

**MINUTES  
LONGBOAT KEY TOWN COMMISSION  
SPECIAL MEETING  
ATTORNEY-CLIENT SESSION  
JULY 6, 2015 - 6:00 P.M.**

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

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

**Not Present:** Commr. Jack Daly

**CALL TO ORDER**

**Mayor Duncan called the Special Meeting to order at 6:00 p.m., in the Town Commission Chamber, 501 Bay Isles Road, Longboat Key, Florida.**

**1. Litigation**

The Commission will consider the request of the Town's Legal Counsels' to hold an Attorney-Client Meeting relating to pending litigation in the matter of *Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, Case No. 2MDL NO. 2179, Section J*, currently pending in the United States District Court of the Eastern District of Louisiana.

Town Attorney Maggie Mooney-Portale introduced participants in the Attorney-Client session, provided an overview of the limitations on the issues to be discussed and addressed and the scope of the meeting.

Following comments, Commr. Zunz moved to approve the request to hold an Attorney-Client Session. The motion, seconded by Commr. Younger, carried by a 6-0 roll call vote, as follows: Zunz, aye; Younger, aye; Larson, aye; Pastor, aye; Gans, aye; Duncan, aye.

Mayor Duncan noted the session would be limited to discussion of the item referenced by the Town Attorney and would be approximately one hour long, and advised that the following individuals would be in attendance:

Jack Duncan, Mayor  
Terry Gans, Vice Mayor  
Lynn Larson, Commissioner  
Irwin Pastor, Commissioner  
Phill Younger, Commissioner  
Pat Zunz, Commissioner  
Dave Bullock, Town Manager  
Maggie Mooney-Portale, Town Attorney  
Robert Turffs, Esquire, Special Litigation Counsel  
Kevin Dean, Esquire, Special Litigation Counsel (Motley Rice LLC)  
Certified Court Reporter (Note: A transcript of the meeting will be made and will become available as a public record upon conclusion of the litigation.)

1. Litigation - Continued

**Mayor Duncan recessed the Special Meeting at 6:04 p.m.**

**RECESS: 6:04 p.m. - 6:53 p.m.**

**Mayor Duncan reconvened the Special Meeting at 6:53 p.m.**

Town Attorney Mooney-Portale commented on the settlement offer of \$1,232,726.00 for full and final settlement of the BP litigation and noted the necessary Commission action in accordance with the Settlement agreement and Court requirements.

**Commr. Larson moved to authorize the acceptance of the recommended settlement amount associated with the BP litigation in the amount of \$1,232,726.00. The motion, seconded by Commr. Younger, carried by a 6-0 roll call vote, as follows: Larson, aye; Younger, aye; Gans, aye; Duncan, aye; Pastor, aye; Zunz, aye.**

**Commr. Younger moved to authorize execution of the proposed Release associated with the BP litigation. The motion, seconded by Commr. Larson, carried by a 6-0 roll call vote, as follows: Younger, aye; Larson, aye; Zunz, aye; Pastor, aye; Duncan, aye; Gans, aye.**

Town Attorney Mooney-Portale advised that Resolution 2015-21 had been drafted to memorialize the Town's acceptance of the settlement offer in the matter.

**Following comments, Vice Mayor Gans moved to pass Resolution 2015-21, that memorializes the Town's acceptance of a full and final settlement of all claims in the BP litigation as part of the settlement terms. The motion, seconded by Commr. Larson, carried by a 6-0 roll call vote, as follows: Gans, aye; Larson, aye; Pastor, aye; Younger, aye; Zunz, aye; Duncan, aye.**

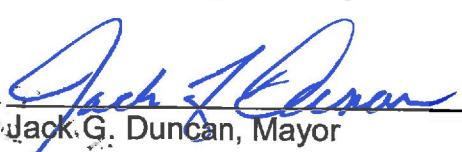
**Commr. Younger moved to provide full authority to Town Attorney Mooney-Portale and Town Manager Dave Bullock to take any further actions on the Town's behalf that are necessary and consistent with the above settlement terms to finalize the settlement of the litigation with BP. The motion, seconded by Commr. Larson, carried by a 6-0 roll call vote, as follows: Younger, aye; Larson, aye; Duncan, aye; Gans, aye; Pastor, aye; Zunz, aye.**

**ADJOURNMENT**

**Mayor Duncan adjourned the July 6, 2015, Special Meeting at 6:58 p.m.**

  
Trish Granger, Town Clerk

Minutes Approved: 9-9-15

  
Jack G. Duncan, Mayor

TOWN OF LONGBOAT KEY COMMISSION  
SPECIAL MEETING

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IN RE: Oil Spill by the Oil Rig "Deepwater  
Horizon"  
Case No. 2MDL NO. 2179, Section J

WHERE: Longboat Key Town Hall  
501 Bay Isles Road  
Longboat Key, Florida 34228

WHEN: July 6, 2015

TIME: 6:00 p.m. - 6:51 p.m.

TAKEN BY: Denise Maglich-Stone  
Court Reporter  
Notary Public  
State of Florida at Large

APPEARANCES: Jack Duncan, Mayor  
Terry Gans, Vice Mayor  
Lynn Larson, Commissioner  
Irwin Pastor, Commissioner  
Phill Younger, Commissioner  
Pat Zunz, Commissioner  
Dave Bullock, Town Manager

1 APPEARANCES: Maggie Mooney-Portale, Esquire  
2 Persson & Cohen, P.A.  
3 6853 Energy Court  
4 Lakewood Ranch, Florida 34240  
5 Appearng on behalf of Town of Longboat Key

6  
7 Robert Turffs, Esquire  
8 Robert E. Turffs, P.A.  
9 1444 First Street, Suite B  
10 Sarasota, Florida 34236  
11 turffs@gmail.com  
12 Special Litigation Counsel on behalf of  
13 Town of Longboat Key

14  
15 Kevin R. Dean, Esquire  
16 Motley Rice LLC  
17 28 Bridgeside Boulevard  
18 Mt. Pleasant, South Carolina  
19 29464  
20 kdean@motleyrice.com  
21 Special Litigation Counsel on behalf of  
22 Town of Longboat Key

## 1 P R O C E E D I N G S

2 MS. MOONEY-PORTALE: Before we get  
3 started, I want to remind everybody that in  
4 today's antechamber we can only talk about  
5 matters related to litigation that is pending,  
6 that is the BP Deep Horizon litigation.

