TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING
REGULAR MEETING MINUTES

Town Commission Meeting Room
Wednesday, September 15, 2010
6:30 P.M.

I. CALL TO ORDER

Chairman Oldaker called the meeting to order at 6:30 P.M. Members present were Chairman Alfred Oldaker, Vice Chair Yann Brandt, Lawrence Wick and First Alternate Eric Yankwitt. Also present were Jeff Bowman, Director of Development Services, Town Attorney Susan Trevarthen, and Planning Consultant Walter Keller. 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

Regular Meeting of the Planning and Zoning (P & Z) Board – July 21, 2010

All voted in favor to approve the July 21, 2010 minutes as presented.

Chairman Oldaker noted there was a vacancy on the Board for a second alternate position and suggested the Board request the Commission appoint someone to fill the vacant position.

A motion was made and seconded to forward a Planning & Zoning Board recommendation to the Town Commission to appoint a second alternate on the Board. In a roll call vote, the motion passed 4 – 0.

Town Attorney Trevarthen noted when the initial appointments were made, everyone that submitted an application was appointed a Board seat, and the Commission ran out of candidates. Several months had passed, and it could be possible to recruit other persons to become Board members. Selection of Board members, according to Town Code, took place at the beginning of each new Commission being established; thus, the votes for the present P & Z Board were taken in the spring after the current Commission was sworn in.

IV. NEW BUSINESS

Project:
Applicant:
Location:
Request: (A) The Planning and Zoning Board to provide recommendations to the Town Commission to the proposed amendments to the Towns' Code of Ordinances.

Item #1. Permitted uses in the B-1 and B-1A Zoning District

Director of Development Services Jeff Bowman gave a brief background of why the subject item was before the Board. In the past, if a proposed business wishing to locate in the Town was not a permitted use for a particular zoning district, they had to go through a number of processes that might take up to three months to get the desired use into the Town's Code. At the July 14, 2010 Commission Roundtable,

direction was given to staff to broaden the use criteria in the Code, reducing the need to amend the Code to accommodate individual businesses.

Chairman Oldaker asked if on the original short list affected the types of businesses that were permitted because of the small size of Lauderdale-By-The-Sea.

Mr. Bowman felt unable to speak to the intent of prior Commissions as to the limitation of the types of uses they felt were appropriate for the Town's business zoning districts.

Town Consultant Walter Keller remarked during his work for the Town over a number of years as a consultant, he did different versions of the Town's zoning code; the Town was small, and the variety of business uses were small in number. He thought there was a desire among the Town's citizens to limit commercial businesses to uses more conducive to neighborhoods, having less impact and being more tourist oriented. Upon observation, it could be seen that the business district catered more to tourists going toward the ocean and more office commercial going west, with restaurants scattered throughout the Town. In his approach to satisfying the Commission's wish to broaden the criteria for permitted business uses, he sought to limit commercial uses to be more oriented to community-type businesses, neighborhood businesses, rather than high intensity business or industrial uses that he believed might not be conducive to the Town. He examined the codes for other cities; for example: Fort Lauderdale, Pompano Beach, Deerfield Beach in Broward County, and Delray Beach in Palm Beach County. He discovered Fort Lauderdale tended to group their uses, while other codes were less specific. Including in the Board's backup was his complete list; he limited the business uses to be those that did not include more intensive uses; that is: big box uses, etc. or highway intensive uses that might generate a lot of traffic. Uses that might have a neighborhood impact were left off the list. The aim was for the business uses to be diverse in nature, but to the extent that they caused few neighborhood impacts, as residential uses were very close to commercial businesses. He reviewed his August 23, 2010, memo contained in the backup, specifically page two where it contained a list of uses on the left-hand side of the page, and possible additional uses listed in green on the right side of the same page; the uses were grouped by zoning district. There were a few uses that could possibly be a benefit to the Town but might have impacts; these he listed as possible conditional uses.

Vice Chairman Brandt asked if there was a requested action item or some form of recommendation staff wished from the Board.

Mr. Bowman responded if the Board approved Mr. Keller's suggested uses, they would be given to Town Attorney Trevarthen's firm where they would be drafted into an ordinance form for first reading by the Town Commission.

Chairman Oldaker asked if the proposed list of added uses could be considered sufficiently all-encompassing to satisfy the Commmission's direction to staff.

