

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, March 21, 2012

6:30 P.M.

I. CALL TO ORDER

Town Planner Linda Connors called the meeting to order at 6:30 p.m. Members present were Alfred Oldaker, David Chanon, William Brady, Avi Braverman and first alternate Eric Yankwitt. Also present were Town Planner Linda Connors, Assistant Town Manager Bud Bentley and Assistant Town Attorney Kathryn Mehaffey. Deputy Town Clerk Glenn McCormick was present to record the minutes of the meeting. Board member W. Patrick Murphy was absent.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. ELECTION OF OFFICERS

Town Planner Connors indicated, as this was the first meeting of the newly appointed Planning & Zoning (P&Z) Board, there needed to be a Board election for the positions of Chairperson and Vice Chairperson.

Assistant Town Attorney Kathryn Mehaffey remarked the P&Z Board elected their own chair and vice chair, the chair being responsible for running meetings, and the vice chair filling that capacity in the chairperson's absence. She requested nominations from the Board.

A motion was made by Eric Yankwitt to nominate Alfred Oldaker as Chairperson of the P&Z Board. David Chanon seconded the motion. The motion carried 5-0.

Assistant Town Attorney Mehaffey requested nominations for the position of vice chair.

Avi Braverman made a motion to nominate David Chanon to the position of Vice Chairperson. Alfred Oldaker seconded the motion. The motion carried 5-0.

IV. APPROVAL OF MINUTES

a. Planning and Zoning Meeting of January 18, 2012

There were no additions, deletions or changes to the above minutes.

Eric Yankwitt made a motion to approve the minutes of January 18, 2012. William Brady seconded the motion. The motion carried 5-0.

IV. PUBLIC COMMENTS

There were no public comments.

V. TOWN PLANNER REPORT

Town Planner Linda Connors stated, before giving report, Assistant Town Attorney Mehaffey would give a brief presentation on the Sunshine Law, reminding the Board there would be a longer version on April 3rd, a date she asked Board members to mark on their calendars to attend.

Assistant Town Attorney Mehaffey reviewed Florida's Sunshine Law and Public Records law. The Sunshine Law prohibited board members from discussing matters related in any way to the business of the board outside of the public meeting forum. A meeting was considered as involving two or more members of the board, regardless of where and how the meeting took place. She pointed out this did not mean board members could not socialize or associate with each other outside the context of the public meeting; it meant when such encounters took place, any discussions should be outside the purview of the P&Z Board. Items that came before the P&Z Board centered on anything to do with land use, zoning changes, site plans, conditional uses, and other development activities, and these matter should never be discussed among Board members outside of a public meeting, including email communications, text messaging, telephone conversations or written correspondence. She indicated there were significant penalties for violating the Sunshine Law, including fines, invalidation of act taken later, etc.; if there was ever a situation when a Board member had a concern, they should contact Town staff or the Town's legal staff for guidance on the issue of concern. Assistant Town Attorney Mehaffey next spoke on the Florida Public Records Law, noting Florida Statute 119 stated any documents used by members of the P&Z Board related to their work on the Board were considered public documents. This included emails, text messages, etc. received regarding an item was considered a public record, and this applied even if the communication was on the Board member's home computer or phone; and, as it was a public record, the Board members was responsible for maintaining it. She added the record could be maintained by simply forwarding the correspondence to the Town Clerk and, as Town Planner Connors was a Town staff member dealing with P&Z matters, she too should be sent copies of any records. If any member of the Board wondered if something constituted a public record, or whether they should vote on a particular issue if they felt there might be a conflict of interest, they should contact Town staff. Most importantly, Board members should attend the April 3, 2012, training meeting where a full presentation would be given, along with written material to take home and digest; the information would be very detailed, illustrating how such rules applied to the P&Z Board.

Chairperson Oldaker urged the members of the Board to be cautious in their discussion with their fellow board members outside of meetings.

Assistant Town Attorney Mehaffey concurred, stating one place such situations often arose was when a board member received an email, and board members should never reply to an email from another board member. For emails sent to board members as a group, such as when Town staff communicated with the board, members should never respond to Town staff's email by "reply to all"; reply only to Town staff after verifying that the email was not from a fellow board member.

Chairperson Oldaker commented Town Planner Connors was one of the Board's key contacts on the Town's staff, and he encouraged members of the P&Z Board to speak to her if they had any concerns relating to the Board's duties; the situation was similar with the Town Commissioners, who had an open-door policy. He felt Board members tended not to utilize these two avenues of communication enough, and he normally met with Town Planner Connors prior to every Board meeting, and lately they had been speak frequently on various planning and zoning issues.

Town Attorney Mehaffey affirmed if after Board members received their agenda packets and found they had questions on particular agenda items, they should contact Town Planner Connors for clarification prior to the upcoming meeting, as this gave her the opportunity to conduct any necessary research or to address Board member concerns. There was no conflict under the Sunshine Law with Board members speaking with Town Planner Connors, the Town Attorneys or Town staff.

VI. NEW BUSINESS

Item #1: Proposed amendments to Chapter 30, Article I, "In General" and V Zoning.

