunz

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

**Not
Present:** Commr. Jack Daly

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Mayor Duncan called the June 6, 2016, Special Meeting to order at 1:01 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 the Civility Policy and read the Pledge of Public Conduct.

Mayor Duncan noted Commr. Daly was recovering from surgery and would not be in attendance for the Special Meeting.

PUBLIC TO BE HEARD

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

RESOLUTIONS

2. Resolution 2016-06, Providing for an Initial Assessment for Neighborhood Utility Undergrounding Project

Resolution 2016-06 approves an apportionment methodology for the Neighborhood Utility Undergrounding Project based on Equivalent Benefit Units (EBUs) and describes how the assessment roll will be maintained. It also includes an initial prepayment option for property owners who wish to prepay the assessments prior to issuance of bonds. Resolution 2016-06 was placed on the June 3, 2016, Special Workshop Meeting for Commission consideration and discussion and forwarded to the June 6, 2016, Special Meeting for formal action. Recommended Action: Pending discussion, pass Resolution 2016-06.

Town Clerk Trish Granger placed Resolution 2016-06 on record by title only.

Commr. Pastor moved to pass Resolution 2016-06. The motion was seconded by Vice Mayor Gans.

Town Manager Dave Bullock gave a PowerPoint presentation on Resolution 2016-06. Attorney Chris Roe, with Bryant, Miller, and Olive, provided an overview of special assessments and the process for Commission adoption. Ms. Tara Hollis, with Willdan Financial Services, provided an overview of the assessment methodology development process. Discussions were held on the following topics/issues:

2. Resolution 2016-06, Providing for an Initial Assessment for Neighborhood Utility Undergrounding Project - Continued

- radial looping costs
- assessment examples (starting on page 26 of the PowerPoint presentation)
- Executive Summary included in the Willdan Report "Underground Utility Assessment Methodology Neighborhood Project."

Mayor Duncan advised that there were no public requests to speak on the item.

Following individual comments, the motion carried by a 4-2 roll call vote, as follows: Pastor, aye; Gans, aye; Duncan, aye; Zunz, no; Linde, aye; Younger, no.

3. Resolution 2016-11, Providing for Emergency Authorization for Town Manager

Hurricane season occurs during a time when many of our residents, including Commissioners, are away. Proposed Resolution 2016-11 provides methods to obtain a quorum or gives the Town Manager authority to expend funds and take emergency action in the event a quorum of the Commission is not available. Resolution 2016-11 was placed on the May 16, 2016, Regular Workshop Meeting Consent Agenda and forwarded to the June 6, 2016, Special Meeting for formal action. Recommended Action: Pending discussion, pass Resolution 2016-11.

Town Clerk Trish Granger placed Resolution 2016-11 on record by title only.

Commr. Younger moved to pass Resolution 2016-11. The motion was seconded by Commr. Linde.

Town Manager Dave Bullock provided an overview on the intent of Resolution 2016-11.

Following comments, Commr. Zunz moved to amend Resolution 2016-11 to provide that the Town Manager act in collaboration with the Mayor or other appropriate individuals. The motion was seconded by Commr. Younger.

Town Manager Bullock advised that additional language could be added as a "Whereas" clause.

Following inquiring, Commr. Younger suggested that the phrase "to whatever extent reasonable and possible" be incorporated, with objection.

Following comments, the motion to amend Resolution 2016-11 carried by a 6-0 roll call vote, as follows: Zunz, aye; Younger, aye; Gans, aye; Duncan, aye; Pastor, aye; Linde, aye.

The motion to pass Resolution 2016-11, as amended, carried by a 6-0 roll call vote, as follows: Younger, aye; Linde, aye; Zunz, aye; Pastor, aye; Duncan, aye; Gans, aye.

Mayor Duncan advised that there were no public requests to speak on the item.

4. Resolution 2016-13, Annual Inlet Management Plan Funding Resolution Joint Project with Manatee County for the Longboat Pass Maintenance Dredging

Consistent with the Town's Joint Inlet Management Plan with Manatee County, an annual funding request will be submitted to Florida Department of Environmental Protection. This Resolution is an application requirement that confirms the funding ability of the Town. Resolution 2016-13 provides for the Town to be jointly eligible along with Manatee County for State funding assistance. Resolution 2016-13 was placed on the May 16, 2016, Regular Workshop Meeting Consent Agenda and forwarded to the June 6, 2016, Special Meeting for formal action. Recommended Action: Pending discussion, pass Resolution 2016-13.