Town Attorney Trevarthen was unable to say whether the Commission had a preconceived notion of what the additional uses should be; rather, they wished staff and the consultant to recommend additional uses that were suitable for the Lauderdale-By-The-Sea community. If the Board had any concerns as to the suitability of any of the suggested uses, they should voice their views, including any existing uses they felt should be deleted.

Mr. Keller encouraged the Board to add any suitable business uses they felt applied if they did not see them on the list.

Vice Chairman Brandt felt the Board, staff, and the Commission should review the list of business uses every six months to determine their status, if there were any changes, etc. Lauderdale-By-The-Sea was a family town and all parties concerned needed to be proactive with regard to the Code to take advantage of as many business opportunities as possible, keeping in mind what was best for the Town's citizens. He wished to make a motion to move the process forward with the list provided by Mr. Keller.

Chairman Oldaker inquired how the reexamination of the list at regular intervals could be incorporated in the language of the ordinance.

Town Attorney Trevarthen suggested the Board focus on what it wished to do with the list before them; the idea of having an established time period by which the list of business uses was reexamined was good. The Board could simply instruct staff to bring the matter up for discussion on its agenda, as with the applications from potential businesses being submitted for Town

staff review, there would be a level of awareness as to how accommodating the Town's business use code would be. She commented Mr. Keller's approach to the recommended additional businesses uses was correct, as she could not recommend lifting all of the uses from, for example, the City of Fort Lauderdale, as there were vast differences between the two cities, a very significant one being size. The use of planning advice and guidance from a consultant was wise, as whether or not to include a use on the recommended list was an important decision to make; all the uses on the list had different professional standards with varying impacts/demands they created. She pointed out some uses had different commercial purposes, as some were regional in nature and drew patrons from a far distance, while others catered more to the local community.

Mr. Yankwitt thought the list of uses was comprehensive but expressed concern as to some of the types of businesses, such as a tattoo parlor or an exotic lingerie store, even the definition of a massage therapist is subject to interpretation. He was unsure if the list encompassed those types of uses or were they treated in a different way.

Town Attorney Trevarthen did not see tattoo parlors among the uses listed as recommended uses.

Mr. Yankwitt queried if a use was not listed, was it understood that it was not permitted.

Town Attorney Trevarthen affirmed this to be the case, and this was the way the Code was written. Licensed massage therapists were state regulated, and it was a species of use not necessarily related to the kinds of uses mentioned by Mr. Yankwitt.

Mr. Wick requested a description of where B-1 and B-1A districts were located.

Mr. Bowman responded the B-1A zoning district was located at the intersection of Seagrape and Commercial Blvd.; it encompassed two corners.

Mr. Wick pointed out in the City's B-1 district, the list of additional uses did not mention a flower shop, and there were uses mentioned that already existed in the Town. For instance: a massage place and a barber shop; more of such uses should be limited, while others should be added as conditional uses, including: water craft sales, charter and sightseeing boats. He thought these would help, as the Town had a water basin.

Mr. Keller commented the Town was unique, in that it had some order-oriented property: the intercoastal, the beach and the area around the basin drive. He reviewed the marine type uses and was concerned about permitting heavy marine uses, due to the proximity to the residential area. If a particular use generated a significant amount of traffic and noise, whether from boats, cars, etc., this would further impact the residential area. He felt somewhat restricted in the types of uses he could suggest, noting it was hard to expand marine uses in the water basin area; there was very little parking and residential uses were so close.

Member. Wick mentioned in the basin drive area there was a yacht sales business.

Mr. Keller explained, in compiling the list of recommended businesses uses, he did not take into account all the existing uses, noting they played no part in what he looked at. He examined what uses were spelled out in the existing codes, as indicated in the memo in the backup, after which he looked at what uses the existing codes did not contain compared to other cities' codes. Some of the uses in the Town could have been approved many years prior, as there were uses that were very similar to others, and staff would analyze what might look like a new use, examine the Code and the experience within the community, and there were instances when staff could make the determination that a use was allowable or not allowable in the Town. For those uses staff felt unable to make a decision as required by the Town's general zoning and planning principles and efforts, they would seek the input of the Commission.

Member. Wick suggested bringing back the water taxi, as this would bring more tourism to the Town, and the Women's Club building, which they used only on certain days of the month might be an ideal place to use for this purpose.

Chairman Oldaker interjected the water taxi would go through canals that were purely residential. The yacht broker might occasionally take a yacht to test drive, but commercial vehicles traversing up and down the canals would be like a bus on a residential street. The residents on either side of the canal might have an objection to the water taxi.

