

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, March 16, 2011

6:30 P.M.

Board Member Wick announced that Chairman Oldaker and Vice Chair Brandt would not be attending the meeting and asked for a motion to appoint an Acting Chairman for the Planning and Zoning meeting. Mr. Hunsaker made a motion, seconded by Mr. Wick, to appoint Eric Yankwitt as Acting Chairman.

Acting Chairman Yankwitt said staff was advised that Chairman Oldaker, Vice Chair Brandt and Board Member Freeney would not be attending the meeting. It was the board's consensus to excuse the absences of Chairman Oldaker, Vice Chair Brandt, and Member Freeney.

I. CALL TO ORDER

Acting Chairman Eric Yankwitt called the meeting to order at 6:30 P.M. Members present were, Acting Chairman Eric Yankwitt, Lawrence Wick and George Hunsaker. Also present were Jeff Bowman, Director of Development Services, Planning Consultant Walter Keller and Town Attorney Kathryn Mehaffey. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES - Planning and Zoning Meeting of February 16, 2011

There being no additions, deletions or changes to the minutes, all voted in favor to approve the February 16, 2011, minutes as presented.

IV. PUBLIC COMMENTS

There were no public comments.

V. NEW BUSINESS

Item #1: Comprehensive Plan Amendments - Review

Review of prepared responses by Walter Keller regarding the Department of Community Affairs (DCA)

Development Services Director Jeff Bowman started with an introduction to the Review of the Comprehensive Plan Amendments and referred to his memo that was provided in the backup material. The memo indicated that the Board reviewed the proposed amendments to the Town's Comprehensive Plan on June 16, 2010 and July 21, 2010 recommending approval to the Town Commission. Following the Board's review and the Town Commission's approval on first reading of Ordinance 2010-06, the proposed amendments were sent to the Department of Community Affairs (DCA) for approval. DCA provided their written report which is referred to as an Objections, Recommendations, and Comments Report (ORC). Town Consultant Walter Keller has prepared revisions to address DCA's recommendations and will explain the proposed amendments. Exhibit 1 is Mr. Keller's response to the DCA ORC report as amended with minor revisions discussed at the March 8, 2011 Commission Roundtable meeting. The Comprehensive Plan with its supporting documents is very extensive. Exhibit 2 outlines only the pages of the Comprehensive Plan with its support documents that were revised to address DCA's concerns. Included in the backup are information maps and tables not previously reviewed by the Board and are indicated in Walter's report on page 5. The memo referenced that the second reading of Ordinance 2010-06 adopting the proposed amendments is scheduled for March 22, 2011.

Town Consultant Walter Keller explained that the ORC report is the objections, recommendations and comments report that is put out by the Department of Community Affairs. Essentially the Department of Transportation and the Department of Community Affairs are responsible for making the decisions as to what they think is important to the comp plan relative to state law or objections or comments they may get from other agencies. The plan as it was proposed went through Planning and Zoning and the Town Commission that was sent out to these various agencies for review. They came up with unique comments and then the Florida Department of Community Affairs decided these were the objections, comments and suggestions on how to address them. Mr. Keller said that there is an objection, he has to consider what can be done to address it. If there is a comment, he generally tries to do the same thing but only if it is not mandatory.

Mr. Keller referred to his Response to the ORC Report that was provided in the Board's backup material. Mr. Keller said that in the first 5 pages that shows the verbatim objection from the DCA and literally put in what their recommendation was and then added what he proposed to do to address those issues. Mr. Keller said that there were basically 5 levels of objections. The first objection was on the transportation element. Mr. Keller said that, frankly, the objection that was on the plan was not appropriate because they objected to something that was not changed which was approved two or three years prior. Mr. Keller said that he has done this for a long, long time and he has never seen this happen before and, in fact, Mr. Keller said that he did not think it was legal for them to do this. Mr. Keller talked with them and tried to see how important this was and the reviewer thought it was important to readdress this. Mr. Keller said that essentially they got a comment from the Department of Transportation that our Future Transportation Map did not have enough information and that the evacuation route did not go outside the Town limits. Mr. Keller said that he did not agree with them but he went ahead and changed the map.

