

TOWN OF LONGBOAT KEY

WORKSHOP AGENDA

DECEMBER 1, 1981

2:00 P.M.

I. Items for the Consideration of the Town Commission:

1. Request for donation - Recreation Center.
2. Discussion of Ordinance No. 81-39 amending Zoning Ordinance.
3. Discussion of purchase of beach property - DNR.
4. Discussion of Water and Wastewater Agreements - Manatee County.
5. Discussion of proposed contract with DOT.

II. Public to be Heard
(Other than agenda items listed above)

If any person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, a record of the proceedings will be needed. For such purpose that person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

81-50

81-50

COMMISSION DIRECTIONS, DECEMBER 1, 1981 WORKSHOP, 2:00 P.M.

Present: Mayor Bell, Commissioners Batten, Fernald, Kirst, Lewin, Ochs, Riter

Also

Present: Town Manager Allgire, Town Attorney Christiansen, Town Clerk Pool

Absent: None

1. Recreation Center Funds Discussion

Hugh Colvin requested that the Town release the \$25,000 in funds which had been specified in the Town's 1981-82 budget for the recreation center. Mr. Colvin said the recreation center had established a budget and was doing its best to conserve money. The Staff had been reduced to one full time director. Mr. Colvin submitted a financial statement showing actual income and expenses through August and estimated through December 1981. The requested funds would be applied to the 1982 budget and at the end of 1981 nothing will be owed from the past year except the mortgage on the land. The request was forwarded to the December 2 meeting agenda for Commission action.

2. Proposed Zoning Amendments Ord. 81-39 Discussion

Commissioner Ochs voiced objection to possible passage of proposed zoning amendments Ord. 81-39. He stated he would prefer that the Commission consider controlling tourism use by alternate methods which he had suggested in memos to the Commission.

The Town Manager stated that the "housekeeping" amendments, in the ordinance were to clarify definitions as recommended by the Town Planner and elimination of certain references in Schedule One and Schedule Two to hotel/motel use in R-3 and R-C districts. The amendment to clarify side setback requirements in commercial zoning districts was recommended by the Planning & Zoning Board. Rezoning of the Buccaneer property had been recommended by the P&Z Board and initiated by the Commission. The ordinance would also rezone one small parcel of T-1 back to R-3. He stated that if it appears, when the Commission begins work on additional zoning amendments during the moratorium, they would prefer to do something other than provided for by this ordinance, then the Commission could decide, if it wished, not to pass it on second reading. The majority of the Commission indicated they thought Ord. 81-39 should proceed under the revised timetable submitted by the Clerk so that while the Commission is working during the moratorium on amending the zoning ordinance, the existing ordinance will be clarified.

Attorney Michael Furen submitted a revised draft of language he had submitted earlier about what he considered to be vested rights of certain property owners and urged the Commission to include it in this ordinance.

3. DNR Coastal Properties Program

Every Commissioner had received a copy of a letter to Mayor Bell from the Florida Department of Natural Resources describing procedures for local government participation with the state, which planned on the sale of revenue bonds, for purchase of desirable coastal properties. The Commission felt that one of the State's criteria that such properties must be readily usable or adaptable for public outdoor recreation, might not be something to suit the needs of the Town of Longboat Key. On the other hand, the fact that local government's sponsorship, development and management would be welcomed could be an offsetting factor. There was general

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agreement the Town should file the form listing open space properties desirable for acquisition and if too many strings were attached the Commission could decide not to participate in the program. Commissioner Ochs informed the Commission that the Florida League of Cities Environmental Committee, of which he is a member, was considering recommending to the State that control of such properties be retained by municipalities. The Town Manager was directed to complete and file the form. Commissioner Fernald inquired if the decision were made to participate, what funds would be used as the Town's matching funds. Mayor Bell replied that the Commission might want to consider a referendum to determine several things: Whether the Townspeople are in favor of transfers of density, and, if not, whether they would want the Town to acquire land by means of ad valorem tax funds or some other manner; also whether they are in favor of continued garbage collection fees. If taxing for land purchase were approved in concept, there would, of course, have to be another referendum when it came to a specific tax for actual purchase. Discussion of a referendum was referred to the December 8 workshop and the Mayor asked the Commissioners to be thinking of ideas as to how to frame referendum questions.

4. Manatee County Water-Wastewater Agreements Discussion

Consulting Engineer Don Smally stated that Manatee County had been talking about a change in Longboat Key's contract and an increase in water rates and sewage treatment rates for some months. Now they had changed their plans and were proposing rate increases presumably using the present contract. It parallels their original proposal but it is more conventional in the sense it does not propose to change all the guidelines. Still it is a departure from past rate agreements with the Town. A public hearing had been scheduled for 6:30 P.M., Wednesday, December 2 in Bradenton at which he recommended a representative of the Town appear. Mr. Smally felt a rate increase was overdue, but in the past Manatee County had presented audits to the Town which were then reviewed by the Town's own auditor and a mutual agreement was reached. The present proposal merely refers to extensive studies made by their rate consultants last year. Mr. Smally said he feels the new method of rate setting makes sense because it includes a certain amount as a fixed charge regardless of usage. However, Mr. Smally felt if they were changing the device for setting rates it should apply to every wholesale customer and Manatee County was not proposing to change Palmetto or Tropicana. He suggested that at the public hearing the Town concur that a rate change is in order but since there is a new procedure, ask that the past procedure of submitting an audit and allowing the Town's auditors to review it be followed. Sarasota County will be taking the same position. Mr. Smally further stated that when the new rates to the Town are set the Town must take a look at the rates it in turn charges. The Commission directed the Town Manager to appear at the public hearing along with Mr. Smally to express the Town's viewpoint.