Mr. Keller stated he saw no problem having a water taxi along the intercoastal, though some problems arose when one of the uses in Town occasionally chartered a boat for a dinner cruise, and the latter would cause impacts in the community; as after the bus dropping people off, it would sit and run the entire time it waited for passengers to return.

Town Attorney Trevarthen gave a brief review of the Town's conditional use process for the benefit of the Board members.

Vice Chairman Brandt made a two-part motion: 1) to go with the list of additional uses recommended by Mr. Keller, as well as the conditional uses staying as conditional uses, as contained in the backup. 2) He recommended the code provision got drawn up, eliminating B-1A, which he heard was duplicitous and added little value.

Town Attorney Trevarthen added the second motion would carry with it a number of things. In order to get rid of B-1A, it would have to be stricken from the Code, a rezoning would have to be done of the current B-1A properties.

Vice Chairman Brandt withdrew his earlier motion to eliminate B-1A.

Town Attorney Trevarthen clarified the motion on the floor was to approve Mr. Keller's recommendation before the Board, including the items listed in red on page three of the handout; those would be included as conditional uses.

Chairman Oldaker concurred.

Mr. Yankwitt asked if the water taxi use was being considered presently.

Town Attorney Trevarthen pointed out the listed uses for approval included charter and sightseeing boat, asking Mr. Keller if the water taxi could fit within that use.

Mr. Keller was unsure how the water taxi use was to be treated, as it functioned more like a bus. He clarified he was not vetoing the consideration of uses not included on his list, but making some uses conditional gave the Town more flexibility, and it was likely other language would be included in the Code to address conditional uses appropriately. The water taxi service might not need to be listed as a specific use, as they were not a business having no specific office situated in the Town.

Vice Chairman Brandt made a motion to approve the recommended list of uses by Mr. Keller, as set forth in the backup, seconded by Mr. Wick.

In a roll call vote, the motion passed 4 – 0.

Item #2. Amendments to Section 30-313 (31) Accessory Buildings and Structures.

Vice Chairman Brandt requested an explanation from staff as to the difference in Subsection A, specifically: accessory buildings and structures, that he might draw the difference between the items in Subsection A, B and Subsection 2.

Mr. Bowman explained accessory buildings were those that might be detached from primary buildings, such as garages, clubhouses for multifamily condominiums, etc., as detailed in Subsection A. B1and B 2 pertained specifically to sheds based on the direction given to staff by the Commission to include in the ordinance language to address sheds and removable structures.

Vice Chairman Brandt questioned how it was possible to build a garage half the height of any principal buildings containing two-family or multifamily dwellings.

Mr. Bowman responded for a single family, the structure could not exceed one story, or with a two-family or multifamily that might be a multi story building, it could not exceed half the height of the height of the structure.

Vice Chairman Brandt asked if the minimum height should be one story, and for homes containing two or more stories, the height of the structure should not exceed one story.

Town Attorney Trevarthen felt the issue could be explored further for clarity, pointing out the wording of the ordinance needed to be cleaned up. She expressed appreciation for the Board's input and would include the recommended language accordingly.

Vice Chairman Brandt noted the subject matter pertained more to Subsection two, the not requiring a building permit for a shed. He asked if the shed could be abutting a house rather than being permanently attached.

Mr. Bowman affirmed it was allowed. The only restrictions were the structure had to be setback five feet from the property line; it had to be easy to dismantle and remove; and it should be removed in the event of a storm.

Vice Chairman Brandt commented the only change he would make was to remove "hurricane watch," as it seemed not to trigger an evacuation, rather it triggered the requirement to remove the hurricane warning.

Town Attorney Trevarthen wondered if the ordinance's language was mandated by an emergency management plan or County regulation, or was it something staff came up while working on the present language.

Mr. Bowman believed he took the language from the sidewalk café ordinance that required the removal of a sidewalk café in the event of a hurricane, etc.

Chairman Oldaker echoed concerns as to the five-foot setback; it should be moved to the property line. Referring to the sheds, he asked if a building permit was required. He thought the consensus of the Commission was to leave the matter with the Town Manager.

Vice Chairman Brandt said his concern with the paragraph was under the subsection for sheds requiring a building permit; this meant the process involved the Town Manager as well as the building official reviewing a set of plans.

Mr. Bowman replied if there were any deviations in the plans, they would have to be approved by the Town Manager or designee before they went to the building official.

