

TOWN OF LONGBOAT KEY
SPECIAL COMMISSION MEETING AGENDA
SEPTEMBER 23, 1985
7:00 P.M.

In accordance with State and Federal law and by call of the Town Commission of the Town of Longboat Key, a Special Commission meeting has been called for consideration and action on the following items:

- ✓ I. Special Request. Petition to rescind previous action. Reference attached memorandum.
- ✓ II. Resolutions
 - 1. No. 85-26, New Pass Dredging
- ✓ III. Public Hearing
 - 1. Proposed Use Federal Revenue Sharing.
- ✓ IV. Ordinances - Second Reading and Public Hearing
 - ✓ 1. No. 85-12, Millage Rate
 - ✓ 2. No. 85-13, Budget Ordinance
 - 3. No. 85-10, Amending Chapter 158, Zoning Dish Antennae.

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 verbalim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Scott

TOWN OF LONGBOAT KEY
SPECIAL WORKSHOP AGENDA
SEPTEMBER 23, 1985
7:00 P.M.

I. Items for the Consideration of the Town Commission:

Resolution No. 85-26, New Pass Dredging.
Presentation by the Beach Preservation Association of
Longboat Key.

- II. Public to be Heard
- III. Press to be Heard

MINUTES OF LONGBOAT KEY TOWN COMMISSION SPECIAL MEETING SEPTEMBER 23, 1985, 7:00 P.M.

Mayor Edmundson called the meeting to order at 8:05 P.M.
(It had been preceded by a Commission Special Workshop which began at 7:00 P.M.)

Meeting called by written notice in accordance with Article II, Section 15 of the Town Charter.

Present: Mayor Edmundson, Vice-Mayor Dashiell, Commissioners Hulderman, Ochs, Pier, Ross, Stewart

Also Present: Town Manager Kelly, Town Attorney Christiansen, Finance Director Schmidt, Planning Director Gumula, Associate Planner Paul, Town Clerk Pool, Deputy Clerk Buttner

There being a quorum present, the meeting was in order.

1. Special Request. Petition to rescind previous action.

Town Manager Kelly referred to his memorandum of 9-18-85 which explained the reason for holding this Special Meeting. Mr. Kelly said he had, on 9-23-85, received correspondence from Stanley Tsigounis, Jr. opposing the Commission's approval of Continental Kitchens. Also, a petition in support of Continental Kitchens had been received on 8-28-85. Thirty-eight of the 150 signatures were residents of St. Judes Drive.

Mr. Kelly said he had been approached by Ms. Deborah Wisby, 759 St. Judes Drive, to reconsider the Commission's September 16 approval of Continental Kitchen's site plan. According to parliamentary procedure, since a reconsideration had not taken place at the same meeting in which the action took place, Ms. Wisby's only recourse was to request rescinding the previous action. She had submitted a request that it be on the agenda at this meeting.

Mayor Edmundson stated that according to proper procedure, discussion from the floor to rescind the Commission action of approval would be out of order unless a motion were made from the Commission to rescind. Also, that the public present would be afforded the courtesy of being heard.

It was moved by Dashiell, seconded by Pier, to reopen the question of Continental Kitchens for reconsideration.

Town Manager Kelly stated that reconsideration was out of order because this was not the same meeting as September 16. A move to rescind would be in order.

Commissioner Ochs said it had been his understanding the Commission could not legally pursue a re-consideration. He said he would prefer to hear the reasons why people want the Commission to rescind.

Special Meeting (Cont.)

9-23-85, Page 2

Vice-Mayor Dashiell altered the motion substituting rescinding the action for reconsidering. Motion failed for lack of second.

Town Attorney Christiansen suggested a motion to permit the public to talk about the issue as the form of the agenda was broad enough to encompass such discussion.

It was moved by Pier, seconded by Ochs, to open the floor to the public to let them be heard on this matter. Motion carried unanimously.