5. Proposed DOT Contract for Water Line on Bridge-Discussion

The Manager had supplied in the agenda packet copies of correspondence with the Department of Transportation and Smally, Wellford and Nalven regarding inclusion of a water pipe along with construction of the New Pass bridge to complete a loop to the City of Sarasota water system. The purpose would be to handle on a mutual basis with the City emergencies which might occur on the south end of Longboat Key or on Lido or St. Armand's Key. Mr. Allgire stated this had been an item in the proposed Capital Improvements program for several years and had been recommended to the DOT verbally and in writing by Al Cox for several years and it had been assumed it would be in the bridge plans. The DOT, however, has said the plans will have to be changed and the Town will have to pay the additional engineering

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and construction costs. If the Town wishes to have the loop system he would confer with Smally, Wellford and Nalven and Sarasota City Manager Ken Thompson to work out the loop system agreement. Since it would be mutually beneficial to the City he could talk to Ken Thompson about sharing the cost. It was suggested that the DOT be contacted also to try to get them to bear the cost. Mr. Allgire was asked to contact Mr. Thompson.

✓ 6. Board Appointments Discussion

Mayor Bell stated that the appointments of Board of Adjustment members Mockler, Hainsfurther and Lacey would expire in December but all had expressed willingness to be reappointed. This item was forwarded to the December 2 meeting agenda for Commission action.

✓ 7. Plaque for Former Mayor

Town Manager Allgire stated it had been past practice to present a plaque to an outgoing Mayor. If the Commission wished, he would have one made up for the immediate past Mayor Ken McCall. The Commission concurred with the suggestion.

8. Commission Comments

Commissioner Kirst inquired as to the status of the project to acquire traffic counters. The Town Manager stated he had the information about various available counters on his desk and he needed to discuss it with someone such as Don Smally to write specifications in order to get the equipment which would best suit the Town's needs. He said he planned to have such discussions as soon as time permitted.

Mr. Kirst also inquired whether the direction to have all Town vehicles marked had been done. Mr. Allgire stated that written direction had been given to all departments that Town vehicles bear identifying marking by the first of December (today) and he thought it was done.

Vice-Mayor Riter stated that Mabel Richardson has insisted she was confident the Town could outlaw time sharing and he felt it should be determined whether or not that was correct. Town Attorney Christiansen stated he had read the case to which Mrs. Richardson referred. The case dealt with an ordinance in Miami Beach relating to conversions of apartments to condominiums. An ordinance was passed saying such conversions could not be done. The district court set out two bases within the pleadings wherein problems could arise with respect to the ordinance. One was whether state law preempted the area of condominium conversion and the second was whether the ordinance was in conflict with State law. As Mrs. Richardson pointed out, the case held that the State had not preempted the area of condominium conversion and the ordinance was alright in that respect. Mrs. Richardson makes an analogy to the situation of time sharing and says there is no preemption with respect to time sharing and he agreed with her on that point. What she did not speak to was the second area that the case discussed with respect to conflict with State law. State law provides for methods by which condominium conversion can take place. The Miami Beach ordinance said certain steps could not be taken to convert a building to condominium which the State law did provide for. The court decision said that because municipal law was in conflict with State law the ordinance must fall based upon that conflict. In effect, the ordinance was found invalid because it was in conflict with State law. He felt this was the basis upon which Mr. Whitesell

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had in the past advised the Commission it could not totally ban time sharing. Chapter 721 says that a municipality may not pass an ordinance based upon the fact of time sharing, which is an ownership situation. Tourism, as the Town is using the term, is a use. A municipality may pass an ordinance with respect to zoning based upon the fact of tourism or short term use and that appears to be the reason why the Town has done what it has done up to now. He added that it is possible the Town might be able to look very carefully at tourism use as some zoning ordinances do at, for example, manufacturing use, but decisions must be based upon health, welfare, etc. Commissioner Ochs stated he agreed with Mr. Christiansen. Mr. Christiansen further stated that Mrs. Richardson was really basing her opinion on part of a decision which in fact had continued on to say the ordinance was in conflict with State law.

9. Public to be Heard

An unidentified person from the audience reported she had stayed to the end of the public hearing in Manatee County on Longboat Key's request for a Certificate of Public Convenience and Necessity for an ambulance. She felt that some of the Manatee Commissioners seemed in favor of granting the certificate and that in her opinion it had a good chance of being granted.

E. Jane Pool
Town Clerk

jbp