Town Attorney Trevarthen affirmed the proposed ordinance would not be supplanting or overriding safety and other building code concerns. She noted Subsections A, B, C and D were there as a form of constraint on the discretion the Town Manager could exercise. Thus, the Manager would be prevented from approving a deviation that could result in one of the circumstances listed.

Vice Chairman Brandt understood the reasons for the inclusion of the subsections, but there was a cycle of political atmosphere in every town, and he wanted to make sure ordinances drafted by Town staff, recommended by the Board and approved by the Commission survived any political atmosphere. The Board of Adjustments might be better suited to decide on such deviations, and he would be more comfortable having them named as the deciding entity than the Town Manager.

Town Attorney Trevarthen reminded the Board the subject amendment was just a proposal for how to approach the situation, and the Board was at liberty to recommend alternatives.

Mr. Bowman commented the cost to go through the Board of Adjustment was significant, and the avenue being proposed in the amendment was another alternative for the applicant. He went on to clarify the Board desired two changes to the subject amendment: strike "hurricane watch" and the five-foot setback requirement from the language.

Town Attorney Trevarthen stated on the second subsection, the substitute language would likely read: no setback shall apply.

Vice Chairperson Brandt mentioned the changes would include a better definition of the two-family structure.

Mr. Wick made a motion to approve the Ordinance amending Section 30-313 (31) as set forth in the backup, seconded by Vice Chairman Brandt.

In a roll call vote, the motion passed 4 – 0.

Mr. Wick stated he wished to amend the language of the above amendment, specifically: striking the words hurricane watch from line 95.

Mr. Wick made a motion to approve the amended language as stated above, seconded by Chairman Oldaker.

In a roll call vote, the motion passed 4 – 0.

Chairman Oldaker indicated the Board's recommendation to remove the words "five-foot setback" from line 88 where in the subject ordinance

Mr. Wick made a motion to approve the amended language as stated above, seconded by Vice Chairman Brandt.

In a roll call vote, the motion passed 4 – 0.

Chairman Oldaker stated the next motion to amend was for the rewording on line 42; specifically, to allow for structures with similar stories to build an accessory building to the height of at least one story.

Vice Chairman Brandt made a motion to approve the amended language as indicated above, seconded by Mr. Yankwitt.

In a roll call vote, the motion passed 3 – 1 (Mr. Wick voted No.)

Mr. Wick made a motion to approve the Ordinance amending Section 30-313 (31) as amended, seconded by Vice Chairperson Brandt.

In a roll call vote, the motion passed 4 – 0.

Item #3. Amendments to Chapter 30-22 Adopting Zoning Relief Procedures (Town Attorney Susan Trevarthen)

Town Attorney Trevarthen explained no members of the public were present, hence the Board was not calling for public comment on any of the agenda items. The subject item had been drafted by her and presented to the Town for legal reasons. The amendments sought to create a procedure in the Town's Chapter 30 to be applied separately from Chapter 30; the new procedure sought to address the failure of the normal operations of the Code to provide the protections and treatments persons were entitled to under some other source of law. Thus, the proposed procedure would only become relevant if an applicant had been through the rest of the Town's Code and felt they were unable to attain relief and felt the resulting situation violated their rights under one of the other sources of law. The property owner feeling themselves to be in this position would have to file a "request for relief," specifying for the Town what the basis of the request was; this would allow the Town to have a complete understanding of the situation and have the opportunity to grant relief even in the face of the Code failing to do so; it might also forestall parties getting involved in expensive litigation. She noted the case law in such challenges indicated a potential challenger could not ignore this opportunity for relief and was forced to exhaust this remedy before using the avenue of litigation.

Chairman Oldaker asked if such a procedure was common among other municipalities.

Town Attorney Trevarthen replied it was becoming more common, as it was something that was anticipated in a number of statutory schemes; the Fair Housing Act called it a reasonable combination procedure, and the U.S. Congress encouraged such action. The Religious Land Use and Institutionalized Persons Act had statutory language encouraging local governments to provide for such procedures. She noted in the process of implementing those relatively new aspects of the law in other cities, it occurred to them not to limit it to individual statutory frameworks; it should be a tool for use in any kind of situation of this type, hence its being presented in a more generic frame.

Vice Chairman Brandt made a motion to approve the Amendment to Chapter 30, Section 30-22, seconded by Mr. Wick.

Mr. Wick inquired what effect the amendment might have with regard to the Bert J. Harris Act, wondering if it would offer someone a secondary opportunity to come after the Town, as he believed there were some suits in litigation under the Bert J. Harris Act.

