

TOWN OF LONGBOAT KEY  
REGULAR COMMISSION MEETING AGENDA  
DECEMBER 6, 1993  
7:00 P.M.

- I. Call to Order
- II. Pledge of Allegiance
- III. Proclamations and Special Presentations
  - 1. Certificate of Achievement for Excellence in Financial Reporting Presented to Town by the Government Finance Officers Association of the United States and Canada
- IV. Approval of Minutes
  - November 1, 1993, Town Commission Regular Meeting;
  - November 18, 1993, Town Commission Special Meeting
- V. Committee Reports and Communications
- VI. Ordinances - First Reading
- VII. Ordinances - Second Reading and Public Hearing
  - 1. Ordinance 93-24 - Specifying Authorization Requirements for Filing of Town Lawsuits
- VIII. Resolutions
  - 1. Resolution 93-14 - Establishing a Bid Protest Procedure
  - 2. Resolution 93-40 - Establishing a North Village Drainage Improvement Project
- IX. Other Public Hearings
- X. Closing of Consent Agenda  
(No items have been placed on this Consent Agenda)
- XI. Unfinished Business
- XII. New Business
  - 1. Approval of Amendment to Florida Department of Environmental Protection Contract with Town for Quick Point Nature Preserve

2. Approval of Settlement Agreement Between Bean Weeks/Marine Horizon, Joint Venture and Town of Longboat Key
3. Approval of Interlocal Agreement for Funding of Beach Project for 1993 Between Manatee County and the Town of Longboat Key
4. Approval of Agreement Between Longboat Key Community Center, Inc. and Town of Longboat Key for Conveyance of Property and Programs to Town

XIII. Action on Consent Agenda

XIV. Town Attorney Comments

XV. Town Manager Comments

XVI. Town Commission Comments

XVII. Public to be Heard

XVIII. Press to be Heard

XIX. Adjournment

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.

Proceedings will be electronically recorded. Copies of the cassette tapes may be purchased from the Office of the Town Clerk.

/dhs

MINUTES OF THE REGULAR MEETING OF THE LONGBOAT KEY TOWN COMMISSION,  
DECEMBER 6, 1993, 7:00 P.M.

Present: Mayor Brown, Vice-Mayor Farber, Commissioners Patterson,  
Drohlich, Metz, Sagman, Green

Also Town Manager Roberts, Town Attorney Persson, Finance  
Present: Director Sullivan, Public Works Director Smally, Town  
Clerk Arends, Deputy Clerk Celentano

I. Call to Order

The meeting was called to order at the Longboat Key, Florida, Town  
Commission Chambers, 501 Bay Isles Road, at 7:00 P.M.

II. Pledge of Allegiance

Mayor Brown led the Pledge of Allegiance to the Flag.

Moment of Silent Meditation

Mayor Brown asked those present to remain standing for a moment of  
silent meditation or prayer asking for blessings on the  
deliberations of the Commission.

III. Proclamations and Special Presentations

1. Certificate of Achievement for Excellence in Financial Reporting  
Presented to Town by the Government Finance Officers Association of  
the United States and Canada

Mayor Brown presented to Finance Director Sullivan a plaque and the  
Certificate of Achievement for Excellence in Financial Reporting.  
Mr. Sullivan indicated this was the twelfth year the Town had been  
awarded this Certificate.

IV. Approval of Minutes

It was moved by Metz, seconded by Drohlich, Minutes of Regular  
Meeting of 11-1-93 and Special Meeting of 11-18-93 be approved as  
written. Motion carried unanimously.

V. Communications and Committee Reports

1. Remarks by Mayor Brown

Mayor Brown stated he did not intend to run for re-election to the  
Town Commission when his term expired in March 1994. He stated  
serving on the Commission had been one of the highlights of his  
life and he enjoyed the association with the wonderful men and  
women, wives and husbands. He stated no year had equalled the last  
one for personal satisfaction, citing the beach restoration project  
and the overwhelming community support and unity for replacement of  
the Ringling Causeway Bridge, which showed what the Town could do  
if it consolidated its efforts. He reported five years ago, when he  
first ran for the office, he had four major goals and all had  
either been completed or were well on the way to completion,  
although many things remained to be done. He stated no town equaled  
Longboat Key and one of the greatest things was the Town could not

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be in better hands with the quality and dedication of the Commissioners, but also with Mr. Roberts as Town Manager and David Persson as Town Attorney; they were the very best in their jobs. He stated he was not retiring because he was tired of public service, as there were other offices he was considering running for next fall. He introduced his wife as his campaign manager; she had attended every Commission meeting since he was elected.

