

**CITY OF TREASURE ISLAND, FLORIDA
BOARD OF COMMISSIONERS WORKSHOP MINUTES
March 2, 2010**

The workshop was called to order at 7:58 p.m. by Mayor Minning.

I. DISCUSSION ITEMS:

1. Discussion of a Request By Land's End Community Association, Inc. to Designate the Beach Adjacent to the Property as a Swim Zone (Requested by Commissioner Bildz)

Commissioner Bildz explained that he was written a letter by the President of the Land's End Community Association requesting that a swim zone be designated in front of their property. He commented that they have done that at the request of other businesses and property owners, and hopes that they can accommodate this association as well.

Photographs of the requested area were shown. Mayor Minning clarified that currently that area is a slow speed area that allows boats to come up onto the beach.

Mr. Surrey, President of the Land's End Community Association, was present to take questions.

Commissioner Bildz asked if this would include the area around Mansions. Mr. Surrey answered in the affirmative.

Commissioner Coward asked how much boat traffic there was in that area. Mr. Surrey explained that at this time of year it is quiet, but during the summer it is probably one of the most populated areas for boats.

Commissioner Gayton asked if Mr. Surrey could provide a letter from the Mansions by the Sea association as well. Mr. Surrey stated that they have recently changed presidents, and he will get something from them.

This item will move forward to the next meeting agenda with the condition that a letter be received from the Mansions by the Sea association.

2. Consideration of Request for a License Agreement to Construct a Dune Walkover on the Public Beach in front of the Sunset Vistas Condo Hotel on the Gulf

Mr. Silverboard explained that paperwork has been submitted for a permit to replace the existing dune walkover. He has a permit from DEP. Most of the walkover is located on the public beach. Because of that they would need a license agreement from the city. They were ready to go when they found out that they needed a license agreement, so have requested it. He has visited the structure and found it to be in very poor condition and needing to be replaced. They asked that they be permitted to construct the new dune walkover with the understanding that they will apply for and get a license agreement. If for some reason the Commission declines to enter into such an arrangement they would have to

remove the structure. If the Commission chooses to move this forward the City Attorney will have a license agreement for the next meeting.

Commissioner Bildz stated that he was involved in the construction of this building. It was built knowing that they would eventually have to add this structure. It is one of the most beautiful hotels on the coast and he recommends that they allow this license agreement. Mr. Silverboard explained that the reason this one was not included in the reconstruction project last year was because this one primarily services the hotel guests.

Commissioner Coward asked if we agreed to issue a license agreement would it prohibit the public from accessing the beach in that area. Mr. Silverboard stated that typically our license agreements allow for public access. Commissioner Coward stated that there is a café on the property that is open to the public. Mayor Minning explained that when they built the hotel they planned on constructing this walkover. They now have it in their budget and are ready to move forward. Mr. Silverboard stated that we asked Nicole Elko if we could include that in our project and we were told that we could not. Commissioner Gayton asked who would be responsible for the maintenance and insurance of the walkover. Ms. Kiefer stated that we would be responsible for what is on our portion, and they would be responsible for what is on their portion. Commissioner Collins stated that it would be very confusing in the event of a trip and fall. Ms. Kiefer stated that it should be made very clear in the license agreement.

John Burke stated that he wanted to be sure that the liability was covered on this. It is primarily on city property, but starts at their property line. He wants them to have liability insurance covering the city. Ms. Kiefer stated that Mr. Burke is correct and she has that covered in the agreement. She wants to ensure that we limit liability limits to the \$100,000 that we currently have.

Commissioner Gayton asked how we would move it forward and who would be liable. Ms. Kiefer stated that we would include their liability in the license agreement. Commissioner Bildz asked who would be liable for the existing structure. It was agreed to allow them to assume the liability as it will be mostly their guests that will be using the structure.

This item will move forward to the next meeting agenda. Sunset Vista will be issued a letter stating that they can move forward contingent upon being issued a license agreement.

3. Consideration of Resolution 10-17, Request by the Treasure Island Chamber of Commerce to use the Treasure Island Community Center Park on April 11, 2010 for A Taste of Treasure Island Celebration and Trade Show.

Dominique Reiter introduced Jo Massaro, who is on the Board of Directors of the Chamber, and is the co-chair of this event. It will be a family oriented event. The idea is to showcase the restaurants and businesses of Treasure Island.