Town Attorney Trevarthen remarked the claims under the Bert J. Harris Act were dismissed by the trial court. Some other claims were still pending. The procedure was purposely designed to be open ended and sought to encourage people to come forward to the Town for relief; the aim was for the Town to get one last chance to potentially resolve a dispute before going to court.

In a roll call vote, the motion passed 4 – 0.

Item #4. Amendments to Chapter 30-501 Adopting Severability Provisions to the Sign Code. (Town Attorney Susan Trevarthen)

Town Attorney Trevarthen reviewed the subject item as contained in the backup. At its meeting of July 27, 2010, the Commission approved the Notice of Intent to move forward with amending Chapter 30, Article VIII, Sign Regulations, of the Town's Code of Ordinances. These revisions to the sign code sought to enhance severability provisions, resolve internal conflicts, and facilitate defensibility in light of recent case law. Several minor changes were made to address inconsistencies and implementation issues identified by Town staff.

Vice Chairman Brandt asked if Ms. Trevarthen thought there was a sense of urgency regarding the subject item or did the Board have time for further consideration.

Town Attorney Trevarthen replied there was no real sense of urgency; she became aware of some of the deficiencies after the Commission asked her to look at this portion of the Code, and she sought ways to address them; she was not aware of a particular circumstance triggering a problem.

Vice Chairman Brandt desired another month to take the amendments, go through the Town in order to understand which signs might be affected as new, nonconforming signs, the change that would have to be made if something happened to those buildings, etc. He recommended deferring the vote on the subject item until the next meeting.

Town Attorney Trevarthen acknowledged the request and saw no reason for the subject amendment having to move forward immediately.

Mr. Bowman was unsure if the deferment would affect the notice of intent.

Town Attorney Trevarthen explained a deferment would affect the notice of intent; Town staff had to go back to the Commission and change the dates listed in the notice of intent. The process for the notice of intent was cumbersome and restrictive, and very each step was very detailed. She said it was a procedural step that could be accomplished.

Vice Chairman Brandt made a motion to defer voting on the subject amendment but received no second.

Mr. Wick questioned page four, line 114 to page five, line 127 where it dealt with a limitation of 20 business days, wondering if this was adequate time for the Town's department and possibly lead to conflicts or hardships.

Town Attorney Trevarthen pointed out when they developed the proposed procedure, they consulted with Town staff; the reason for the specificity had to do with their being first amendment cases that spoke in great deal about such matters and required fairly tight time frames for the procedures to be constitutional.

Mr. Bowman confirmed 20 business days was ample time.

Mr. Wick went on to discuss page six, number three, line 164, asking if this would create a problem if the fishing pier sign got blown down; could it be replaced by being grandfathered in or would they have to ascribe to the new requirements?

Town Attorney Trevarthen pointed out the drafting of the subject amendment was an effort to gather all of the references to pole and pylon signs in the Town and reproduce them under the proposed section. Thus, the implication raised by Mr. Wick was already in the current Code and would be in the proposed amendment.

Mr. Wick observed the amendment eliminated sandwich signs, according to line 249, asking if anywhere in the Code allowed such signs.

Town Attorney Trevarthen stated the current Code was unclear or even conflicting on the issue, but there were other provisions in the Code where it seemed the intent was to prohibit such signs and this was buried somewhere in the Code's definition of a sandwich sign; the aim was to clearly state their prohibition.

Mr. Bowman directed the Board's attention to page 17, line 694, for the Code's definition of a sandwich sign.

Town Attorney Trevarthen noted in line 694 it seemed to allow sandwich signs, while elsewhere in the Code it clearly stated they were prohibited.

Mr. Wick inquired as to line 299, stringing lighting in or around windows, as staff removed the language "other than temporary holiday lights", asking if this included lights placed around trees that were donated to the Town; and would this eliminate the lights on top of Aruba that had been there for years.

Town Attorney Trevarthen directed the Boards attention to the prior page, line 266, the language had simply been relocated, as it was seen as a form of temporary signage; thus, it was listed under temporary signs where it belonged.'

Mr. Wick next discussed page 10, line 347, where it appeared that though people were permitted to have signs, they were limited in the number of signs they could have; thus, businesses were being limited as to the amount of content.

Town Attorney Trevarthen indicated, as the particular language Mr. Wick was referring to was not underlined, this meant it was existing Code.

Mr. Wick asked about the canopy on line 441 where it was being removed, wondering at the reason for the elimination.

Town Attorney Trevarthen responded the same matter was dealt with in Section 17-9 of the Code where it dealt with encroachments, so there was no need for the duplication.