Attorney Charles J. Bartlett, representing a group of St. Jude's residents distributed a letter to the Commission dated 9-23-85. The letter stated the residents' objections to the Commission's action of approval September 16. Mr. Bartlett stated that the Commission voted in a site plan that, in his opinion, violated the Comp Plan and Zoning Code as follows: 1) The site plan was inconsistent with the land use element of the Comp Plan, in that Continental Kitchens are contemplating something larger than limited commercial development, 2) The proposed site plan did not appear to be consistent with the traffic element of the Comp Plan specifically in regard to the lack of a traffic impact study, 3) The proposed site plan was inconsistent with the Zoning Code because of abuse of off street parking, and the fact that Parcels 2 and 3 are not truly contiguous lots because they are separated by a roadway, 4) The use of a commercial parcel for a residence would be inconsistent with the schedule of use regulations for the C1 District, unless the dwelling unit were attached to the principal structure, which was not the case in this instance.

Mayor Edmundson recessed the meeting at 8:25 P.M. and reconvened it at 8:45 P.M. to give Staff an opportunity to read and consider Mr. Bartlett's letter.

Commissioner Pier stated for the record that the Commissioners did not discuss Continental Kitchens during the break. Staff members, however, were presently discussing the letter.

Atty. George Franjola, on behalf of Continental Kitchens, said he took issue as to the propriety of the procedures being followed. He said the action taken by the Commission September 16 was a culmination of a long process. By that action the applicant had been assured that his use of the property was consistent with the Code and Comp Plan. Since last week's approval of the site plan, the applicant had taken action in reliance on the Commission's decision and had gone forward with his plans incurring certain expenses. He pointed out that the September 16 meeting had proper notice and the dissenters had not chosen to have an attorney present then. Further, the Town's interpretations were valid and viable and should not be upset.

Town Manager Kelly stated he was confident he could refute Atty. Bartlett's comments and asked the Town Attorney to explain due process under site plan approval procedure.

Special Meeting (Cont.)

9-23-85, Page 3

Town Attorney Christiansen said the Code did not require a public hearing for site plan review, as it did for ordinances, publishing in the newspaper, etc. He said the Commission was acting as an administrative board when reviewing site plans. Staff makes presentations, the applicants make theirs, and the Commission discusses it. A public hearing is not required but they may hear comments from the public if they deem it appropriate. Mr. Christiansen said the Town had done everything necessary in this case.

Town Manager Kelly said since Mr. Bartlett's written statement had just been received, and after the fact of Commission action, he recommended that he and the Town Attorney and the Planning Director prepare a written rebuttal. Rather than attempt a lengthy, oral reply at this meeting, he would submit the response back to the Commission as a report.

Vice-Mayor Dashiell asked if the applicant would be willing, without jeopardizing his vested rights, to give the Staff a chance to study Mr. Bartlett's comments, responding to them in the form of a report, and giving the applicant and Commission a copy of the report before the next regular meeting of October 7.

The applicant did not reply.

Town Attorney Christiansen suggested that if the Commission wanted the Staff to research the problems brought up by Mr. Bartlett, then the Commission should publicly inform the applicant and his attorney of the Commission's intention, to prevent them from taking any further action in reliance on the site plan approval September 16. This would give the Town time to research and consider if other action was appropriate.

It was moved by Pier, seconded by Dashiell, to give the Staff the necessary days and that they bring this back to the Commission in full preparation for the Commission to consider again.

It was moved by Stewart, seconded by Pier, to amend the motion, that this issue would come before the Commission meeting of October 7.

The Town Attorney stated an item put on the Agenda for consideration of a rescission of the site plan approval should be so stated. Mr. Stewart stated that when he had said "the issue" that was what he was talking about. Commissioner Ross asked if the Commission was committing itself to consider rescission. The Town Attorney answered that it was and one action could be not to rescind.

Town Manager Kelly stated Atty. Bartlett should have submitted his letter of comments in the form of an inquiry to the Staff in the first place rather than as a challenge to the Commission as he did at this meeting.

The motion to amend carried with Pier, Stewart, Ochs, Dashiell, voting aye. Ross, Hulderman, and Edmundson voting no.

Special Meeting (Cont.)

9-23-85, Page 4

Town Attorney Christiansen stated for the record that Harry Christensen and Atty. George Franjola were put on notice that the Commission would consider potential recission of their site plan on October 7, 1985.

Main motion, as amended, carried with Pier, Stewart, Ochs, and Dashiell voting aye; Ross, Hulderman, and Edmundson voting no.