7 There is a court reporter present at the  
8 end of the table, and for purposes of keeping  
9 the court reporter happy and so she does not  
10 get mad and actually make an accurate verbatim  
11 transcript of everything that is said in  
12 today's proceedings, please speak one at a  
13 time. Please denote any comments with a verbal  
14 response. And please, if she waives her hand  
15 and, you know, is signaling to slow down so  
16 that she can take things down, please respect  
17 that and honor that because we must make a  
18 verbatim transcript of these proceedings, which  
19 will be released at the conclusion of this  
20 litigation.

21 First, let me thank you all for making  
22 yourself available in somewhat of a quick,  
23 short order for this meeting. We hope that  
24 this will make everybody happy, because we have  
25 recently found out that we have received a

1 settlement offer in regards to the economic  
2 claims litigation that we have filed against  
3 BP.

4 Some years ago, actually back in 2012, the  
5 Town engaged the law firm of Motley Rice.  
6 Kevin Dean is an attorney with Motley Rice as  
7 out-of-state counsel -- his firm is in South  
8 Carolina -- and Bob Turffs, who is local  
9 counsel, to represent the Town's interests in  
10 this litigation.

11 I'm going -- momentarily I'm going to hand  
12 over this to them to talk about where we are  
13 and what the offer is. But before we get  
14 started we wanted to make sure to remind you  
15 all of the terms of the engagement with Motley  
16 Rice. They were engaged by the Town in 2012.  
17 They -- to the extent we get a settlement over  
18 a million dollars, they and Mr. Turffs are  
19 entitled to 20 percent of any recovery.

20 This is a copy of the engagement letter.  
21 We will be handing you several documents during  
22 this session. This is one of the documents you  
23 may keep. You will be hearing from us in other  
24 regards and we will be giving you documents,  
25 but asking for their return. We are under a

1 strict confidentiality order of which we have  
2 shared with you in communications that  
3 prohibits us from releasing certain things  
4 associated with the settlement negotiations.

5 This is one of the documents that we can  
6 release, though, because it's already in the  
7 Town's public record.

8 With that said, we're pleased to bring  
9 forward a settlement amount that has been  
10 offered. And I will turn it over to Kevin  
11 Dean, who has been handling the lion's share of  
12 negotiations in that regard.

13 MR. DEAN: Madam Court Reporter, what is  
14 your name?

15 COURT REPORTER: Denise Maglich,  
16 M-A-G-L-I-C-H.

17 MR. DEAN: Spell your last name, please.

18 COURT REPORTER: M-A-G-L-I-C-H.

19 MR. DEAN: And your cell phone number, or  
20 a contact?

21 COURT REPORTER: 941- \* \* \* \*

22 MR. DEAN: Madam Court Reporter, I want to  
23 hand you a copy of the confidentiality order,  
24 the order that was -- but I want to hand you  
25 the relevant one, which requires that

1 everything that we discuss in this meeting,  
2 with the exception of the settlement amount and  
3 release, which we'll get to in the public  
4 hearing, but everything we discuss here is  
5 confidential. You're taking down everything  
6 we're saying, it's being transcribed. But I'm  
7 giving you a copy of the judge's  
8 confidentiality order. It applies to you, just  
9 like it does to me. You cannot release that  
10 transcript or any documents that we give to you  
11 until the Town Attorney notifies you. We  
12 anticipate that to be somewhere around July 14  
13 or 15th. So I've handed you a copy of that  
14 order and ask that you abide by it, as well.

15 MS. MOONEY-PORTALE: Just for purposes of  
16 the record, Mr. Dean, the entire Town  
17 Commission who is sitting here has received a  
18 copy of that confidentiality order that was  
19 provided to you all by correspondence, dated  
20 July 2. You all received a copy of that order.

23 I'm a pretty informal guy. I'm going to  
24 give you the -- all the details that I have.  
25 Stop me at any time if you have questions. The

1 best way is if you have questions, let's go  
2 ahead and ask me as we go through it.

3 My name is Kevin Dean. I work for a firm  
4 called Motley Rice out of Charleston, South  
5 Carolina. And my senior partner is Joe Rice,  
6 and he is a member of the PSC Steering  
7 Committee, and one of the co-negotiators that  
8 resulted in the economic loss settlement with  
9 the businesses that you heard about several  
10 years ago.

11 So there's approximately -- there's in  
12 excess of 500 cities and counties that have  
13 filed lawsuits from Texas all the way to Monroe  
14 County in the Keys. Those lawsuits had to be  
15 filed by the statute of limitations, which was  
16 April 20, 2013.

17 So your Commission or county retained Bob  
18 and I to file that lawsuit. And we filed that  
19 lawsuit on your behalf seeking under the Oil  
20 Pollution Act, the Town's potential losses that  
21 might be tied to tourism or taxes, or whatever  
22 it may be tied to. We timely filed it on  
23 April the 19th -- actually, April the 18th. I  
24 believe it was filed before the statute of  
25 limitations expired.

1                   So anybody that didn't make a claim by  
2                   that date is barred now. So the State of  
3                   Alabama was the first governmental case to  
4                   go -- set for trial. And that trail was set in  
5                   September.