Each Commissioner expressed appreciation for the leadership, graciousness and kindness Mayor Brown had provided during his tenure. It was agreed he would be greatly missed by all.

VI. Ordinances - First ReadingVII. Ordinances - Second Reading and Public Hearing1. Ordinance 93-24 - Specifying Authorization Requirements for Filing of Town Lawsuits

Ordinance 93-24, an Ordinance amending the Code of Ordinances of the Town of Longboat Key, in Chapter 30, *Town Commission*, by adding Section 30.09, *Authorization for Litigation*; providing for the Town Commission to be the sole authority with power to authorize lawsuits or litigation initiated by the Town; providing for severability of provisions; providing for repeal of all ordinances in conflict herewith; providing an effective date, was placed on second reading by title only.

It was moved by Patterson, seconded by Metz, to adopt Ord. 93-24.

Pursuant to published notice, the public hearing was opened. No one wished to be heard, and the public hearing was closed.

Mayor Brown referred to Section 30.09 which stated: "No complaint shall be filed in any court on behalf of the Town unless authorized by the Town Commission at a lawful meeting". He asked whether wording should be added to state: "in any court or before any State or Federal agency ....". He said these could be as critical as a lawsuit. Town Attorney Persson stated it could be added; however, the Town may protest certain actions taken by the Commission, and a formal hearing under the Charter would be to require authorization from the Commission. He stated the Ordinance was directed specifically to courts and lawsuits.

Commissioner Green asked whether this action would infringe on the powers of the Code Enforcement Board or the Ethics Commission. Mr. Persson stated the only time the Code Enforcement Board would bring an action would be to foreclose a lien, which would be brought to the Commission for their authorization in any event, adding one more step to the process. He stated the creation of the Ethics Commission made it as separate as possible through the established process. Mayor Brown suggested the Ordinance be reviewed by the Code Enforcement Board following adoption; if they raised objections, it could be examined again.

Motion carried unanimously on roll call vote: Patterson, aye; Metz,

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aye; Sagman, aye; Green, aye; Drohlich, aye; Farber, aye; Brown, aye.

VIII. Resolutions1. Resolution 93-14 - Establishing a Bid Protest Procedure

It was moved by Farber, seconded by Sagman, to pass Res. 93-14.

Commissioner Metz asked if any specific event perpetrated this Resolution. Mr. Persson stated the Code provided certain procedures be established by resolution, and the procedure was being codified to ensure the requirements were met. He stated the Resolution established when a bid was opened, there would be a procedure for protesting a bid with certain deadlines for noticing and resolution of the problem.

Motion carried unanimously on roll call vote: Farber, aye; Sagman, aye; Green, aye; Patterson, aye; Drohlich, aye; Metz, aye; Brown, aye.

2. Resolution 93-40 - Establishing a North Village Drainage Improvement Project

It was moved by Farber, seconded by Metz, to pass Res. 93-40.

Mr. Roberts stated the purpose of this Resolution was to establish a district for potential funding for a study. Public Works Director Smally stated a resolution was required for the Manasota Basin Board application. Commissioner Green stated Village owners were expected to approve the Village as a historical site, and he did not want that area to become confused with the area as specified in the wording of the Resolution. Mr. Roberts stated the word "historical" as used in the Resolution was a descriptive term. It was agreed the Resolution be amended by using the lower case "h" for the word "historical" and by deleting it in the title.

Motion carried unanimously on roll call vote: Farber, aye; Metz, aye; Sagman, aye; Green, aye; Patterson, aye; Drohlich, aye; Brown, aye.

IX. Other Public HearingsX. Closing of Consent AgendaXI. Unfinished BusinessXII. New Business1. Approval of Amendment to Florida Department of Environmental Protection Contract with Town for Quick Point Nature Preserve

It was moved by Metz, seconded by Green, to approve the Amendment to the Florida Department of Environmental Protection Contract for Quick Point Nature Preserve, No. SP297.

