

The Special Meeting of the City Council of the City of Panama City Beach, Florida, and when permitted or required by the subject matter, the Panama City Beach Community Redevelopment Agency, conducted on January 9, 2014.

ROLL

MAYOR GAYLE F. OBERST

COUNCILORS:

JOHN REICHARD

RICK RUSSELL

JOSIE STRANGE

KEITH CURRY

CITY MANAGER:

MARIO GISBERT

CITY CLERK:

HOLLY J. WHITE

CITY ATTORNEY:

DOUG SALE

Mayor Oberst called the meeting to order at 4:30 P.M., with all the Council, the City Manager, City Clerk and City Attorney present.

ITEM 1 CONTINUED REHEARING OF THE REQUEST TO AMEND THE ADOPTED MASTER PLAN OF THE LA BORGATA (KELLY STREET) PLANNED UNIT DEVELOPMENT FOR PROPERTY AT 21761 PANAMA CITY BEACH PARKWAY.

The Mayor opened the Public Hearing and stated that this was a continuance of the Rehearing from November, in order to allow the City Attorney and Planner the time to do some research.

Mr. Sale said Staff had located the other two owners, one who spoke with Mr. Leonard and who consented to the application. The second owner, NashYork, who owned a majority of the land, was contacted via email explaining the situation and forwarding copies of the materials to this point. This email asked NashYork if they had a position in this matter and whether they supported or opposed the application. This week, local counsel advised the City that he had been retained by NashYork and Mr. Sale asked the Council to invite him to explain their position.

Mr. Bob Hughes, attorney with Barron & Redding, said his firm had been retained by NashYork to advise them in this matter. He explained that several of the NashYork members had done a quick and extensive review of the information available, and based on the fact that there was not definitive specific information as to what would be developed on the adjacent property, they directed Mr. Hughes to say that they would not consent to the application being approved in any form, with or without restrictions.

Mr. Sale reminded that as he had said at the last meeting, without the consent of the third owner, it was his opinion that the Council was without authority to consider the application. He said he did not think it could go further because one of the owners in a PUD had refused to consent to the application.

Mayor Oberst said it was the City Attorney's opinion that the City Council could not consider this issue. Mr. Sale added that it was because under the new Land Development Code, there was consideration at one time given in the Code to have an expressed requirement for the joinder of all landowners in an amendment to a PUD but that was no longer there. However, there were other provisions that would arrive at the same place because in considering the application, all the owners must participate. He said that plus the general law and custom surrounding PUDs indicated that this was a special zoning classification and it was designed to permit something unique and comprehensive to be done on a particular piece of property and required all of the owners to join it on the front end. It made sense to require all of the owners to join it to amend it unless the Council chose to amend the Ordinance to provide another vehicle under limited circumstances, which was beyond what he could advise tonight.

Mayor Oberst said, in light of the objection from one of the owners and the advice of the City Attorney, the City could not proceed in considering the application. She asked Mr. Sale if a motion was necessary. Mr. Sale said, if the Council accepted his advice, then nothing further was necessary.

The Mayor asked the other Council members if they accepted the Attorney's recommendation not go forward. By general consent, the Council members agreed.

Councilwoman Strange asked Mr. Sale if PUDs expired at some point. Mr. Sale explained that they expired in ten years under the new LDC unless the owners joined together to present a plan or the City sought to terminate a PUD.

Councilman Reichard asked if it would be a possible solution for all parties in this matter to create something that would be mutually agreed upon and which pleased the nearby residents. Mr. Sale said that would be perfect and the way matters stood at the moment was that the property could be developed pursuant to the Master Plan and Development Order approved by the City. At the expiration of the Development Order, it appeared the property would revert back to a more restrictive zoning and the City would then have to decide whether to leave it there or change it. The City could change it on its own or with a joint petition by the owners or a petition from one of the three owners. Mr. Sale said in his opinion, there was no action the City Council could take in this Hearing.

Mayor Oberst closed the Public Hearing at 4:40 P.M. and said the request to change the zoning of that land would not take place.

The Mayor said the Council had some concerns about the transition from the old LDC to the new LDC, and the differences of opinions between the City Planner and City Attorney. She asked for Mr. Leonard and Mr. Sale to get together and look at the LDC specifically with respect to PUDs and bring back some options for the Council to use to amend a PUD other than having all of the owners come in to apply. Mr. Sale agreed, with Mr. Leonard on the policy level and he on the legal side, and that he thought there were a number of options.

Councilman Curry said he agreed and that this issue would not go away. In the future, the original owner would be returning to Council and the City needed to be prepared. The Mayor said the City had several PUDs and this situation could arise from any of them. The Council needed to know what could or could not be done.

With nothing further, the meeting was adjourned at 4:43 P.M.


READ AND APPROVED this 13th of February, 2014.

IN THE EVENT OF A CONFLICT BETWEEN THE FOREGOING MINUTES AND A VERBATIM TRANSCRIPT OF THESE MINUTES, THE FOREGOING MINUTES SHALL CONTROL.



Mayor

ATTEST:



City Clerk