

CITY OF TREASURE ISLAND, FLORIDA
BOARD OF COMMISSIONERS MEETING MINUTES
April 21, 2009

The meeting was called to order at 6:03 p.m. by Mayor Minning.

A. PLEDGE OF ALLEGIANCE: Led by Mayor Minning

B. ROLL CALL:

Mayor Bob Minning		Present
Commissioner Phil Collins – Vice Mayor	District 1	Present
Commissioner Ed Gayton	District 2	Present
Commissioner Carol Coward	District 3	Present
Commissioner Alan Bildz	District 4	Present

C. PUBLIC COMMENTS:

None

D. APPROVAL OF MINUTES:

The minutes of the March 17, 2009 meeting and workshop, March 19, 2009 special workshop, March 26, 2009 special meeting, and April 7, 2009 meeting and workshop are available for approval. It was moved by Commissioner Bildz and seconded by Commissioner Gayton to approve the minutes as printed. Upon roll call the vote to approve was unanimous.

E. ITEMS OF BUSINESS

1. Consideration of Res. 09-21, Acceptance of a Donation From the Treasure Islettes Trust

It was moved by Commissioner Gayton and seconded by Commissioner Collins to approve the resolution as read.

Nancy Welker spoke regarding the Joanne Greene Endowment Fund. The Treasure Islettes would like to donate the proceeds of that fund to the City for the planting of flowers downtown. Also present to represent the Islettes was Maudie Gurak, Linda Tyler, Millie Fant, and Carla Smith. Mayor Minning thanked the Islettes for their continued support.

Upon roll call the vote to approve was unanimous.

2. Consideration of Ord. 09-03, Definition of Tourist Dwelling (Second Reading and Public Hearing)

It was moved by Commissioner Bildz and seconded by Commissioner Coward to approve the ordinance as read.

The public hearing was opened by Mayor Minning at 6:09 p.m.

Ethan Loeb from the law firm of Brickelmeyer, Smolker, and Bolves spoke. He was representing his client, Gulf Coast Recovery. At this time a letter was distributed from Attorney Loeb to the Commission and City Clerk. Mr. Loeb stated that for the past four years Gulf Coast Recovery has been involved with a lawsuit against the City of Treasure Island. We are currently set for trial in November. It is clear that this proposal is not what you are being told by your staff to clarify an omission that was made when the definition of tourist dwelling was originally enacted. One of the focal points of the lawsuit was whether or not the definition of tourist dwelling was applicable to the residences that were at issue. Some of those residences were multi-family and they fell outside of the definition and that was a central point to the 11th Circuit's decision in deciding that the reasonable accommodation claim that his client had made was reasonable, and that the only issue left at trial is one of necessity that the court will deal with. He reviewed the minutes last night. The stated reason for amending the tourist dwelling definition was an alleged Scribner's error, according to your staff. Apparently the intent was to include multi-family dwellings in the definition. The letter that you were handed has an attachment with some of the legislative history. Staff has ignored the legislative history and has misled you into believing that the original drafters intended to include multi-family in that definition. If you look at the legislative history, in the early 1980's the City of Treasure Island decided to embark upon a procedure that would define a tourist dwelling and to preclude that in single family homes in single family residential zones. Look at the legislative history in the minutes that were approved back then and are similar to the minutes that you approved earlier in this meeting. He then read an excerpt from the discussion of the definition of tourist dwelling. It is very clear that the portion that was just read to you was the legislative intent of the drafters of the ordinance. The legislative history that is on file that gives any indication whatsoever that the definition was designed to include multifamily dwellings is very clear. I feel it is my duty as the attorney for Gulf Coast Recovery and Matt Schwarz to inform you of this. The letter is asking you for reasonable accommodation. They are further asking you to adopt the definition of tourist dwelling would "mean a single or multi-family dwelling that does not provide living accommodations to individuals who are recovering from alcohol or illegal drugs which is used as a tourist dwelling". It is clear that they intended for it to include multi-family dwellings, it is very clear that it was not to include residences such as those that provide services to his clients. We would request that you simply not approve this. The alternative would be for you to send this back to staff to make an amendment to the definition as he has asked in the letter. This is not a threat. This dispute has been going on for four years and a lot of time and money has been spent. All this is going to do is further inflame the relationship between these two parties.

The public hearing was closed by Mayor Minning at 6:18 p.m.

Ms. Kiefer stated that we were not there when the original framers of the ordinance passed this. Regardless of what the original framers intended, it is her understanding after listening at LPA hearings there is no one reason for anyone to pass this Scribner's error. We believe that is one of the things that were referenced. The other thing is to preserve the neighborhoods, including those in RM15, as well as protection of the health, safety, and well being of the community. A lot of things were considered in amending this, not just to correct a Scribner's error. Mr. Loeb's comments only cover one aspect of the process. She recommended that in their third "Whereas", they add "in addition to other findings," in order to clarify the reasons. In the last "Whereas" she

suggested adding after “elements thereof, “, including, but not limited to, the preservation of the character of the city’s neighborhoods, and the protection of the health, safety and welfare of the community.” Mr. Loeb put a letter in front of us tonight entitled Reasonable Accommodation Request. Apparently he wants you to carve out an exception to the definition for his clients. Everyone is welcome to live in Treasure Island. We have never attempted to discriminate against the disabled and the court found that to be the case. We have said since day one that their clients were welcome to live here. We simply ask that you don’t rent more than six times per year. We were provided 72 leases. No one has ever said that they can’t conduct business here. We simply ask that they abide by the current zoning regulations. Our zoning scheme is designed to have an orderly progression of neighborhoods.