Commissioner Drohlich asked if a completion bond was required for the 17-month period indicated. Mr. Roberts stated the Town was the contractor and completion bonds were part of the bid process.

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Commissioner Metz referred to a section on page 4 which required the Town to keep detailed supporting documentation of all costs under a cost reimbursement contract including salaries and wages, overhead, indirect/general and administrative costs and various other expenditures made by the Town; he asked if the Town could be reimbursed. Mr. Sullivan stated that information was correct. Mayor Brown stated records must be kept in case the State did an audit.

Motion carried unanimously: Metz, aye; Green, aye; Sagman, aye; Patterson, aye; Drohlich, aye; Farber, aye; Brown, aye.

2. Approval of Settlement Agreement Between Bean Horizon/Weeks Marine, Joint Venture and Town of Longboat Key

It was moved by Green, seconded by Farber, to approve the Settlement Agreement between Bean Horizon/Weeks Marine, Joint Venture for \$1.5 million.

Mr. Persson stated the reason for the delay was an attempt to negotiate a solution to the Manatee County off-loading station at Coquina Beach. He reported the County had accelerated the process of acquiring their engineering study and their opinion was the erosion resulted from Bean/Weeks' prop wash, which caused the damage. He reported the damage was estimated to be \$20,500. He said he was quite sure if Manatee County was willing to execute a release of Bean/Weeks and the Town, Bean/Weeks would authorize the Town to distribute that amount to Manatee County. He advised the agreement of \$1.5 million was a settlement of all actual and potential claims by Bean/Weeks against the Town but was not reciprocal; it was only the settlement of the Town's claim concerning the "shelly beach" issue. He stated should there be any other claims of which the Town was not aware, the Town would maintain the right to bring actions against Bean/Weeks; bringing an action against Bean/Weeks would not adversely affect a third party. He advised this was a settlement of known claims by Bean/Weeks.

Vice-Mayor Farber asked if any retainage would be held for a year or so in case anything further developed. Mr. Roberts stated the Town could hold 10% for only a period of time and could not continue to hold the retainage after both parties were in accord. He stated if a problem did arise, it would not prevent the Town from filing other claims. Mr. Roberts expressed his appreciation to Mr. Persson, Tom Turner, Len Smally and Karyn Erickson for their efforts in this matter.

Motion carried unanimously: Green, aye; Farber, aye; Drohlich, aye; Patterson, aye; Sagman, aye; Metz, aye; Brown, aye.

3. Approval of Interlocal Agreement for Funding from Tourist Development Tax Funds for the Beach Project for Fiscal Year 1992-93 Between Manatee County and the Town of Longboat Key

It was moved by Metz, seconded by Green, to approve the Interlocal Agreement with Manatee County for Funding of the Beach Project for Fiscal Year 1992-93.

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Commissioner Metz stated the Town should begin the application for funds for Fiscal Year 1993-94. Mayor Brown asked Mr. Sullivan whether expenditures needed to be encumbered for the beach each year in order to receive the funds each year. Mr. Sullivan stated it was not necessary, the encumbrance could be carried from one year to the next; \$4 million had been spent on the beach nourishment for the Manatee County portion of the Town to date. Commissioner Green asked if the Town could request a multi-year agreement similar to the County's commitment to the City of Bradenton. Mr. Roberts stated he, Mr. Persson and Mr. Sullivan would attempt to pursue this.

Motion carried unanimously: Metz, aye; Green, aye; Sagman, aye; Patterson, aye; Drohlich, aye; Farber, aye; Brown, aye.

4. Approval of Agreement Between Longboat Key Community Center, Inc. and Town of Longboat Key for Conveyance of Property and Programs to Town

It was moved by Patterson, seconded by Green, to approve the Agreement between Longboat Key Community Center, Inc. and the Town for Conveyance of Property and Programs to Town.

Motion carried unanimously on roll call vote: Patterson, aye; Green, aye; Sagman, aye; Metz, aye; Drohlich, aye; Farber, aye; Brown, aye.