✓ 2. Resolution No. 85-26, New Pass Dredging

It was moved by Ross, seconded by Pier, to adopt Resolution No. 85-26, requesting Sarasota County to apply for decommissioning of New Pass and commissioning of Big Pass as the official, federally designated channel. Motion carried unanimously.

✓ 3. Proposed Use Federal Revenue Sharing.

Pursuant to publication of required notice, the public hearing was opened for comments on the proposed use of Federal Revenue Sharing Funds. No one from the public asked to be heard and the hearing was closed. Town Manager Kelly introduced Finance Director Schmidt who stated the Town expected to receive \$27,300 in revenue sharing funds. The proposed use was renovation of Police Communication Equipment.

✓ 4. Ordinances - Second Reading and Public Hearing

✓ 1. No. 85-12, Millage Rate

At the direction of the Commission Ordinance 85-12, levying .2642 mills to pay principal and interest on the Town's outstanding general obligation water and sewer bonds, and 1.3640 mills for general revenue purposes for a total of 1.6282 mills ad valorem tax on all real and personal property within the Town of Longboat Key, was placed on second reading by title only.

Pursuant to published notice public hearing on the proposed ordinance was opened. No one asked to be heard and the hearing was closed.

It was moved by Ochs, seconded by Hulderman that Ordinance 85-12 be passed on Second Reading and finally adopted.

The motion carried on roll call vote: Pier, aye; Stewart no, Ochs, aye; Ross, aye; Dashiell, no; Hulderman, aye; Edmundson, aye.

✓ 2. No. 85-13, Budget Ordinance

At the direction of the Commission, Ordinance No. 85-13, adopting a budget for the Town of Longboat Key, for the fiscal year beginning October 1, 1985 and ending September 30, 1986, was placed on second reading by title only.

9-23-85, Page 4

BOOK 6 PAGE 316

85-26

Special Meeting (Cont.)

9-23-85, Page 5

Pursuant to published notice, the public hearing was opened for public comments and questions regarding the proposed budget. Henry Swan, Longboat Key, protested the budget increase and asked the Commission to consider carefully before voting. No one else wished to speak and the hearing was closed.

It was moved by Hulderman, seconded by Pier, that Ordinance 85-13 be passed on second reading and finally adopted.

Town Manager Kelly stated for auditing and accounting record purposes that in accordance with the Town Charter, and various codes there were several integral items which had been discussed and were within the budget package. Mr. Kelly pointed out that when voting approval for the budget, the Commission would vote for those integral parts also. Section 1, Page 1, next to the last line said, "1985-86 Budget attached hereto and by this reference made a part hereof as though set out in full herein." In addition to the budget summary itself, the following were included:

- 1) The capital Outlay list with each item noted on it.
- 2) Various items budgeted by funds for Action Plan 86.
- 3) Departmental objectives for 1985-86.
- 4) The Town Attorney's salary increase request as written in his memorandum dated August 20, 1985.
- 5) The Town Manager's salary increase equal to the general employees' 4% pay raise.
- 6) The substance of the Personnel Committee report as clarified by Commissioner Ochs' memo of 9/9/85, primarily the 4% increase for salaries.

In addition, as brought out in the public hearing earlier in the meeting on Federal Revenue Sharing usage, the revenue sharing moneys are incorporated as a separate fund in the budget.

Finance Director Schmidt said the Commission was considering a Budget with a 10% tax increase. The general fund budget was increasing from 2.9 million to 3.3 million approximately, or about 10%. Commissioner Stewart said he thought the 10% millage increase plus the equivalent of another 8% out of other funds made a total of 18%, being taken from either the public directly or from the reserves. Commissioner Hulderman asked Mr. Schmidt how much of that figure would be non-recurring. Mr. Schmidt said the additional 8% figure was primarily for road funding and the South Fire Station. The roads would be a recurring item; the Fire Station, non-recurring. Town Manager Kelly pointed out that state law constrains designating ad valorem millage taxes to the general fund. Therefore, discussion of a tax increase is in reference to the general fund. Transfers from Enterprise Funds account for the difference between 10% and 18%.

Vice-Mayor Dashiell stated the Town would have another big expense ahead in the very near future in either improving the north fire station or replacing it.