Commissioner Gayton stated that he thinks it is a great idea.

Commissioner Bildz stated that this is a great idea, but asked why they are trying to move so quickly on this. Ms. Reiter stated that they just passed two weeks ago the resolution allowing them free use of the Community Center. She explained that they are not limiting it to just businesses in Treasure Island. They are trying to get people into Treasure Island.

Commissioner Bildz asked how the city normally handles requests for police coverage. Mr. Silverboard stated that it is according to what we feel that they need. We don't feel that they will need it for this event.

Ms. Reiter stated that they have a great committee and the businesses are all behind it.

This item will move forward to the next meeting agenda.

4. Discussion of Matthew Schwarz, Gulf Coast Recovery, Inc v. City of Treasure Island.

Ms. Kiefer asked that this be placed on the agenda as the public may be interested in the results of this case. She will answer whatever questions that she can after her brief presentation. She then gave a presentation on the history of the case, which started in 2005. Ms. Kiefer explained that the trial was split in two parts. Had the jury found in favor of the city there would be no need for the second trial on the issue of damages. They are asking for reasonable attorney's fees and other damages.

There have been some major victories in this case. We have protected the RU75 district, which has an effect on the entire country. We were able to defend and prevail on claims of discrimination. We are still in litigation. It would be up to the insurance company if they want to file an appeal to the US Supreme Court. Once the jury makes a decision on damages an appeal could be made. She has not received an answer to that question. If the insurance company does not want to pay for an appeal and the city wants to appeal it would be at the expense of the city. The insurance company has covered the legal costs thus far.

Commissioner Gayton asked why the question went from "Was it necessary for recovery?" to "Was it meaningful for their recovery?". Ms. Kiefer explained that it was not her decision but was the decision of the insurance company's attorney. The jury was given specific instructions. Commissioner Gayton stated that he was very disappointed that when seven people listened to dueling experts the word necessity was never mentioned during the trial. Commissioner Gayton asked what would happen if the damages were over the \$5 million cap. Ms. Kiefer explained that the City would be responsible for anything over and above the cap. The cost of our defense is not included in that cap. That is covered by the insurance company. Commissioner Gayton asked if we have any indication of what they are seeking in damages. Ms. Kiefer stated that he claimed a total of \$6.5 million about a month ago, but this will go to trial. The city would be responsible for anything over \$5 million. Commissioner Gayton asked about what would happen in the event of an appeal. Ms. Kiefer explained that it would be the decision of the insurance company whether they will pay for an appeal or not. Commissioner Gayton asked if the insurance company wants to appeal, who would cover any difference over the \$5 million. Ms. Kiefer stated that we would have to come to an agreement if we were concerned that the appellate attorney's fees could bring us over the \$5 million. Commissioner Gayton stated that what disappoints him the most was that he doesn't feel like the commission had a discussion with the attorney that was provided to us by the Florida League of Cities. Before there is any more liability imposed upon the city he hopes that they would do so in an executive session. Ms. Kiefer explained that it is very restrictive what they are allowed to discuss in executive session. The only things that would be allowed would be a settlement, or a decision to expend funds. Since neither of those things were applicable there was no reason to do so. Ms. Kiefer stated that there were many opportunities for the Commission to attend hearings and other meetings and they did not do so.

Commissioner Coward asked where we stand as to Mr. Schwartz's ability to continue to operate. Ms. Kiefer stated that we still need to wrap this up based on the jury verdict so she would like to refrain from answering that question. She has asked the same question and is waiting for an answer. He has never stopped operating. She never proceeded to seek an injunction so that he could not claim damages.

Mr. Silverboard clarified that the judgment is not limited to Mr. Schwartz operating in those four houses, but instead allows anyone to operate for recovering addicts in that area. He asked if they should consider some changes in those areas. Ms. Kiefer stated that it is premature to consider zoning changes at this time. Ms. Kiefer stated that it is possible to ask the court for a declaratory judgment based on our revised definition of a tourist dwelling. This situation is going on all over the country. It has gone from equal treatment to preferential treatment. The Fair Housing Act is just blowing up. Commissioner Gayton stated that that has been going on since before the Schwartz case. Ms. Kiefer stated that on the issue of necessity we could not find one single case, so this is truly a landmark case that will affect the entire country.