6                   As the Court started looking at the  
7                   application of the Oil Pollution Act to the  
8                   state and to the local governments, you know,  
9                   any time you get close to trial, just how it  
10                  works with my business, any time you get close  
11                  to trial then the lawyers or the defendants or  
12                  the plaintiffs start getting interested in  
13                  talking settlement before a jury is empaneled.  
14                  That's what happened here. You're about six  
15                  weeks away from the State of Alabama's trial.

16                  So there was some interest in hopefully  
17                  looking at all of these claims expressed. And  
18                  the court appointed a three-person neutral  
19                  panel to advise the court, review all 500  
20                  governmental claims, and basically make a  
21                  recommendation to that entity, that  
22                  governmental entity and BP, on a settlement  
23                  that would resolve the case.

24                  The members of the panel was U.S.  
25                  Magistrate Judge Sally Shoshone. She's the one

1 that signed the order that you have seen. The  
2 second one is the Claims Administrator for the  
3 Deepwater Horizon, whose name was Patrick  
4 Genoe. He's the guy that runs the claims  
5 facility for the court that pays out all of the  
6 businesses, the restaurants, and things like  
7 that.

8 And the third person was a former FBI  
9 Director, Louie Freeh, who is Special Counsel  
10 to the court, looking at issues, you know,  
11 fraud, all kinds of other legal issues that  
12 require investigation.

13 So that panel was appointed recently.  
14 They got together with their facilities  
15 accountants and they applied a different type  
16 methodology -- which we'll talk about in just a  
17 second -- a different type of methodology to  
18 reach what they thought would be a fair and  
19 reasonable offer that the governmental entity,  
20 the Town of Longboat Point, Long Beach, should  
21 accept, and a reasonable amount that BP should  
22 pay. So they went through their analysis.

23 When we filed a claim, we had to make  
24 something called presentment. So before you  
25 file suit, you have to make a presentment. You

1 have to give BP 90 days to pay the claim. And  
2 if they don't pay the claim then you get the  
3 authorization to file suit. We made  
4 presentment for you back in January of 2013 for  
5 \$5.9. That sum certain -- which was called a  
6 sum certain demand -- that was calculated based  
7 on looking at property tax losses, enterprise  
8 funds, all the types of revenue -- every  
9 government is a little different -- but all the  
10 types of revenue that you had come in.

11 Those were analyzed and they reached what  
12 our accountant, Dixon Hughes, which were, you  
13 know, did the forensic work for you, reached a  
14 base compensation number, and then we applied  
15 what's called a five-times multiplier.

16 Because we, the lawyers, were predicting  
17 out -- and that's what lawyers do in this type  
18 of litigation, is try to predict the numbers  
19 out as far out as possible. And that's what we  
20 did. We did a five-times multiplier. It also  
21 increases the value. So it's a demand. It's  
22 just a -- you know, a demand that's out there  
23 that this is what we would accept.

24 It doesn't mean that that's what a jury  
25 would award, it doesn't mean that's not what

1                   the parties would you settle for at a later  
2                   date.

3                   So nothing has happened over the last, you  
4                   know, two years that this claim has been  
5                   pending, except for work on that State of  
6                   Alabama case, until recently. All the forensic  
7                   work was done for you way back in early 2013.  
8                   I've got those records. They should be here in  
9                   the office, but we can supply them with you if  
10                   you need them. So over the last 30 days, two  
11                   weeks to 30 days, the court neutrals -- do you  
12                   have a question?

13                   COMMISSIONER PASTOR: The 5.9, that's  
14                   future? Isn't there another 1.1 --

15                   MR. DEAN: Well, the 1.1, the base  
16                   compensation number was the multiplier times  
17                   five. So it's probably something like 1.2, and  
18                   then multiply it times five.

19                   COMMISSIONER PASTOR: So that's how you  
20                   got to the 5.9?

21                   MR. DEAN: Yes, sir. So there was a base  
22                   compensation. And what we're finding from all  
23                   of communities, if you go back and look at the  
24                   detailed report that Dixon Hughes --

25                   COMMISSIONER PASTOR: So it's five times

1 the 1.1, whatever --

2 MR. DEAN: It's that plus four times that,  
3 which equals five times that. So one year's  
4 losses times four, which equals equivalent of  
5 five years worth of losses. So 2010 all the  
6 way through the full year of 2015, is what the  
7 claim for 5.9 was made. And there was a demand  
8 letter that's out there that the City has.  
9 There's a forensic report that the City was  
10 given way back then when that demand was made.

11 MS. MOONEY-PORTALE: The amount  
12 specifically of the Town's damages that were  
13 estimated was \$1,373,589.

14 MR. DEAN: That's the base --

15 MS. MOONEY-PORTALE: For past losses.

16 MR. DEAN: Yes. So last Monday, the court  
17 issued -- the neutrals panel issued, number  
18 one, Judge Shoshone issued a confidentiality  
19 order that all the discussions, including the  
20 documents, are to be kept confidential.

21 This is just my opinion or my thought on  
22 why this is, you know, the secrecy surrounding  
23 it is such to give all the other communities  
24 the -- not have outside influence about who got  
25 what or those kinds of things, give the process

1 time to work internally at each of the  
2 governmental entities. The methodology that we  
3 understand -- and I have a cheat sheet. It's a  
4 little short version of it.

5 What they did is when we projected the  
6 County losses, we applied the business  
7 settlement thousand-page document, which  
8 basically said you have eight months. And you  
9 get to, as the Claimant, choose the three best  
10 months you want to use. You use that as your  
11 multiplier and then you start calculating your  
12 losses.