Mr. Keller said that the Plan went through a major review about seven years ago and everything was changed but in the amendments that we have had since then, we do not change all of the data. We change generally the policies and objectives in the Plan. Mr. Keller referred to page 125 figure 5 that shows the new revised proposed Future Transportation Plan that addresses the first objection.

The second objection said that the Town was required by state law to put provisions in four of the Comprehensive Plan Elements to try to address Greenhouse Gas Emissions and find ways to reduce it. Mr. Keller said that it was extremely difficult for Lauderdale-By-The-Sea to have a big impact on Greenhouse Gas Emissions when the Town is already fully developed. So, he put in some policies, data, and support documents for DCA to review and they said they were not specific enough. Mr. Keller said that the policies he put in were already approved in other plans he has done for other communities that were similar to the Town. Mr. Keller said that the DCA reviews were not always consistent so he put in some new policies to make it a little bit more measurable. Mr. Keller referred to his response report on page 2 under "Proposed Revision", Policy 1.10.04 was added to the Future Land Use Element to incorporate Smart Growth strategies into the Land Development Regulations. Policy 2.5.3 was removed from the Housing Element and replaced with a policy to monitor Broward County Climate Change Task Force for applicable policies for the Town. Also, policy 2.5.6 was added to the Housing Element to incorporate Housing Smart Growth strategies into the Land Development Regulations. Mr. Keller asked the Board to refer to his response report to review the other changes that were made.

Mr. Keller said that essentially the general rule was to try to modify the Land Development Regulations of the Town within one year of Plan's adoption and address site plan review and development applications to try and make them more sensitive to reducing Greenhouse Gas Emissions.

The third objection dealt with the Coastal High Hazard Area (CHHA) and Definition. Mr. Keller said that the state law changed and it defines what was considered the Coastal High Hazard Area. Mr. Keller said that he had to modify and put into the Plan the new definition. Mr. Keller said that on the original submission, he did not make it part of the adopted Plan and actually put it in the support document which the DCA did not like. Mr. Keller said that was a valid comment. Mr. Keller said that they also changed the technical basis on determining the CHHA and recently the South Florida Regional Planning Council put out a document that changed it in Town. Mr. Keller said that he revised it a year ago and since then they have changed all of the technical reviews and so he had to revise it again. Now the changes are a part of the adopted Plan that is actually shown on the Future Land Use Map that is included in the Board's backup material. Mr. Keller said that the annexed portion of the map is shown in purple and those areas are defined as what is called the storm surge line that would be the result of a class 1 hurricane. So anything seaward of that line would be considered Coastal High Hazard Area. Now the Town actually shows less high hazard area in this revised map than was shown before. Mr. Keller said that he also added the definition to the policies and that was how the objection was addressed.

The fourth objection dealt with the Broward County School Board and the Public School Facility Element. Mr. Keller said that one of the things that happened to the Town was that the Town was told that they were no longer exempt from Public School Facility Element requirement and the Town had to enter into an Interlocal Agreement with the Broward County School Board and we had to do a Public School Facility Element. Last year a public school element was drafted and since then, they changed the standard on how they measure the public school level of service. Mr. Keller said that the element has now been totally revised and reflects the new standards of the Broward County School Board and the amended and second amended Interlocal Agreement that was recently signed by the Town.

Mr. Keller said that Town Attorney Mehaffey provided him with her comments, so he changed some of the policies based upon her review.