Town Planner Connors introduced herself and again encouraged Board members to bring any concerns they had to her and she would either address them or direct them to the individual she was sure could provide an answer. She informed the Board, procedurally, the P&Z Board met the third Wednesday of each month at 6:30 p.m., and the Board's packets were sent to them one week prior to the meeting, normally on a Friday; they were usually dropped off at the Board member's homes, but if any member preferred to receive their agenda packet in an alternate manner, they should let her know. The current packet included a binder and she would drop off the inserts to the Board members' homes, as well as the Board's meeting schedule; she questioned if the Board would consider moving the June 2012 meeting date to June 27, 2012, as there was a conflict in dates. The Town's code said the Board had to meet monthly but not when in each month.

Chairperson Oldaker remarked he would have to look at his calendar to determine if meeting on June 27 was possible. Town Planner Connors asked Board members to email her and let her know if June 27 was an acceptable alternate meeting date and, based on their responses, she would adjust the meeting calendar accordingly and inform the Board via email of the new date.

She mentioned the Town Commission was in the process of amending the code as it pertained to the P&Z Board, specifically the attendance requirements of the Board. The proposed change was if a board member missed three consecutive board meetings, it would likely result in that Board member's removal from the Board; the amendment already passed first reading and the second reading would take place at the next Town Commission meeting.

Ms. Connors stated that Town staff would continue to contact Board members monthly on their attendance at upcoming Board meetings, and members were encouraged to respond to the email, so Town staff could confirm there would be a quorum at the next meeting, allowing the Board to conduct the Town's business; a reminder phone call to Board members would also be made prior to the meeting.

Town Planner Connors gave a brief history of the happenings with the P&Z Board for the benefit of the new Board members, speaking on such issues as: developing the budget and setting planning priorities for the current fiscal year, noting many of priorities had either already been implemented or were in the process of being implemented. The Town's sign code had been amended, as well as other amendments to the Town's hotel district, and Town staff was in the process of cleaning up the code, having already addressed the business districts. These actions and others on the list would be the Town planning staff's agenda for the next year, including: Priority 4 - to protect single family neighborhoods and historic resources; Priority 5 - continuation of the code cleanup; Priority 6 - the adoption of architectural guidelines; and Priority 7 - Comprehensive Plan revisions and EAR amendments. Any Board member requiring more details of any of the abovementioned priorities or other Board related matters could contact her.

Item #1: Proposed amendments to Chapter 30, Article I, "In General" and V Zoning.

Town Planner Connors stated one of the planning priorities was to examine the RM25 zoning district, the Town's hotel district, in order to implement changes to facilitate the development of new hotels, encourage the redevelopment of existing hotels and discourage the conversion of tourist units into residential use. This priority was set during the Town Commission's 2011 budget

process and was further detailed in the backup. Usually, when staff drafted ordinance amendments related to Chapter 30, those matters came before the P&Z Board first for review, after which Town staff would revise the documents based on the Board's feedback and present the document to the Commission for review and approval. The Board's decisions were advisory in nature. She reiterated Town staff presented the amendments to the Commission and they were approved on first reading; the second reading was scheduled for the Commission's March 27, 2012, meeting.

Chairperson Oldaker inquired as to how many of the Town's developments exceeded 100 units.

Town Planner Connors believed there were two at present.

Member Braverman asked about the differences regarding the definitions of a hotel versus a motel.

Town Planner Connors responded in the Town's code there was no distinction between the two uses.

Assistant Town Attorney Mehaffey explained, under the Town's Charter, the Town could not make changes that had the effect of adding to allowed uses.

Town Planner Connors concurred; hence in the Town's code the definition of hotel tells the reader to see the definition of motel.

Vice Chairperson Chanon wished to know what was meant by an apartment house.

Town Planner Connors recommended the P&Z Board read this portion of the Town's Charter and, at the next Board meeting; she would include the definitions of such uses in the Board's agenda packet. Due to the adherence requirements of the Town's Charter versus what was contained in the Town's code, Town staff had been unable to include the definitions of certain uses. Such questions were being included in the items for consideration by the Charter Review Committee. Town staff considered an apartment house in a similar fashion to a hotel.

Vice Chairperson Chanon wondered if an apartment house also referred to a condominium.

Town Planner Connors answered no; in the RM25 zoning district, condominiums were not allowed, nor were townhouses. A duplex was allowed under the new code only by a conditional use approval.

Mr. Yankwitt mentioned the requirement for 25 percent of required parking as bicycle parking, questioning the intention behind this change. It seemed to reduce the required amount of parking hotels needed.

Town Planner Connors responded Town staff surveyed many of the Town's hotels, and a significant number of their customers were longer-staying visitors, with many of them from Europe who chose not to own or rent a car. They stayed in the Town as if it were their home, walking to the supermarket and other amenities in the Town. She indicated the direction of the Commission was to devise ways to encourage redevelopment or development of new hotels, hence the reduction of the required parking for hotels, and using bicycling parking in lieu of that.

Chairperson Oldaker asked staff to explain to the new Board members the use of strikeout lines in the backup documents, asking if Town staff would continue to use color lines to indicate types of changes.