13 So you can actually -- you know, June,  
14 July, August for tourism-type businesses or  
15 restaurants on the beach, you would think those  
16 would be their highest losses, so you wouldn't  
17 want to average it out --

18 COMMISSIONER YOUNGER: Not here.

19 MR. DEAN: It might not be.

20 My point here is maybe October, November,  
21 December is your highest loss time frame. You  
22 wouldn't want me factoring in a low month and  
23 then have it reduce your average.

24 So that was the model way back then --

25 COMMISSIONER PASTOR: For the record, it's

1 time to work internally at each of the  
2 governmental entities. The methodology that we  
3 understand -- and I have a cheat sheet. It's a  
4 little short version of it.

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6 County losses, we applied the business  
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21 December is your highest loss time frame. You  
22 wouldn't want me factoring in a low month and  
23 then have it reduce your average.

24 So that was the model way back then --

25 COMMISSIONER PASTOR: For the record, it's

1 February, March, and April.

17                   The second thing they didn't include --  
18 because the Oil Pollution action is really  
19 untested in regard to how far -- who is  
20 entitled to really recover. Are businesses and  
21 governmental entities where there's no oil on  
22 the shores or there's no tarballs, or there's  
23 no direct oil that hits the shores, are those  
24 communities and those businesses entitled to  
25 have open claims? So that's not been tested

1 and it's still something that's up in the air.

2 So the court took out property damages,  
3 property taxes. The court neutrals did not  
4 factor into this offer for anybody of the 530.  
5 They didn't factor any property tax losses  
6 because of what was really going on, you know,  
7 in the late 2008, 2009, 2010 time frame.

8 So they also only applied a two  
9 multiplier. So they got a damages and apply it  
10 two more years. So they reached a, what they  
11 considered to be a fair and reasonable offer.

12 COMMISSIONER YOUNGER: You say they  
13 reduced the multiplier from five to two? Is  
14 that what you just said?

15 MR. DEAN: Well, they chose their own  
16 multiplier, which is the equivalent of a two  
17 multiplier.

18 COMMISSIONER YOUNGER: Okay.

19 MR. DEAN: So multiply it times two.

20 COMMISSIONER GANS: One plus two?

21 MR. DEAN: One plus one.

22 COMMISSIONER GANS: Oh, one plus one.

23 MR. DEAN: So what I'm saying is they had  
24 had Price Waterhouse or another accounting firm  
25 called P & C run all the same financial data

1 that your City Manager had previously given us  
2 that we had at Dixon Hughes. So it's the same  
3 date, they just ran it through a different  
4 methodology and a different calculator to get a  
5 different --

6 COMMISSIONER PASTOR: But at the end of  
7 the day they reduced it by 40 percent.

8 MR. DEAN: Yeah. So let me -- the other  
9 thing is everybody has the same formula. It's  
10 like the business claims. You know, there's a  
11 settlement agreement, it's all the calculations  
12 are like this --

13 COMMISSIONER YOUNGER: So 60 percent.

14 MR. DEAN: Every governmental entity has  
15 the same cut, the same -- they stand in the  
16 same footing as far as the calculations and the  
17 methodology.

18 You may have different financials, you may  
19 have different numbers, you may have different  
20 losses, but everybody is in the same boat when  
21 it comes to how a calculation is applied.

22 The -- do you have the letter from the court?

23 MR. TURFFS: And while you're doing that,  
24 if I can just state one thing.

25 MR. DEAN: Sure.

1                   MR. TURFFS: The one thing that Kevin just  
2 referenced was the fact that under the Oil  
3 Pollution Act, which was passed in the wake of  
4 the Exxon Valdez --

5                   (Unintelligible talking.)

6                   MAYOR DUNCAN: Time out guys. Let's not  
7 all be talking. Maggie, I can, you know, be  
8 the overseer here, or you can. What do you  
9 want to do? Because I think it's more  
10 appropriate for you.

11                  MS. MOONEY-PORTALE: I'd be happy to.

12                  At this point in time we're going to pass  
13 out the settlement number that came from the  
14 court, because I think that's what the bottom  
15 line is; how much is the court suggesting?

16                  And this document has to be returned to  
17 me. It came from the United States District  
18 Court. It's dated June 27. And the total  
19 amount that's being offered to the Town of  
20 Longboat Key is \$1,232,726.00. And I'll pass  
21 this along to everybody. It's on page three.  
22 So I'm passing out seven copies.

23                  MR. DEAN: While you're looking at that,  
24 what we did when we got those offers, we had  
25 Dixon Hughes go back and try to calculate and

1 check behind the court neutral to figure out  
2 what they were doing and how they reached the  
3 calculations and give us a recommendation.

4 You know, you always, when you get  
5 involved in litigation, you have to take into  
6 consideration what is the court ruling going to  
7 be, are we going to lose our claim or will we  
8 get tossed on Summary Judgment?

9 You have to think about the cost of  
10 litigation; how much is it going to cost us to  
11 actually try this case and go all the way?

12 And the last thing you have to really  
13 think about is time. Do we want to stay  
14 involved and litigate with BP for the next ten  
15 years?

16 So what the court did is come up with a  
17 process to evaluate all 530, and issue offers,  
18 what I call a contingent offer to BP -- I mean  
19 to the governmental entities and BP. And BP  
20 has agreed in principle to accept these court  
21 neutral offers after they receive back all of  
22 the releases.

23 COMMISSIONER YOUNGER: All of them?

24 MR. DEAN: Well, you know what? We don't  
25 know the answer to that. I'll be perfectly

1                   honest with you, I don't know the answer to  
2                   that. The last order says -- if you want to  
3                   read it to them.