Mr. Keller said that he had to address several inconsistencies and there were two other areas that were changed and referred to the Natural Resource Map Series. Mr. Keller said that there was a section that said that there was no natural or native vegetation or marine resources in Town. The intent of that statement was to tell the state when they reviewed the Plan, that this was in the original Plan that was done 7 years ago and except for the beach area, the intracoastal is a canal that was man-made and there is no wet-land areas and no natural vegetation areas or mangroves and so there is no need to map any natural resources. Mr. Keller said that if you read it right now with the thought that the Town is very sensitive to the reefs and the work that the Town is trying to do to try to expand, enhance and protect the reefs, it didn't sound right and the Commission was a little concerned about that. Mr. Keller said that he revised it and except for the Atlantic Ocean, the beach area, and the off-shore marine resources, the Town has no resources.

Mr. Keller said that the last change dealt with Capital Improvement. Mr. Keller said that each year the Town is suppose to update the annual element of the Capital Improvement Element which is essentially the 5 year program. When the original document was done, this information was not available and the Town provided this recently and a new updated 5 year Capital Improvement Program was completed to meet state requirements and is listed in Table 1 and Table 2. Mr. Keller said that the Capital Improvements were not needed to meet the Level of Service requirements and the Town does not utilize *de minimis* provisions in concurrency determinations. Mr. Keller said that if he does not make these statements, they would not accept the Plan. Mr. Keller said that the *de minimis* process is used when you have a very small project that is below certain thresholds.

Mr. Keller closed his comments and asked the Board if they had any questions.

Mr. Wick referred to page 2 and asked if the CHHA (Coastal High Hazard Area) would change the CCCL (Coastal Construction Control Line) grouping. Mr. Wick commented that he thought Mr. Keller had done a great job on the report.

Mr. Keller said that the CHHA has nothing to do with the CCCL and there is no relationship between the two of them.

Mr. Hunsaker asked if there would be any affect with the storm tide zone in terms of development if a house backs up against the intracoastal canal and it is destroyed, could they rebuild?

Mr. Keller responded that because there would be such a small portion of the Town that is a factor, he did not think that it would have any impact on the Town. Mr. Keller that if it were a larger area and it was vacant land and somebody wanted to get a Land Use Plan, then that might trigger certain comments that the property would be in a Coastal High Hazard Area. Mr. Keller said that generally the state guidelines would be that they do not want you spending public monies like building infrastructure or doing public projects in an area that would be considered a Coastal High Hazard Area.

Acting Chair Yankwitt referred to XII page 19 Table 12—3: Population Broward County 1970-2035 and noted that we are expected to have 21% of the Town's population to be over age 65 by the year 2035 and right now we only have 15% yet we are still going to stay with kids under age 18.

Mr. Keller said that these figures were not Town sensitive and are county-wide numbers and these were numbers that the county provided. Mr. Keller commented that before the census was done, there were a lot of senior citizens that could not afford to live in Town so there were a lot more seniors in the county because they went to places where they could afford to live.

Acting Chair Yankwitt referred page 16 Policy 2.4.10 "Encourage employers to offer assistance in meeting the housing needs of employees who are cost burdened". Mr. Yankwitt said that he was a small business owner and wanted to know how this policy would affect him.

Mr. Keller said that this policy was done a few years back and said that one of the Plan amendments dealt with people who could not afford to live in the housing in Town. So they had to put in policies to help make housing more affordable for more of the population and that was throughout the county. Mr. Keller said he had to put that policy in to address the housing needs.

Acting Chair Yankwitt said that he understood that but the policy says to encourage employers.

Mr. Keller said that he did not know the specific program and that it might mean that employers could develop programs with their employees or possibly participate in programs that were available county-wide. Mr. Keller said that there were housing programs that were already in place for the lower income bracket. Mr. Keller said that this policy was just a suggestion and the Town probably does not have enough larger employers type businesses to make this policy feasible. Mr. Keller said that he put in this policy to try and address the requirement he had to have in the plan.

Mr. Wick interjected that it would be like the idea if the employer were the Broward Educational System, the Broward Police Department or the Broward Fire Department who would like to encourage their employers in the Town to be able to have their employees move into Town. Unfortunately, we have been hit with a recession over the last four years or so and it has gone pretty much the other way. Mr. Wick said that if our property costs go much higher, it would be very difficult to have teachers especially live in our Town. Mr. Wick said that the Town's biggest employer would be the Aruba's Beach Café unless it's the municipality itself. Mr. Wick felt that this policy was meant to get some major manufacturers to maybe help their people out in some way.