Commissioner Hulderman said it was misleading to say the budget was increased 18% when there was a non-recurring item.

Special Meeting (Cont.)

9-23-85, Page 6

The motion carried on roll call vote: Pier, aye; Stewart, no; Ochs, aye; Dashiell, no; Ross, aye; Hulderman, aye; Edmundson, aye.

3. No. 85-10, Amending Chapter 158, Zoning Dish Antennas.

At the direction of the Commission Ordinance 85-10, amending the zoning code of the Town of Longboat Key, adding private, non-commercial dish antennas as a Special Exception use in all zoning districts except Island Sanctuary, was placed on second reading by title only. Pursuant to published notice, public hearing on the ordinance was opened. No one wished to be heard and the hearing was closed.

It was moved by Dashiell, seconded by Stewart that Ord. 85-10 be passed on second reading and finally adopted.

Commissioner Ochs said as this Ordinance was directed to non-commercial antennas, it had omitted any clause which would prevent a commercial enterprise from putting them up at will.

Town Manager Kelly said Storer, in making improvements, would be coming to the Town to install a "dish" or some type of microwave tower panels. If that were ruled out, Storer would not be able to make the promised improvements.

Commissioner Ochs asked if a TV dealer could install a dish antenna as part of his commercial operation.

Town Attorney Christiansen said dish antennas may be a Special Exception use in every district including commercial zoning districts. Commercial use, however, would be defined as someone selling the signal, but it would be private if someone were using it for a TV in his store.

Vice-Mayor Dashiell suggested passing this Ordinance followed by a request to Staff to research and return with any other recommendations they think appropriate.

Motion carried on roll call vote: Pier, aye; Stewart, aye; Ochs, aye; Dashiell, aye; Ross, aye; Hulderman, aye; Edmundson, aye.

Town Manager Kelly commented that the action just concluded had accomplished Item 26 on Action Plan 86 - "Regulation of dish antennas."

5. Public to be Heard

6. Questions from Press

7. Town Commission Comments

Commissioner Ochs stated at a recent SMATS meeting, he brought up the fact that the D.O.T. should be considering a better way to handle the erosion on the Gulf front at Bayport. He told them he

9-23-85, Page 6

BOOK 6 PAGE 3/4

Special Meeting (Cont.)

9-23-85, Page 7

talked to people who had been present when the groins were put in at Colony Beach and which, for years, have worked effectively. Mr. Ochs stated he requested the D.O.T. through SMATS, to look into the design of the groins at Colony Beach to see if any part of that design could be put into use at Bayport. At this time he said Bayport's only alternatives would be to put in rocks or build a new shoal a hundred yards off shore which the Corps of Engineers recommended but which they would not pay for. Mr. Ochs provided the D.O.T. with drawings of the design.

Town Manager Kelly announced the Florida Planning and Zoning Association would be conducting their annual state conference in Bradenton this year. Planning Director Gumula was on the Program Committee. Mr. Kelly was invited to make a presentation entitled, "Contract Zoning." This event would be held at the new Holiday Inn, Bradenton, October 3 and 4. All Commissioners were invited to attend.

Mr. Kelly reminded the Commissioners of the Florida League of Cities meeting in Hollywood, Florida, October 10 and 13. Hotel reservations were made for everybody. Cancellations would be made for those who could not attend.


The annual conference of the Florida Shore and Beach Preservation Association was held September 25 through 27.

Mr. Kelly said an important conference, and perhaps the first of its kind, would be held October 23 through 25, entitled "Post Disaster Mitigation". The conference would be sponsored by the American Bar Association with two or three statewide Florida associations co-sponsoring it, the Florida League of Cities, State Association of County Commissioners, Florida Planning and Zoning Association and a couple of universities may tie in with it so that it would be an international symposium on post disaster relief. He had requested the Town Attorney, Public Works Director and Planner to attend.

8. Adjournment

Mayor Edmundson declared the meeting adjourned at 10:00 P.M.


James V. Edmundson, Mayor


E. Jane Pool, Town Clerk
By: Sheila Buttner, Deputy
Town Clerk

9-23-85, Page 7

BOOK 6 PAGE 3/3

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