Commissioner Bildz asked if this ordinance was meant just for Gulf Coast Recovery. Ms. Kiefer stated that it is not. The court pointed out that the definition of tourist dwelling did not include multi-family dwellings. When we looked at companion definitions this was not consistent. Nobody has asked for anything different in the RM15 zone. Commissioner Bildz stated that as long as it is not just for Gulf Coast Recovery he moved that they make the changes recommended by the City Attorney. The motion was seconded by Commissioner Collins.

Mr. Loeb objected to the suggested changes and stated that they needed to start the process over in order to make changes. Ms. Kiefer stated that these changes do not change the general intent of the ordinance and therefore can be allowed.

Upon roll call the vote to approve the amendment was unanimous. Upon roll call, the vote to approve the ordinance was unanimous.

3. Consideration of Res. 08-105, Final Plat Approval, 11908 Gulf Blvd.

Ms. Rosetti stated that the applicant has not completed all of the required items in order to bring this item forward. They will be submitting it very soon. This is a voluntary plat. They agreed to do this at staff’s request, and they have one year from the October Planning Board meeting to finalize this. She recommended that this be deferred until they are ready to go, which should be this summer. They will renotify everyone at that time.

It was moved by Commissioner Bildz and seconded by Commissioner Coward to defer this until the applicant is ready.

Commissioner Gayton asked why we have not heard from the applicant. Commissioner Bildz stated that if we defer this we do not need to hear from the applicant until he is ready. Ms. Rosetti stated that she felt it was best to defer this.

Upon roll call the vote to approve the motion to defer was unanimous.

4. Consideration of Res. 09-14, Transportation Engineering Services Contract

It was moved by Commissioner Bildz and seconded by Commissioner Coward to approve the resolution as read.

Commissioner Collins stated that there is no reference to the length of the contract. Mr. Murphy explained that these contracts can run for any length of time, so it is up to the city. They also have termination clauses so the city can terminate them at any time that they choose. Commissioner Collins asked about the length of the current contract. Mr. Murphy explained that the old contract is much looser than this one, and he feels that this one is more rigorous and more formal.

Upon roll call the vote to approve was unanimous.

5. Consideration of Res. 09-15, Interlocal Agreement with St. Pete Beach For Recreation Facilities

It was moved by Commissioner Bildz and seconded by Commissioner Coward to approve the resolution as read.

Commissioner Collins stated that he wants to ensure that our Southwest Little League won't have a problem. Ms. Hayduke stated that leagues have already started and there have been no problems.

Commissioner Gayton asked Ms. Hayduke to explain the benefits to our residents. Ms. Hayduke stated that our residents would be able to use the St. Pete Beach facilities and classes at the resident rate, and the residents of St. Pete Beach would be allowed the same privileges here. Commissioner Coward asked if that would include Treasure Bay. Ms. Hayduke answered in the affirmative.

Upon roll call the vote to approve was unanimous.

6. Consideration of Res. 09-22, Planning & Zoning Board Appointment

Commissioner Gayton stated that there has been one vacancy on the Planning & Zoning Board, and he has received a resignation this week for a second seat.

It was moved by Commissioner Gayton and seconded by Commissioner Collins to approve the resolution appointing Cheryl Ellsworth and Rita Fine to fill the two vacancies. Upon roll call the vote to approve was unanimous.

7. Consideration of Res. 09-16, Suncoast League Delegate Appointment

It was moved by Commissioner Bildz and seconded by Commissioner Collins to approve the resolution appointing Commissioner Gayton as the voting member and Commissioner Bildz as the alternate member. Upon roll call the vote to approve was unanimous.

8. Consideration of Res. 09-17, Tampa Bay Regional Planning Council Delegate Appointment

It was moved by Commissioner Bildz and seconded by Commissioner Gayton to approve the resolution appointing Mayor Minning as the voting member and Commissioner Coward as the alternate member. Upon roll call the vote to approve was unanimous.

9. Consideration of Res. 09-18, BIG-C Delegate Appointment

It was moved by Commissioner Bildz and seconded by Commissioner Gayton to approve the resolution appointing Commissioner Collins as the voting member and Mayor Minning and Commissioner Coward as the alternate members. Upon roll call the vote to approve was unanimous.

10. Consideration of Res. 09-19, Beach Stewardship Liaison Appointment

It was moved by Commissioner Bildz and seconded by Commissioner Collins to approve the resolution appointing Commissioner Bildz as the voting member and Commissioner Gayton as the alternate member. Upon roll call the vote to approve was unanimous.

F. ADJOURNMENT

The meeting was adjourned by Mayor Minning at 6:43 p.m.