



**SPECIAL
COMMISSION MEETING
CITY OF ST. PETE BEACH**

155 Corey Avenue

Monday, June 21, 2010

12:00 PM

Call to Order
Pledge of Allegiance
Roll Call

1. Resolutions

- a. Re-consideration of Resolution 2010-19, providing for
a ballot title and ballot summary for August 24, 2010
primary election**

2. Adjournment

APPEALS

If a person decides to appeal any decision made at this hearing, they will need a record of the proceeding and, for such purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105) The City does not furnish verbatim transcripts; interested parties should make the necessary arrangements for verbatim transcripts.

Agenda Material is available for review at City Hall on the Friday preceding the meeting. In accordance with the Americans with Disabilities Act and F.S. 286.26, persons with disabilities needing special accommodation to participate in this proceeding should contact Ed Pickhardt at (727) 363-9243 no later than four (4) days prior to the proceeding for assistance.

**St. Pete Beach City Commission
Agenda Report**

Issue Considered: Re-consideration of Resolution 2010-19, providing for a ballot title and ballot summary for August 24, 2010 primary election

Date: June 21, 2010

Prepared By: Mike Bonfield, City Manager MB

Summary of Issue: On June 3, 2008, a majority of the City electors approved Ordinance 2008-10, which was submitted through the citizen initiative process, pursuant to Section 3.15 of the City Charter. The ordinance is an amendment to the Comprehensive Plan creating a Community Redevelopment District for the Downtown and Gulf Boulevard commercial districts. Upon approval of the voters, the ordinance was submitted to the various county and state agencies responsible for reviewing such amendments. As part of their review the Department of Community Affairs (DCA) sent a Comments and Recommendations letter to the City indicating that paragraph (C) on page 53 dealing with affordable housing density was not consistent with particular sections of law and agency rule, as well as a footnote was vague and unnecessary. On August 26, 2008, the City Commission approved Ordinance 2008-15 which mirrored Ordinance 2008-10 with the exceptions of the two changes recommended by the DCA.

The City has been named in numerous lawsuits concerning the adoption of 2008-15. In a recent summary judgment ruling, Judge Demers indicated he would rule the ordinance needed to be re-approved by the voters due to the aforementioned changes if the plaintiff had standing. Rather than continue to litigate this issue, Resolution 2010-19 scheduled such an election in an attempt to eliminate just one of the many items before the court. It was well understood by everyone that if the judge ruled the ballot language invalid in one of the other cases, this vote would not be effective to approve the comprehensive plan amendment.

Dr. Pyle's attorney filed legal action to remove this item from the ballot, claiming among other things that the ballot language is not consistent with State Statute and that this was somehow an attempt on the City's part to prevent the court from ruling in the pending ballot language case. The City's attorney clarified that the ballot language case was set for trial in August and the City understood that if the court invalidated the previous election based on the ballot language, this election would be invalidated as well. Judge Demers was uncertain of his legal authority to stop the election but indicated his preference was for the City to hold off on any elections concerning these matters until his ruling is made and all appeals exhausted. As the only reason the election was scheduled was to attempt to comply with what appeared to be a pending order of the judge, and the judge has now requested we hold off on the election, the City Attorneys and I recommend we remove this item from the ballot and reconsider once again in March once the outcome of the litigation is known.

Requested Motion: "I move to rescind Resolution 2010-19, removing the approval of Ordinance 2008-15 from the August 24, 2010 ballot."

Attachment: Resolution 2010-19, as amended on 6/8/2010

RESOLUTION 2010-19

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA; PROVIDING FOR A BALLOT TITLE AND BALLOT SUMMARY FOR AUGUST 24, 2010 PRIMARY ELECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 3, 2008, a majority of City electors approved Ordinance 2008-10, pursuant to Section 3.15 of the City Charter, which required, at that time, referendum approval of all amendments to the City's Comprehensive Plan; and

WHEREAS, Ordinance 2008-10 proposed an amendment to the City's comprehensive plan creating the Community Redevelopment District within the City; and

WHEREAS, following voter approval of Ordinance 2008-10, the City transmitted the a comprehensive plan amendment to the Department of Community Affairs (DCA) for review required by Section 163.32465, Florida Statutes; and

WHEREAS, upon completion of its review, DCA sent a Comments and Recommendations letter to the City, pursuant to Section 163.32465, Florida Statutes. The letter indicated that paragraph (C) on page 53 of the proposed amendment did not provide meaningful standards and was contrary to particular sections of law and agency rule. Likewise, the letter advised that a footnote on page 106 of the proposed comprehensive plan was vague contrary to particular sections of law and agency rules; and

WHEREAS, on August 26, 2008, the City Commission held a public hearing on whether to adopt, by Ordinance 2008-15, the comprehensive plan amendment proposed in Ordinance 2008-10 and reviewed by DCA; and

WHEREAS, on August 26, 2008, the City adopted Ordinance 2008-15, which differed from the comprehensive plan amendment approved by the City electors on June 3, 2008, by excluding paragraph (C) on page 53 and the footnote on page 106 of the comprehensive plan amendment; and

WHEREAS, the City has been named as the Defendant in numerous lawsuits arising out of, and in connection with, the adoption of Ordinance 2008-15. The City has expended thousands of dollars in defense of these cases and has successfully defended its actions against many of the claims; and

WHEREAS, one of the remaining claims in the litigation is whether the June 3, 2008 referendum was sufficient approval from the City electors to comply with City Charter Section 3.15 because the City Commission adopted a comprehensive plan amendment that differed, however slightly, from the amendment approved by the voters; and

WHEREAS, the City finds that it is in the City's best interest to put this matter before the City electors rather than expend additional taxpayer dollars to further dispute this claim through trial, and if necessary, on appeal.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF
THE CITY OF ST PETE BEACH:

SECTION 1: The following measure shall be placed on the ballot for the
August 24, 2010, primary election ballot to be voted upon by the qualified electors of the
City of St. Pete Beach, Florida:

BALLOT TITLE:

NO. ____
REFERENDUM QUESTION

BALLOT SUBTITLE:

Approval of a Comprehensive Plan Amendment Creating a Community
Redevelopment District

BALLOT SUMMARY:

The City adopted, and the Florida Department of Community Affairs found in compliance, Ordinance 2008-15, a comprehensive plan amendment creating a Community Redevelopment District providing goals, objectives, policies, permitted uses, densities, intensities and height standards that encourage commercial and temporary lodging uses; provides green standards for redevelopment promoting energy efficiency and conservation, public beach access, evacuation requirements, and enables impact fees. Should the amendment be approved?

SECTION 2: The City Clerk shall notify the Pinellas County Supervisor of
Elections of this Resolution and provide the ballot question provided hereby.

SECTION 3: This Resolution shall take effect immediately upon its adoption by the Commission.

PASSED AND DULY ADOPTED, with a quorum present and voting, this ____ day of _____, 2010.

CITY OF ST PETE BEACH, FLORIDA, BY AND THROUGH THE CITY COMMISSION
OF THE CITY OF ST PETE BEACH

By: _____
Mayor

ATTEST:

By: _____
City Clerk