Town Clerk Trish Granger placed Resolution 2016-13 on record by title only.

Commr. Younger moved to pass Resolution 2016-13. The motion was seconded by Vice Mayor Gans.

Town Manager Dave Bullock provided an overview of Resolution 2016-13.

Mayor Duncan advised that there were no public requests to speak.

The motion carried by a 6-0 roll call vote, as follows: Younger, aye; Gans, aye; Duncan, aye; Linde, aye; Zunz, aye; Pastor, aye.

5. Resolution 2016-14, Annual Beach Funding Resolution

The State of Florida Beach Management Funding Assistance Program is a recurring source of funding for the Town's beach erosion/nourishment projects. Each year the Town Commission passes a beach funding resolution in order to remain eligible for State grants. Resolution 2016-14 must accompany applications for beach project funding submitted to the Florida Department of Environmental Protection. Resolution 2016-14 was placed on the May 16, 2016, Regular Workshop Meeting Consent Agenda and forwarded to the June 6, 2016, Special Meeting for formal action. Recommended Action: Pending discussion, pass Resolution 2016-14.

Town Clerk Trish Granger placed Resolution 2016-14 on record by title only.

Commr. Zunz moved to pass Resolution 2016-14. The motion was seconded by Commr. Younger.

Town Manager Dave Bullock provided an overview of Resolution 2016-14.

Mayor Duncan advised that there were no public requests to speak.

The motion carried by a 6-0 roll call vote, as follows: Zunz, aye; Younger, aye; Pastor, aye; Linde, aye; Gans, aye; Duncan, aye.

ORDINANCES - FIRST READING

6. Ordinance 2016-15, Amending Chapter 100, Marine Turtle Protection

Commission and public discussion was held at the March 23, 2016; April 18, 2016; and May 16, 2016, Regular Workshop Meetings, after which the Town Commission directed staff to move forward with proposed amendments to Chapter 100, Marine Turtle Protection. Ordinance 2016-15 is placed on the June 6, 2016, Regular Meeting for first reading and discussion. Recommended Action: Pending first reading and discussion, forward Ordinance 2016-15 to the July 5, 2016, Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2016-15 on record by title only.

Commr. Linde inquired and Police Department Code Enforcement Officer (CEO) Chris Elbon commented on the inclusion of “cumulative lighting” in the Ordinance title.

Vice Mayor Gans moved to pass Ordinance 2016-15 on first reading and to forward to the July 5, 2016, Meeting for second reading and public hearing. The motion was seconded by Commr. Linde.

Town Manager Dave Bullock provided an overview and background on the development of Ordinance 2016-15 and CEO Elbon provided a PowerPoint presentation on amendments to Chapter 100. Discussions were held on the following topics/issues:

- removal of furniture from beach during nesting season
- new construction/development versus existing structures
- subjective enforcement
- provisions in Ordinance for variances.

Commr. Zunz moved to amend Ordinance 2016-15 to modify the language in Section 100.10, adding paragraph B, as follows:

(B) It was an important purpose of amending this chapter to better protect sea turtles and hatchlings from disorientation caused by indirectly or cumulatively illuminated beaches. A wide variety of up to date equipment, procedures, and standards are mandated herein to minimize or entirely eliminate indirectly or cumulatively illuminated beaches. However, it has been found to be impracticable to set, measure, or enforce the precise level of such artificial illumination, if any, at a particular time. Therefore, when all of the technical and objective lighting standards set forth herein are provided by a person or property, in compliance with the requirements of this ordinance, no violation shall be asserted against any such person or property on a claim of excessive indirect or accumulated illumination.

The motion was seconded by Commr. Linde.

Following individual comments, Town Attorney Maggie Mooney-Portale commented on the proposed language, noted concern with the amendment, and opined that it would provide an exception to the regulations.

6. Ordinance 2016-15, Amending Chapter 100, Marine Turtle Protection - Continued

Upon inquiry, Mr. Elbon commented on measures that would be taken to assist a property owner with compliance.

Following comments by Town Manager Bullock and Commr. Zunz, the motion to amend Ordinance 2016-15 failed on a 3-3 roll call vote, as follows: Zunz, aye; Linde, aye; Younger, aye; Gans, no; Duncan, no; Pastor, no.

Following inquiry on the process to amend Ordinance 2016-15 at second reading, the motion to pass Ordinance 2016-15 on first reading and to forward to the July 5, 2016, meeting for second reading and public hearing carried by 5-1 roll call vote, as follows: Gans, aye; Linde, aye; Duncan, aye; Pastor, aye; Younger, no; Zunz, aye.