4                   MS. MOONEY-PORTALE: So let me -- Kevin is  
5                   explaining that the settlement offer is  
6                   contingent on two things basically. The  
7                   execution of a release -- which I'm going to  
8                   pass you, which again is another document that  
9                   I need to get back because it is still a  
10                   contingent document -- so the execution of a  
11                   release and the execution of a resolution that  
12                   they have proposed. I'm going to give you the  
13                   resolution, as well.

14                   MR. DEAN: So we're unclear about that.  
15                   The judge's order --

16                   MAYOR DUNCAN: I need one more of the  
17                   settlement communication releases. There we  
18                   go.

19                   MR. DEAN: BP will make its decision to  
20                   accept or reject the global settlement with the  
21                   local governmental entities based upon the  
22                   receipt and acceptance of releases from  
23                   substantially all of the local government  
24                   entities. The court will hold the releases and  
25                   other settlement documents in trust pending

1 acceptance and execution by BP.

2 So what, as your question before says, is  
3 acceptance of releases from substantially all  
4 of the local government entities.

5 So the other thing that -- I'm sure I was  
6 going to get this question -- there is no other  
7 offer. This is the offer. The judge, one of  
8 the judge's orders came out in the last few  
9 days and basically says this is the offer. It  
10 went out, you know, different offers to all of  
11 them, everybody we talked about. The City of  
12 Tampa. There was not a -- it's not a  
13 negotiation process. That is the offer.

14 You are releasing all claims that this  
15 City has under the Oil Pollution Act past,  
16 present, and future. Any other claims that  
17 might derive under your state law, you are  
18 releasing those claims forever, never to be  
19 brought again once this is executed and signed.  
20 It's your economic losses that are tied to your  
21 lost revenue for the applicable years, whatever  
22 they may be.

23 COMMISSIONER YOUNGER: From Deepwater  
24 Horizon?

25 MR. DEAN: From the Deepwater Horizon oil

1                   spill. You know, we requested five times. The  
2                   court came back neutral that a settlement offer  
3                   that's much lower than that, obviously. But,  
4                   you know, it's still a respectable number.

5                   MS. MOONEY-PORTALE: It will be Deepwater  
6                   Horizon and all of its other related entities,  
7                   which are listed on the last page of the  
8                   release.

9                   COMMISSIONER YOUNGER: But no future loss  
10                   or oil spills or anything of that nature? It's  
11                   strictly --

12                   MR. DEAN: It's just strictly for this  
13                   incident only. That's correct.

14                   MS. MOONEY-PORTALE: Correct.

15                   MR. DEAN: Yes. BP's for just this  
16                   incident.

17                   MAYOR DUNCAN: Excuse me. So we're  
18                   talking about \$991,000.00 that we're going to  
19                   take home after the 20 percent payout to the  
20                   attorneys?

21                   MS. MOONEY-PORTALE: There will be a  
22                   20 percent payout to the attorneys plus their  
23                   costs, which will come down to a net proceeds  
24                   to the Town of \$969,055.57.

25                   MAYOR DUNCAN: 20 percent plus costs?

1 MS. MOONEY-PORTALE: 20 percent plus  
2 costs. That's correct.

3 If, however, you're choosing to approve  
4 this and accept this offer, the number will be  
5 the number that BP proposed. When we go into  
6 the regular session, the number would be the  
7 \$1.2 million, not the net based upon the payout  
8 to the attorneys.

9 MR. DEAN: Let me tell you one other thing  
10 that might spark another question.

11 All of the attorneys representing the  
12 governmental entities were required by last  
13 Tuesday to run calculations, confer with local  
14 attorneys that might be working with us on a  
15 claim. And all 530 we had to report back to  
16 the court whether something we would recommend  
17 to our clients.

18 I can tell you that every lawyer in the  
19 United States, city attorney, outside counsel  
20 representing any of these 530 agencies, or made  
21 a recommendation and said that they would also  
22 suggest it to a client, that's what prompted  
23 the judge to issue the third order, send us out  
24 on the road. So I'm on the road visiting with  
25 15 local governments in this area.

1                   COMMISSIONER YOUNGER: So you would say  
2                   that the chances of pushback from some of those  
3                   500 odd units is relatively --

4                   MR. DEAN: One percent.

5                   COMMISSIONER YOUNGER: Yeah. Which is not  
6                   a substantial number.

7                   MR. DEAN: Uh-huh. I personally have not  
8                   heard of a single lawyer or a single city  
9                   manager or a single city attorney who has not  
10                  said that it's something they would support and  
11                  recommend to their commission.

12                  Now, obviously, the meetings are just  
13                  beginning. There were a bunch going -- I mean,  
14                  everybody started doing this today. I actually  
15                  was at one and I'm still on agenda and I still  
16                  have to go back there tonight.

17                  COMMISSIONER YOUNGER: There's a huge  
18                  difference between substantially all and all.

19                  MR. DEAN: That's right.

20                  COMMISSIONER YOUNGER: And that small  
21                  percentage, I think, would be negated.

22                  MS. MOONEY-PORTALE: Mayor?

23                  MAYOR DUNCAN: My understanding is at this  
24                  point there's no restriction on the use of  
25                  those funds?

1                   MR. DEAN: Good point. So we made that  
2                   inquiry end of last week, and yes, I can  
3                   represent to you on the record that there is --  
4                   I think one of the orders actually says that --  
5                   there's no restriction on your use of these  
6                   funds.

7                   I can also tell you that there's a public  
8                   order out there that -- and you have seen the  
9                   news report for the 18 billion. This is part  
10                  of that settlement. One billion was set aside  
11                  out of the 18 to deal with all these state and  
12                  local government claims. The one billion is  
13                  being paid immediately. Okay? And when I say  
14                  immediately, our prediction in what we have  
15                  been told to tell our clients is 60 to 90 days.