Mr. Keller said that these policies under 2.4 were put in under this objective because approximately 4 years ago we went through an evaluation appraisal report process and one of the things that the Town was identified as needing was to address the housing issue for people that could not afford housing. So, these were policies that Mr. Keller put in to satisfy the state-wide requirement.

Acting Chair Yankwitt said that the policy should describe the situation where the Police Department would promote someone to live in the Town where it works, then he would understand that. But this policy is saying that employers offer assistance in meeting the housing needs of employees. As a small business owner, Acting Chair Yankwitt felt he was already taxed enough.

Mr. Keller said that this is not a new thing and it has been in the Plan for 4 years to meet certain housing requirements that the Town had to address.

Mr. Hunsaker said that this is an example, in his opinion, that people in higher levels of government can't get their hands around the concept of a coastal community that is 2 miles long and a half-mile wide. So, they expect the Town to have policies as if we were a quarter of Broward County and to get through the system you have to put a policy in. Mr. Hunsaker said that if you had a large employer in Town who could not get enough people, the employer would be motivated to provide in some way to get affordable housing or better bus services. This is a policy to address the issue and it does not mean that you have to do it. Mr. Hunsaker said that land use cost is so high, the Town can't afford to put in low-income housing and that this policy does not mean it is an action policy.

Acting Chair Yankwitt felt that down the line, this might be connected to other policies and could pose a problem.

Mr. Keller said that if you read the data part of the Plan in V-27 it explains where these things originated and there were certain policies that were shown in the South Florida Regional Plan and in their review, said that the Town needed to address this affordable housing issue. Mr. Keller said that he took some of their own policies and put them in the Town's Plan as things that the Town would try to encourage. With that, the Town got through that aspect of the Plan. This was really done to be more supportive on regional very wide affordable housing efforts rather than happening strictly within the community.

Town Attorney Mehaffey said that this policy does not necessarily mean that employers should offer financial assistance and it could be as simple as an employer might offer an educational program or an employer being aware of programs that would be available to his employees. Town Attorney Mehaffey asked Mr. Keller if her understanding of the policy could be as broad as that rather than specifically financial assistance.

Mr. Keller said that the policy is not specific and is general. The intent could be as simple as the Town encouraging employers throughout Broward County to offer this because we might have somebody living in Town that needs help and their employer might be able to help. The whole emphasis was to try and support more area wide things rather than the Town trying to do affordable housing.

Since the board had no further comments, Acting Chair Yankwitt requested a motion from the board.

Mr. Hunsaker made a motion, seconded by Mr. Wick, to recommend that the proposed amendments to the Town's Comprehensive Plan be submitted to the Town Commission for approval. There being no further discussion on the main motion, a roll call vote was taken. All voted in favor 3 - 0

VI. OLD BUSINESS

NONE

VII: UPDATES/BOARD MEMBER COMMENTS

Mr. Wick thanked the Town for putting in more places for bike racks and parking places and said that they look great downtown. Mr. Wick said that last night he was standing on the sidewalk and got hit by an adult bicyclist. Mr. Wick would like the Police Department to look at the fact these bicyclers are spending more time on the sidewalks and if some else is hit, the Town might have a real problem. Mr. Wick wished everyone to have a great St. Patrick's Day this week.

Mr. Hunsaker announced that he was resigning from the Planning and Zoning Board effective May 1, 2011 and asked those watching this meeting on television to consider applying for the position and that the application could be obtained on the Town's website.

Mr. Yankwitt thanked for Hunsaker for his service and hoped that he would reconsider and remain on the Planning and Zoning Board.

VIII. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 7:20 p.m., March 16, 2011.

ATTEST:

Chairman Alfred Oldaker

Date Accepted: _____

Colleen Tyrrell, Board Secretary