RECESS: 2:50 p.m. – 2:57 p.m.

7. Ordinance 2016-20, Amending Chapter 150.12, Buildings

At the Town Commission's Regular Workshop on May 16, 2016 the Town Attorney discussed the need to revise the Town's procedures related to abatement of unsafe structures and equipment, as set forth in Town Code, Section 150.21. Ordinance 2016-20 provides for authority, notification procedures, due process and other related regulatory authority. Recommended Action: Pending first reading and discussion, forward Ordinance 2016-20 to the July 5, 2016, Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2016-20 on record by title only.

Commr. Younger moved to pass Ordinance 2016-20 on first reading and to forward to the July 5, 2016, Meeting for second reading and public hearing. The motion was seconded by Commr. Pastor

Planning, Zoning, and Building Department Director Alaina Ray gave a PowerPoint presentation on Ordinance 2016-20. Discussions were held on the following topics/issues:

- emergency demolition definition/process
- location of structures within the Town.

Ms. Ray advised that the timeframe for consideration by the Planning and Zoning (P&Z) Board prior to Commission consideration was restricted and reviewed the proposed amendments with revisions provided by the Town Attorney's office relating to public notice. Town Attorney Maggie Mooney-Portale noted the challenges and success of Sarasota County in defending similar language.

Mayor Duncan advised that he had received no requests to speak from the public.

Commr. Younger moved a substitute motion to pass Ordinance 2016-20 with the language submitted by Staff and the Town Attorney this date on first reading and to forward to the July 5, 2016, Meeting for second reading and public hearing. The motion, seconded by Commr. Zunz, carried by a 6-0 roll call vote, as follows: Younger, aye; Zunz, aye; Pastor, aye; Linde, aye; Gans, aye; Duncan, aye.

8. Ordinance 2016-21, Amending Chapter 39, 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. At the September 28, 2015, Special Meeting the Town Attorney discussed her concerns regarding the variations and conflicts between the State Statute and Town Code. At the May 16, 2016, Regular Workshop Meeting the Town Commission directed the Town Attorney to prepare Ordinance 2016-21 to amend Chapter 39 to provide for the applicability of Florida's State Ethics Code to Town elected and appointed officials, and provide for enforcement of violations through the State of Florida's Commission on Ethics. Recommended Action: Pending first reading and discussion, forward Ordinance 2016-21 to the July 5, 2016, Regular Meeting for second reading and public hearing.

Town Clerk Trish Granger placed Ordinance 2016-21 on record by title only.

Commr. Zunz moved to pass Ordinance 2016-21 on first reading and to forward to the July 5, 2016, Meeting for second reading and public hearing. The motion was seconded by Vice Mayor Gans.

Town Attorney Maggie Mooney-Portale provided an overview on consideration of amendments to Chapter 39 of the Town Code through Ordinance 2016-21.

The motion carried by a 6-0 roll call vote, as follows: Zunz, aye; Gans, aye; Duncan, aye; Younger, aye; Linde, aye; Pastor, aye.

TOWN COMMISSION COMMENTS

A. Organizations

Commr. Zunz noted a letter attributed to him that was published in the Longboat Key News, advised he was not the author, and requested that the newspaper provide a written retraction.

Longboat Key News Owner and Editor Steve Reid noted an error in the publication advising that the letter attributed to Commr. Zunz was submitted by Mr. Charles Resnick.

TOWN ATTORNEY COMMENTS

A. Sunshine Law

Town Attorney Maggie Mooney-Portale reminded Commissioners of restrictions relating to the Sunshine Law and upcoming quasi-judicial meetings that will require disclosures prior to the beginning on issues.

TOWN MANAGER COMMENTS

A. Tropical Storm Update

Town Manager Dave Bullock provided an update on the effects of Tropical Storm Colin and advised that the Governor has declared a State of Emergency which includes both Manatee and Sarasota Counties.

PRESS TO BE HEARD

A. Sunshine Law

Longboat Key News Owner and Editor Steve Reid inquired as to violation of Sunshine Law and Town Attorney Maggie Mooney-Portale reviewed restrictions placed on Commissioners on discussions outside of a public meeting. Discussion ensued on the inability of Commissioners to restrict comments made by a constituents and printed in the newspaper.

ADJOURNMENT

Mayor Duncan adjourned the June 6, 2016, Special Meeting at 3:37 p.m.

Minutes Approved: 07-05-16