16                  The other 17 billion, as you know or may  
17                  have read, is being paid out over 18 years, or  
18                  something like that.

19                  MAYOR DUNCAN: Just one other quick  
20                  question. I think I know what I'm expecting is  
21                  an answer on this, but I feel compelled to ask  
22                  it.

23                  Have you done, or have we done any  
24                  comparators on like cities, if you will,  
25                  comparatively like to Longboat Key in terms of

1       circumstances, you know, population, location  
2       the whole nine yards to see if there is any  
3       relative level of comparison that we can kind  
4       of look back and say okay -- I mean, here's  
5       what concerns me. As a Commissioner, someone  
6       we know who -- there will be people out there  
7       who will be saying well, so and so got this  
8       much and we should have gotten that much. And  
9       I'm just wondering if we've done anything like  
10      that at all?

11       MS. MOONEY-PORTALE: To answer your  
12      question, the Town Manager and I have not done  
13      that.

14       Your Special Counsel is representing other  
15      local governments in this area.

16       MAYOR DUNCAN: I don't want them to do it,  
17      because I don't want to increase the  
18      20 percent. So I'm thinking about staff or us  
19      if we've done anything --

20       MS. MOONEY-PORTALE: We have not. We  
21      don't know even if all of the local  
22      jurisdictions, if everybody availed themselves  
23      of making these claims. We just don't know.  
24      We don't know who sued BP.

25       We did. And we availed ourselves of this

1 claim and this litigation through Mr. Turffs.  
2 And actually it was your prior Town Attorney  
3 who worked with Mr. Turffs. And so the  
4 engagement came before I came on. However, we  
5 don't know that all of the other local  
6 jurisdictions even did this.

7 MAYOR DUNCAN: So what you're saying in  
8 essence is they don't know what we got or what  
9 we claimed, and vice versa, all the way across  
10 the board, that's all confidential information?

11 MS. MOONEY-PORTALE: Correct. Correct.

12 MR. DEAN: And I think that's why these  
13 orders have issued, for the very reason you're  
14 asking, to have you individually or have your  
15 board individually abide with your  
16 circumstances and factor in your losses, talk  
17 to your lawyers and things like that, without  
18 the outside influence of a neighboring brother.

19 MS. MOONEY-PORTALE: Commissioner Zunz?

20 COMMISSIONER ZUNZ: Yeah. I don't have  
21 any way of knowing, you know, whether we're  
22 treated fairly or not, but from everything I  
23 have been able to read, the judgment was  
24 extremely favorable to BP. I think that,  
25 unfortunately, it's all been orchestrated in a

1 way that we have no leverage. And I think  
2 that -- I mean, they were deemed grossly  
3 negligent. I mean, it was a horrendous thing  
4 that they did. But I think that there is  
5 probably at this point nothing much that anyone  
6 can do about it because there isn't going to be  
7 a big outcry.

8 MR. TURFFS: If I can, something that I  
9 started mentioning before was this particular  
10 act, the Oil Pollution Act, was legislated in  
11 the wake of the Exxon Valdez disaster 15, 20  
12 years ago.

13 And prior to that, the only law about this  
14 was the common law that said if you're going to  
15 have a recovery for an oil spill like that, or  
16 like this one, the oil actually had to touch  
17 your property, touch your vessel --

18 COMMISSIONER ZUNZ: I know that.

19 MR. TURFFS: -- otherwise you got no  
20 money.

21 COMMISSIONER ZUNZ: Yes.

22 MR. TURFFS: And this was seen as a  
23 solution, the Oil Pollution Act.

24 Now the problem is, Kevin eluded though,  
25 was that in the 20 years, 18 years since this

1 legislation, there has not been one case  
2 interpreting that's saying here's how you  
3 calculate damages.

4 MR. DEAN: So going back to your question,  
5 or your point, it was a compromise. It was a  
6 compromise on everybody's part about, you know,  
7 do we want to wait, see what the judges order  
8 and let it go to the U.S. Supreme Court? You  
9 know, who wants to take that risk? Is there  
10 some compromised position, like you're talking  
11 about?

12 The business claims still are not paid  
13 out. I don't personally anticipate they will  
14 be done for another five years. It's the  
15 slowest thing I've ever seen in my life, as far  
16 as the claims administration process.

17 This gets this City done, out of  
18 litigation with BP, no more expenses, and all  
19 the rest of them, and you're done.

20 MS. MOONEY-PORTALE: If it's the will of  
21 this Commission to accept the offer and  
22 proposal from BP -- and you all will need to  
23 discuss that -- I wanted to talk to you for a  
24 moment about what you need to do to go down  
25 this path.

1                   The amended confidentiality order, another  
2                   document that I forwarded to you all via email,  
3                   contemplates three things happening in a public  
4                   meeting that, number one, you first have a  
5                   Shade Meeting to talk about the particulars and  
6                   all of the confidentiality that surrounds this.

7                   And then you hold -- you go back into a  
8                   public meeting to; number one, approve the  
9                   recommended amount, number two, approve the  
10                  release, and number three, approve a resolution  
11                  that they put forward.

12                  COMMISSIONER YOUNGER: So much for  
13                  confidentiality.

14                  MR. DEAN: Again, I'm not -- I'm having to  
15                  read into the judge's order. But I think  
16                  that -- well, first of all, she amended it when  
17                  she found out that Florida requires the amount.  
18                  Because the other states evidently did not  
19                  require that. So she amended that order  
20                  Thursday authorizing us to come in here and we  
21                  have to publicly tell everybody what the amount  
22                  is. The court just didn't want all the detail  
23                  to go out and the firestorm to begin over  
24                  questioning of how the methodology was done and  
25                  neutrals and all that kind of stuff.