Town Planner Connors said color lines would no longer be used; they were used previously in the revision of the sign code due to the extensiveness of the changes; they were used to show what was being eliminated, added or relocated. In the proposed RM25 amendments, the changes were neither extensive nor overwhelming to follow, and for future amendments to the code, Board members would see underlines for additions, and a line through the wording or a strikeout indicating a deletion from the

code. She went on to review the subject changes in further detail as noted in the backup for the benefit of the new Board members.

Mr. Braverman wished to confirm if the conversions of motels to residential uses along Sea Grape was being discouraged under the proposed amendments; if so, why.

Town Planner Connors answered yes, and this was due to it being one of the priorities of the Commission to preserve the Town's hotel district, and they did not want to see the conversion of the hotel uses into residential uses. This did not mean a motel could not be converted as such, but the Town sought ways to encourage hotel uses to remain in the Town and redevelop their properties, as well as encourage new hotels to come to those areas of the Town that was properly zoned for such uses. She said another reason was to foster having like uses next to like uses to avoid conflicts between uses and, as this was a large part of the Town's business district, it was important to ensure such conflicts or issues arose, and the Town was doing what it could to preserve that district. She went on to inform the Board that if they went on the Town's website, there was a list of all the meetings held in the Town, including their agendas, backup, video and audio recordings; they could revisit items discussed at Board meetings if they desired, as well as watch the Town Commission meetings at which they set the Town's priorities. She used the website information as a tool, as she was new to the community and wished to educate herself on various aspects of the Town and its operation, and she urged Board members to do the same.

Chairperson Oldaker asked Town Planner Connors to explain to the Board what was expected of them at the present meeting.

Town Planner Connors pointed out the item currently before the Board was being presented for them to make a recommendation to the Commission of approval or denial based on their position after reading the backup information and hearing staff's presentation. If any Board member had any suggestions for altering the proposed amendments, they could voice them prior to giving their recommendation.

Chairperson Oldaker stated whatever decisions the Board made could be revisited, as the decisions were not set in stone.

Town Planner Connors concurred, stating Chapter 30 was the Town's zoning code, and this was the area the Board and Town planning staff focused on mostly, and it was meant to be a living document. Recommendations to amend the code did not mean further changes were not possible, as the Town and its people evolved, and so should the codes that set the standards for the Town.

Assistant Town Attorney Mehaffey clarified the meeting's procedure, stating once an item was presented to the Board, there could be public comment on the item, after which the Chairperson would entertain a motion on the item. Any member of the Board could make the motion to either approve to move the document as presented, or move approval with changes; items that were moved for approval as presented could be discussed by the Board members as to any concerns and specific changes they wished to the item. She said, with regard to any changes, the Board member voicing those changes could make a motion to amend the item to include the stated revision, for which a second was required, then further discussion of the amendment, and then a vote by the entire Board was needed to approve the amendment. After all individual issues were addressed, and the amendment(s) were voted on, there would be a vote to approve the item as presented or as amended.

Chairperson Oldaker requested staff give a further explanation of when special circumstances arose, such as that taking place at a previous meeting, where there were numerous changes, and it was found to be more expeditious to approve the motion to accept the items as presented by staff and then do another motion to amend the item with various changes done under one amendment.

Assistant Town Attorney Mehaffey affirmed this to be the case, whereby the Board would vote to approve the item as presented, and then revisions could be added with each amendment voted on separately, and a final vote to approve the item as amended

with the identified revisions. Town staff kept track of the Board's amendments and, as it was a fluid process, Board members should feel free to ask Town staff at any point in the meeting for clarification on any issue being discussed.

Chairperson Oldaker stated he tried to run the meetings less formally than the City Commission meetings, as there were much less public in attendance, and keeping order was simpler. However, to keep the record accurate with regard to who was speaking, he asked for Board members to identify themselves before speaking, particularly as this was a new Board. He indicated there were no members of the public in attendance.

David Chanon made a motion to approve Item #1 as presented. Mr. William Brady seconded the motion. The motion carried 5-0.

VII. OLD BUSINESS

There was no old business.

VIII. BOARD MEMBER COMMENTS

Chairperson Oldaker welcomed the new Board, stating he looked forward to working with them over the course of the next year.

Town Planner Connors reminded the Board that Town staff was in the process of working on the East Commercial Project between the A1A and Commercial Blvd., with renovations of larger sidewalks, public spaces and a change in the traffic patterns. Earlier in the day, Town staff and the design team met with local business owners on west Commercial Blvd. where they were in the beginning stages of changes to that area of the Town. They were also working on Bougainvillea drainage improvements, including some beautification enhancements. Some of the changes would not come directly to the Board, but she would try to keep the Board abreast of the changes taking place.

Chairperson Oldaker reminded Board members they were free to speak to Town staff at any time, but outside of the meeting forum, they were not allowed to speak to one another on P&Z Board business.

IX. ADJOURNMENT

There being no further business to discuss, Eric Yankwitt made a motion to adjourn at 7:30 p.m., March 21, 2012.

ATTEST:

Colleen Tyrrell, Board Secretary

Chairman Alfred Oldaker

Date Accepted: _____