



COMMISSION SPECIAL MEETING CITY OF ST. PETE BEACH

155 Corey Avenue

Friday, October 14, 2011

9:00 AM

Call to Order
Pledge of Allegiance
Invocation
Roll Call

1. Action Items

- a. Authorize the City Attorney to stipulate to dismissal of the SOLV and City of St. Pete Beach v. Pyle, Case No. 2D11-502 (2nd DCA) in exchange for each party assuming its own costs and fees.**
- b. Authorize the City Attorney to approve stipulations dismissing Kadoura and McCormick v. St. Pete Beach, Sixth Judicial Circuit Court Case No. 08-10818-CI-19; and Pyle v. City of St. Pete Beach, Sixth Judicial Circuit Court Case No.: 10-9115-CI-13**

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 Public Services 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: Authorize the City Attorney to stipulate to dismissal of the SOLV and City of St. Pete Beach v. Pyle, Case No. 2D11-502 (2nd DCA) in exchange for each party assuming it own costs and fees.

Date: October 14, 2011

Prepared By: Michael P. Bonfield, City Manager

Summary of Issue: The City Attorney request discusses the dismissal of these three cases with the City Commission.

Requested Motion: “I move to authorize the City Attorney to stipulate to dismissal of the SOLV and City of St. Pete Beach v. Pyle, Case No. 2D11-502 (2nd DCA) in exchange for each party assuming it own costs and fees.”

Attachments: October 6, 2011, City Attorney memorandum

MEMORANDUM

TO: Honorable Mayor Steve McFarlin and
City Commissioners for the City of St. Pete Beach

FROM: Michael S. Davis
Susan Churuti
Suzanne Van Wyk

DATE: October 6, 2011

RE: Comprehensive Plan Litigation and Settlement Proposals

- SOLV and City of St. Pete Beach v. Pyle, Case No. 2D11-502 (2nd DCA)

Dr. Pyle has made a proposal to the City related to the litigation in which he challenged the ballot titles and summaries voted on in March, 2008 (the ballot challenge). He proposes to withdraw his pending motions for sanctions in both the trial and appellate courts and bear his own costs in exchange for the City dismissing its appeal of the Final Judgment in that case. Essentially, the City dismisses the appeal and the parties bear their own costs and fees.

If the appeal is dismissed, the circuit court's order invalidating the ordinances adopting the comprehensive plan and land development regulations becomes final. The City has already readopted the comprehensive plan and moved on to further amend and refine it. City staff is preparing the land development regulations for review by the Planning Board on October 26, with presentation to the City Commission in November.

Dr. Pyle seeks administrative costs of \$24,067.50 in the circuit court litigation. We estimate he is entitled to only \$2,739.00, if that much.

Dr. Pyle also seeks attorneys' fees and sanctions for the City's alleged misconstruction of the law and facts to the court during discovery and at trial. The amount is unknown, but the motion indicates that the case need not have gone to trial but for these misrepresentations, and that tens of thousands of dollars were spent over a three-month period. A hearing on this motion is set for November 4th.

Honorable Mayor Steve McFarlin and
City Commissioners
October 6, 2011
Page 2

Similarly, in the appeal Dr. Pyle seeks attorneys' fees and sanctions on the same basis. Again the amount is unknown. No hearing is set as the appellate courts do not generally conduct motion hearings. The offer expires on October 12, 2011 at noon.

SOLV is also an appellant in the case and would need to also agree to dismiss. We have communicated with SOLV's attorney, Mr. Lincoln.

Recommendation: Accept the offer and prepare to voluntarily dismiss the case effective the date of the adoption of new land development regulations for the Large Resort and Town Center Core zoning districts. The City should not continue to incur costs associated with defending the 2008 ballot language, especially since the voters repealed the referendum requirement. The chance of losing the fees motions is remote, but the City can eliminate them with the dismissal of the case.

As you are aware, Bruce Kadoura, has reached out to Commissioner Parent to explore settlement of his outstanding cases. As discussed at your last meeting, Commissioner Parent requested that the plaintiffs dismiss some of the pending actions in a show of good faith. In response, Mr. Weiss offered to sign stipulations of dismissal in the following cases with all parties bearing their own costs and fees:

- Kadoura and McCormick v. St. Pete Beach, Sixth Judicial Circuit Court Case No. 08-10818-CI-19 - the land development regulation challenge. The Plaintiffs allege that the land development regulations are inconsistent with the comprehensive plan and other bases. There are no motions pending in this case.
- Pyle v. City of St. Pete Beach, Sixth Judicial Circuit Court Case No.: 10-9115-CI-13; this is the election challenge to the City's proposal to put the comprehensive plan and land development regulations back before the voters in 2010. Plaintiffs did not dismiss even after the City removed the items from the ballot and the case has remained pending. There are no motions pending in this case.

The stipulations for dismissal were prepared and forwarded to Mr. Weiss for signature on October 5, 2011. He has signed them and they are attached for your consideration.

Recommendation: Accept the offer and stipulate to dismissal of these cases with each party bearing its own costs and fees.

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

Issue Considered: Authorize the City Attorney to approve stipulations dismissing Kadoura and McCormick v. St. Pete Beach, Sixth Judicial Circuit Court Case No. 08-10818-CI-19; and Pyle v. City of St. Pete Beach, Sixth Judicial Circuit Court Case No.: 10-9115-CI-13.

Date: October 14, 2011

Prepared By: Michael P. Bonfield, City Manager

Summary of Issue: The City Attorney request discusses the dismissal of these three cases with the City Commission.

Requested Motion: “I move to authorize the City Attorney to approve stipulations dismissing Kadoura and McCormick v. St. Pete Beach, Sixth Judicial Circuit Court Case No. 08-10818-CI-19; and Pyle v. City of St. Pete Beach, Sixth Judicial Circuit Court Case No.: 10-9115-CI-13.”

Attachments: October 6, 2011, City Attorney memorandum