XIII. Action on Consent Agenda

XIV. Town Attorney Comments

1. Manatee County Environmental Action Commission

Mr. Persson stated he was preparing a report for the Commission regarding the Environmental Action Commission; to date its only action had been to address problems with air pollution control, open burning regulations, and some administrative rules. He stated it was their interpretation as well as his that if the Town's rules were more strict, the Town would prevail.

2. Amendment to Zoning Code re. Nonconforming Lots

Mr. Persson stated a draft of a zoning ordinance dealing with nonconforming lots would be ready for consideration at a workshop in January or February.

3. Change in Ownership at St. James Project

Commissioner Green asked if there had been a change in ownership at the St. James Project; several complaints had been made regarding the Town's permitting process at this site. Mr. Persson stated he understood a sale was being negotiated. Mayor Brown stated it was a serious problem for the Town to consider.

XV. Town Manager Comments

1. Transition of the Recreation Center

Mr. Roberts reported the Town would begin the transition of the Recreation Center for completion in January. Commissioner Green suggested a promotional event be planned.

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2. Commendation of Mayor Brown

Mr. Roberts stated Mayor Brown had been very helpful during his transition and he considered him an excellent public servant.

XVI. Town Commission Comments1. Backlit Signs

Mayor Brown requested a memo authored by Commissioner Green regarding backlit signs be forwarded to Mr. Persson for legal review and action and placed on the next workshop agenda for discussion.

2. Recreation Center Acquisition

Commissioner Patterson stated he considered the action taken by the Commission regarding the Rec Center as a "victory for all"; those involved in making the decisions, those on the Recreation Center Board, and those who would use it in the future. He also stated the Agreement was an excellent document prepared by the staff and Town Attorney and it would bring something to the Town which was much needed.

3. Incumbent Commission Candidate Representation at "Coffee with Commissioner" Programs

Commissioner Drohlich asked for guidance regarding representation of candidates for re-election at the "Coffee with Commissioner" programs. There was consensus Commissioners who were candidates for re-election could continue to host "Coffee with Commissioner" programs.

4. Status Report for Commission Items

Commissioner Drohlich pointed out information requested by Commissioners for later reports or discussion had a tendency to die due to so many things that came before them. He suggested the items be included on all workshop agendas to be discussed and eventually resolved. Mr. Roberts reported status reports were being implemented on the computer in this regard.

Mayor Brown requested background information be provided new Commissioners for those workshop items revisited, as an important aid in discussions.

5. Town Hall Flag

Commissioner Drohlich stated it was very dark whenever he came to Town Hall in the evening; he suggested lights be installed so the flag could remain up day and night.

There was consensus lighting be installed in order that the flag remain up at night.

6. Status Reports for New Commissioners

Commissioner Green suggested a status report of progress on certain problems be formalized. He also suggested labeling or numbering items in order that new Commissioners could avail themselves of the history. Town Clerk Arends confirmed that minutes of Commission

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meetings and workshops were indexed to track items discussed. Vice-Mayor Farber suggested an orientation program be held for new Commissioners to discuss the background of current items. Commissioner Green stated editorializing could become a problem. Mayor Brown suggested a briefing packet be prepared for each meeting for the new Commissioners. Commissioner Patterson stated when he was elected, he received useful and objective background information from the Town Manager, the Town Attorney and Town Clerk.

7. Channel Markers at Lighthouse Point

Vice-Mayor Farber asked whether channel markers had been placed in New Pass near Lighthouse Point. Commissioner Patterson stated he was informed by Public Works they had not been installed; it was the responsibility of the Department of Environmental Protection to approve them and of the Florida Marine Patrol to install them.

8. Colony Beach Resort Pier

Vice-Mayor Farber asked if Advanced Technology & Management had made a negative opinion on the Colony pier. Mayor Brown stated the Town had received only informal opinions; therefore, a formal position was needed. Mr. Persson stated ATM would not provide an opinion unless a sophisticated study was done. He stated the Colony had made application to rehabilitate the groin. Mayor Brown asked if the Town could intervene in that process, as was done in other instances, and ask the State to require the Colony to provide a study proving the pier would have no adverse effects (on adjacent properties). Mr. Persson stated if the State determined it would allow reconstruction of the groin, that would require the Town to amend the permit, which would open up the opportunity for the Town to appeal; if the Town were not in agreement with that proceeding, that would be the time to join the appeal process. He stated if the State denied it, the Town would not have to bear the cost of obtaining the report and following through with it. Mayor Brown asked why the Town would have to bear the cost when the Town had had to pay for studies showing the sand would do no damage when people applied against the Town. Mr. Smally stated the Colony would have to prove the effects and may have to mitigate with sand and take other measures, or they would not get a permit.