1                   COMMISSIONER YOUNGER: Well, we're signing  
2                   over the document that's good for about another  
3                   half-an-hour --

4                   MS. MOONEY-PORTALE: Well, we're  
5                   signing -- remember, all of this has to be done  
6                   no later than close of business July 15, per  
7                   the court's amended order.

8                   MR. DEAN: Yes.

9                   MS. MOONEY-PORTALE: If you all approve  
10                  this path, the documents that can be released  
11                  to the public in the communication that can be  
12                  released to the public is the settlement amount  
13                  of 2 million -- or excuse me, \$1,232,726.00,  
14                  and the resolution, which we would need to  
15                  adopt, which is, as you all can see, is a very  
16                  vanilla resolution just identifying the amount  
17                  and saying that we are entering into the  
18                  release and will do everything else in  
19                  furtherance of the settlement.

20                  And it also makes -- requires us to make a  
21                  commitment that we're not going to disparage in  
22                  BP's release.

23                  MAYOR DUNCAN: Is there some level of  
24                  confidentiality around the attorneys' fees that  
25                  you don't want divulged or is that --

1                   MS. MOONEY-PORTALE: Well, the attorneys'  
2 fees document is what it is. It's a public  
3 record. It's 20 percent of the settlement  
4 amount.

5                   MAYOR DUNCAN: You made the comment the  
6 only thing we can divulge in the public  
7 meeting, and I --

8                   MS. MOONEY-PORTALE: Oh, I stand  
9 corrected. You can leave this meeting with  
10 that Motley Rice agreement, because that is  
11 already a --

12                  MR. BULLOCK: Which has been public since  
13 2012.

14                  MS. MOONEY-PORTALE: That's correct.

15                  MAYOR DUNCAN: Not the resulting math,  
16 though?

17                  MS. MOONEY-PORTALE: You cannot divulge  
18 the terms of the release. You cannot divulge  
19 the terms of the release until the court orders  
20 us and authorizes such.

21                  The court order, if you read it in the  
22 strictest manner possible, which we are doing  
23 because of the court's insistence on these  
24 matters, it really speaks in terms of sunshine  
25 law. It doesn't speak in terms of public

1 records laws as far as authorizing us to  
2 release all of these documents to the public  
3 yet.

4 So as soon as we can, we will. But under  
5 the scenario that we have been given, we are --  
6 again, we don't want anybody to go to jail.  
7 None of you, none of us. And so we want a high  
8 degree of confidence in our confidentiality on  
9 this matter.

10 We are one of the first local governments  
11 that we're aware of to consider the offer, so  
12 the next couple days will undoubtedly be  
13 interesting.

14 MR. DEAN: There will be a lot of stuff in  
15 the news tomorrow, because there were a lot of  
16 meetings taking place during today and tonight  
17 and all that kind of stuff. So it will be -- I  
18 don't know how many, but there were a lot  
19 going on.

20 To answer your question about quick math,  
21 just so you have the numbers, \$1,232,726 is the  
22 offer. 20 percent attorneys' fees is  
23 \$246,545.20. And the expenses are \$17,125.23.  
24 Of that we paid Dixon Hughes, the accounting  
25 firm that did all the analysis for the

1 financials, \$14,909.00. So if you subtract the  
2 246 in fees and the 17,000 expenses, you get  
3 969,055.57.

4 COMMISSIONER YOUNGER: Of which we will  
5 get how much up front?

6 MR. DEAN: All of it.

7 MS. MOONEY-PORTALE: All of it.

8 COMMISSIONER YOUNGER: So we're not going  
9 to get to spread out over 20 years?

10 MR. DEAN: No, sir. I have been  
11 authorized to tell you 60 to 90 days you will  
12 get a check or a wire of 969,055.57 --

13 MAYOR DUNCAN: Well, I heard something  
14 about -- let me sort of move forward on this,  
15 if I can. We have a meeting in 15 minutes  
16 that's been publicly noticed --

17 MS. MOONEY-PORTALE: Yes.

18 MAYOR DUNCAN: Are we planning on delaying  
19 that meeting, or are we planning on trying to  
20 make a decision here and move forward?

21 MS. MOONEY-PORTALE: Well, you all need to  
22 make a decision. And my intent is to tell you  
23 what needs to happen if you're going to make  
24 that decision once you leave this room.

25 There are those three items you will need

1 to approve; the settlement amount, the  
2 resolution, and the release.

3 I'm also suggesting that you authorize the  
4 Town Manager and I to take any actions that are  
5 necessary and consistent with those actions  
6 during the summer recess months.

7 Meaning, if we need to sign a settlement  
8 statement for Motley Rice, we are authorized to  
9 do so on behalf of the Town to effectuate your  
10 will in settling this matter.

11 So what needs to happen now is you all  
12 need to discuss and decide whether as a  
13 commission you would like to move forward. If  
14 you do, I have four suggested motions that are  
15 sitting on the dais that bring those four  
16 approvals forward.

17 COMMISSIONER YOUNGER: I suggest we do  
18 that.

19 COMMISSIONER LARSON: I agree.

20 MAYOR DUNCAN: What are you suggesting we  
21 do?

22 COMMISSIONER YOUNGER: Everything she  
23 says.

24 MAYOR DUNCAN: Well, let's start with the  
25 settlement offer. Do we have consensus on the

1 settlement offer at this point in time?

2 (Several unanimous replies of yes.)

3 MAYOR DUNCAN: Okay. Now let's talk about  
4 then the other three cases that you have on the  
5 table. Are we consistent on those three?

6 Does anybody have any problem with what  
7 you have seen or heard?

8 (Several unanimous replies of no)

9 MAYOR DUNCAN: Terry, are you all right?

10 COMMISSIONER GANS: Yeah, I'm fine. Well,  
11 I'm not all right, but --

12 (Unintelligible talking.)