Commissioner Bildz asked if the League did not want to appeal and the city decided to appeal outside the insurance company, would they still be required to pay the \$5 million. Ms. Kiefer answered in the affirmative. Commissioner Gayton asked if the cost of defense is included in the \$5 million. Ms. Kiefer explained that the \$5 million is only for the damages and the defense costs are separate from that.

II. OLD BUSINESS:

Commissioner Gayton asked if there are costs covered by our insurance company for the St. Petersburg case. Ms. Kiefer explained that there are no damages, and we are putting the estimated costs in escrow to be paid in the event that we lose the case. Commissioner Gayton clarified that our obligation is to pay for our attorney fees. Ms. Kiefer answered in the affirmative and stated that St. Pete could ask for their attorney fees.

III. CITY MANAGER/CITY ATTORNEY REPORTS AND COMMENTS:

Mr. Silverboard provided the Commission with a memo regarding the central beach area maintenance activities. Mr. Murphy gave an explanation of where they were on this at this point. He stated that there have been concerns about the area of maintenance around the sand wall. He had a meeting with Mr. West, who gave him guidance on what we would be allowed to do. His memo details the activities that they asked to perform, and what they will be allowed to do. The significant dune structure will require a permit. This will require an engineer and submittal of drawings, surveys, and property descriptions, among other things. The permit approval will take about 90 days. Mr. West suggested that we get Dr. Subbuswamy involved early on to ensure that we submit the correct documents. If we are going to replace the wall and beach trail we would need permits to do so. Mr. West suggested that we do it all at the same time.

Commissioner Gayton asked about the mechanical raking in the area that dunes are starting to grow together. Mr. Murphy explained what that meant. Mr. Silverboard explained that there was no problem with raking between dunes that allowed for ten feet around each. Commissioner Gayton asked about the allowed areas for wall maintenance. Mr. Murphy explained that we would be allowed approximately ten feet from the wall to allow for maintenance. We would need

to have a landscape architect assist us with those plans. He will provide them with a copy of the permit application.

Commissioner Coward clarified that what we have to do is the same as what we would have to do if we were to replace the wall. Mr. Silverboard answered in the affirmative. Commissioner Coward suggested that we get started on the plan to replace the wall now. Mr. Murphy explained that the 90 day permit time was the minimum, and could be longer if there are public comments. Commissioner Coward stated that it is in our best interest to present a complete package. Let's develop a plan for what we want to see in that area. Mr. Silverboard stated that there would be a joint workshop with the Commission and Beach Stewardship Committee to start that process.

Commissioner Gayton clarified that there were no objections to removing the sand on the east side of the sand wall. Mr. Murphy answered in the affirmative and added that we would have to transplant the protected species of plants. Mr. Silverboard commented that there was a similar situation at the St. Pete Municipal Beach, and there wasn't an issue with it. Mr. Della Pia has many customers along the beach, and he knows what requires an excavation permit as opposed to a raking permit.

Mr. Murphy stated that they have started some of the allowed items, and are waiting for the field permit. He will report back to the Commission at a later date.

Mr. Silverboard stated that this is Commissioner Gayton's last regular Commission meeting. He said that it has been a pleasure working with him and knows that he has the best interest of the community at heart. He will be missed. Commissioner Bildz stated that he agreed with Mr. Silverboard.

IV. REPORTS & COMMENTS BY COMMISSIONERS:

Commissioner Collins reported on the BIG-C meeting. There will be group sales for a Rays game. They also discussed the census.

Commissioner Collins gave a reminder of the Isle of Capri St. Patrick's Day dinner.

Commissioner Collins offered to speak to any condo associations.

Commissioner Gayton reported on the Isle of Palms annual garage sale to be held this Saturday.

Commissioner Coward reported that Paradise Island is having a work day on April 24th. She asked that people come out to help beautify Paradise Lane. They will be doing some painting on their structure. They will be selling beer at the movie that night.

Commissioner Bildz reported that the Library's Food for Thought event was very successful.

Commissioner Bildz reported that the Sunset Beach Civic Association held their annual meeting. Mayor Minning gave a State of the City Address.

Mayor Minning stated that he attended the library event and thought it was a wonderful event.

Mayor Minning thanked Commissioner Gayton for his hard work on the Commission.

V. PUBLIC COMMENTS:

VI. ADJOURNMENT:

The workshop was adjourned at 9:25 p.m. by Mayor Minning.