Vice-Mayor Farber stated the Commission represented the Colony as well as all others in the Town and should take a strong proactive position one way or another.

Commissioner Drohlich stated if the State required a study, the Town should not go to the expense of doing it. Mayor Brown suggested waiting until the State report was obtained; then the Town's consulting engineer should be asked to review it. Commissioner Green asked why a compromise had never been worked out, such as replacing the groin with a pier. Commissioner Patterson asked when the State would be making a decision because of the potential impact. Mr. Persson agreed the Town should take a proactive position, get the study now and take it to the State. He stated it was a dispute between the State and the landowner to see

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if the issue could be resolved; if it was, the Town would be out of the issue. He stated he had \$25,000 from the Colony in the State court action, which represented the difference between the cost to remove the rocks and remobilizing them. He reported the Colony had made application at the end of October.

Mayor Brown stated the Town should wait to see how the case progressed; if it became a question of time the Town could step in. He stated when the ruling was made, it should be studied closely and immediately so no time would be lost.

Commissioner Drohlich stated the problem with the Colony's neighbors may be more one of communication; therefore, perhaps Mr. Roberts could inform the neighbors of the procedure, the status, and the State's position; when the State made its decision, that could then be communicated to them. Mr. Persson stated when the lawsuit was filed to obtain an injunction pursuant to the Commission's determination, a copy was sent to adjacent property owners who had various feelings concerning the impact of the groin.

Mayor Brown stated the Commission, representing the entire Town, should not take an official position without first preparing themselves. He stated if they did, they would lay themselves open, not only in this case but cases that were far more significant, possibly establishing a case of prejudice. He suggested the Town wait and see what the State decided and inform the property owners very carefully of the decision of the Commission.

Mr. Roberts reviewed the history of events, stating the Town took the position that it was an issue between the Colony and the State, and the Town was not a part of it except the Town was operating under the permit that required derelict structures to be removed throughout the entire beach. He stated they indicated they would like to have a Town position; the Town had not responded to it and there was no indication the Town was going to change its position, and had not changed its position.

There was consensus that Mr. Roberts and Mr. Persson discuss the situation for a report at the 12-16-93 Regular Workshop.

9. Liaison for Recreation Center Board

Commissioner Metz reported as Commission liaison for the Recreation Center Board for several years, he listened to the Board discuss problems and prepare fund raisers and was aware of all the efforts they had made to provide active recreation on the island. He commended Albie Frank for all his efforts and statesmanship in negotiating the Agreement with the Town.

XVII. Public to be Heard1. Recreation Center Comments

Albie Frank, President of the Recreation Center Board, expressed his appreciation for all Mayor Brown had done for the Town and urged him to run for re-election.

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He expressed appreciation to the Town Commission for approving the Agreement for the Rec Center. He also thanked Commissioner Metz for his attendance at the Board meetings, providing help and input.


Vice-Mayor Farber stated when the Board asked Sarasota County to take over the Rec Center, this gave the Commission the push needed to take on the responsibility. He stated, in addition, the Durante Park would never have been created had that not taken place.


2. New Tennis Courts

Kit Fernald, 5920 GMD, Former Mayor, congratulated the Commission for "paying attention at last" to a minority of people on the island who did not have the availability of recreation facilities. She suggested the Recreation Element of the Comprehensive Plan be reviewed because the Town was "behind schedule". She stated the Commission should consider locating some of the tennis courts to a more centrally located area of the Town.

XVIII. Press to be HeardXIX. Adjournment

The Meeting was adjourned at 8:25 P.M.

  
James P. (Jim) Brown, Mayor

  
Patrizia Arends, CMC/AEE, Town Clerk  
Norma Celentano, CMC/AEE, Deputy Clerk