13 MS. MOONEY-PORTALE: We have to be careful  
14 for the court reporter here, and only talk one  
15 at a time please.

16 MAYOR DUNCAN: All right. So we have  
17 consensus on the four points that you put  
18 forward.

19 MS. MOONEY-PORTALE: It sounds like we  
20 have consensus and everybody is unanimously  
21 indicating their agreement to moving forward in  
22 that direction.

23 So what we will do with that direction is  
24 we're going to go into the public Town Hall  
25 chamber. Mr. Mayor, you are going to follow

1                   your Mayor's notes and reopen the public  
2                   meeting.

3                   We are going to make those four motions on  
4                   the record. Trish will need to be there to  
5                   capture it all. And we will move forward in  
6                   that direction.

7                   I will need to collect the documents back  
8                   from you.

9                   MAYOR DUNCAN: One more question. In your  
10                  minutes, in your Mayor's notes, you didn't  
11                  indicate discussion after each one of the  
12                  points. I assume that was just a miss on your  
13                  part?

14                  MS. MOONEY-PORTALE: I was trying to --  
15                  well, no, it wasn't. I was --

16                  MAYOR DUNCAN: Okay.

17                  MR. DEAN: I have something to -- go  
18                  ahead.

19                  MAYOR DUNCAN: Well, after this meeting is  
20                  over and we start the regular meeting, would it  
21                  be wise for you during attorney comments to  
22                  indicate what's transpired here today on this  
23                  issue? Because there may not be people in the  
24                  meeting for both meetings.

25                  MS. MOONEY-PORTALE: I would be happy to.

1 COMMISSIONER PASTOR: And are you going to  
2 present the motions?

3 MS. MOONEY-PORTALE: We have already  
4 written it out for actually the Mayor. But I  
5 will go over, once we get into the public  
6 session, I will go over the four items that I'm  
7 going to be requesting of the commission, that  
8 being the approval of the settlement amount,  
9 the resolution, the release, and then approval  
10 for the Town Manager and I --

11                   MAYOR DUNCAN: I will ask for discussion  
12                   after each motion, so if you have questions at  
13                   that point, I will -- I would address them to  
14                   the Town Attorney.

21                   After tonight during that meeting and when  
22                   it's over with, that amount is public. You are  
23                   free to discuss it with anybody as far as that  
24                   amount.

25 COMMISSIONER PASTOR: Kevin, I'm glad you

1       brought that up. Because one of the things  
2       that concerns me is we're really not talking  
3       about the 18.1. Okay? Really what we're  
4       talking about is the settlement that we're --

5 MR. DEAN: One billion was the --

6 COMMISSIONER PASTOR: One billion.

7 I think this is very important when we  
8 communicate this to the press, which I'm sure  
9 they're going to give you a call, that there is  
10 a clear understanding of what this represents.  
11 Okay? And also some of the other ingredients  
12 that go along --

17                   COMMISSIONER PASTOR: That's what you  
18                   raised to start with, what are people going to  
19                   think, 18 billion, what is that?

20 MR. DEAN: So if you turn to page three,  
21 it says, paragraph 2-D, up to one billion.

22 | COMMISSIONER PASTOR: That's important.

23 | MR. DEAN: So the 18 --

24 COMMISSIONER GANS: It's irrelevant  
25 because it's based on what we claimed.

1                   COMMISSIONER PASTOR: I understand, but  
2                   the point is right now the buzz is  
3                   18.1 billion.

4 MS. MOONEY-PORTALE: One at a time,  
5 please.

6 (Unintelligible talking.)

15 For your protection, the City Attorney is  
16 going to keep the release. Because if you read  
17 that judge's order that I just handed  
18 Mr. Pastor, it's got a provision that says all  
19 documents are confidential. But again, if you  
20 have to meet or somebody calls you, feel free  
21 to comment on the number or however you want to  
22 handle the media call.

23 I suspect you're going to get them. I've  
24 been getting them for days and I can't talk to  
25 anybody. I've decided not to talk to anybody

1 personally until after the judge releases us on  
2 July 14 --

3 COMMISSIONER PASTOR: Maybe that's the  
4 position we should take, too.

5 COMMISSIONER YOUNGER: It's still going to  
6 come up with the public.

7 MR. DEAN: The number is going to be  
8 public, and you may get asked what your  
9 thoughts are on it. And to be quite honest,  
10 it's fine for you to comment. They're your  
11 personal thoughts one way or the other.

12 MS. MOONEY-PORTALE: There is a provision  
13 in the release that talks about not making any  
14 disparaging comments against BP. So we would  
15 ask that you also observe the terms of that  
16 release and do not make any disparaging  
17 comments against BP or its related entities.

18 If any of you would like to see the  
19 release in greater detail, other than we can  
20 enter the confidentiality order at a later time  
21 or you can come and review it at my office or  
22 I'll bring a copy to you at another time.

23 Any questions? Okay.

24 MAYOR DUNCAN: Thank you.

25 MS. MOONEY-PORTALE: Thank you.

REPORTER'S CERTIFICATE

STATE OF FLORIDA )  
COUNTY OF SARASOTA )

8 I, DENISE MAGLICH-STONE, Court Reporter, certify  
9 that I was authorized to and did stenographically report the  
10 proceedings herein, and that the transcript, pages 1-41, is  
11 a true and complete record of my stenographic notes.

13 I further certify that I am not a relative,  
14 employee, attorney, or counsel of any of the parties, nor am  
15 I a relative or employee of any of the parties' attorney or  
16 counsel connected with this action, nor am I financially  
17 interested in the action.

20 Dated this 22nd day of July, 2015.

Denise Magliic - Stone

DENISE MAGLICH-STONE  
Court Reporter



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