Mr. Wick questioned as to line 595 and if pole signs were permitted, as he experienced some confusion with the document.

Town Attorney Trevarthen said staff too got confused, hence the proposed changes. They believed the new text created in the amendment clearly stated what the Code intended and accomplished in 2001; that is, they prohibited pole signs going forward but made provisions for those already having them. On page five, lines 144 through 193, page six, there was a whole regulatory scheme that applied to if a business had a nonconforming pole or pylon sign, explaining the conditions under which they had to be removed or replaced. It was all somewhat scattered around the Code, and staff pulled it together.

Mr. Wick asked if there was a reason for striking one dive flag at a legitimate dive shop and three legitimate flags at a travel agency, as indicated on page 22, line 932.

Town Attorney Trevarthen affirmed this to be the case, as the matter of flags were addressed overall on page 7, line 219, under the grouping: exempt signs, as they were exempt from the Code.

Vice Chairman Brandt observed line 245 eliminated pole signs but he did not see them coming up under prohibited signs.

Town Attorney Trevarthen indicated it was moved to line 144, and was included in the list of prohibited signs on line 290. Businesses with prohibited signs that were required to change them could select from the permitted signs currently detailed in the Code.

Vice Chairman Brandt thought it unfair, as he was unsure if members of the business community had a proper understanding of the full notice of intent that pole signs were going from a permitted sign to a prohibited sign. Businesses undergoing redevelopment, etc. and having pole signs would have to replace them according to the Code.

Town Attorney Trevarthen pointed to line 641, which currently existed in the Code, and this was also indicated on line 599 pertaining to new development and redevelopment. Thus, staff only sought to echo existing language in the proposed

comprehensive section dealing with poles and pylon signs. She noted the Board could recommend changes, reiterating the specifics of the proposed amendment were already contained in the current Code.

Vice Chairman Brandt asked if anyone from the Town's Chamber of Commerce or business community weighed in on the possible effects on business.

Town Attorney Trevarthen responded she was unaware of any feedback, nor did she expect any, as there should be no impacts due to the proposed amendment containing what was already reflected in the Code. The understanding was that enforcement after the fact would be the same as before the fact; there just would be less confusion as to what the Code included. She said the Board could revisit the matter at any time.

Vice Chairman Brant reiterated his desire for the vote on the subject item to be deferred for 30 days, in order to ensure whatever was being proposed did not adversely affect any business due to the loss of signage. It might not be enough to just rearrange the language, there might be need to make changes.

Mr. Yankwitt understood the concerns expressed, as he too was a business owner and dealt with the frustration of signage with the Town. It was best to clean up what was already written, and then analyze it line by line and make changes if needed.

Mr. Bowman concurred, as the Board and staff could later recommend revisiting the issue to the Commission at any time.

Mr. Wick made a motion to move the vote on the amendments to Chapter 30, Section 30-22 forward, seconded by Mr. Yankwitt, sending the proposed changes to the Town Commission with the recommendation of approval by the Planning and Zoning Board.

Chairman Oldaker agreed with Vice Chairman Brandt but also supported the motion. He believed separating the matter into the two components of moving forward then revising the issue reduced the effect of being overwhelmed with trying to handle the subject ordinance.

In a roll call vote, the motion passed 3 – 1 (Vice Chairman Brandt voted no)

V. OLD BUSINESS

There was no old business discussed by the Board.

VI. UPDATES/BOARD MEMBER COMMENTS

Vice Chairman Brandt wished the Board's minutes transcribed in a similar fashion to those of the Commission minutes, as he had no wish for an almost verbatim account of what took place at the Board's meetings. Anyone needing that type of detail could just watch the DVD.

Board Secretary Colleen Tyrell apologized if Mr. Brandt felt the minutes to be cumbersome but explained it had been the consensus over the time Board minutes were done to have a more detailed record of the meetings to give Board members a better feel for what transpired at the meetings. This was also the preference of the Town Commission.

Vice Chairman Brandt commented in order for him to know if the approval of the minutes were accurate, he almost needed to read the minutes and watch the DVD to ensure their accuracy. He did not think the Town Commission had such detail in their minutes, and this might be an issue Mr. Bowman should present to the Commission to get their feedback. For viewers at home, he felt they saw something different coming from the present P & Z Board than from past boards. He pointed out this was the Board's third meeting and they accomplished a lot; for example: they fixed the corner lot situation with regard to setbacks; recommended for approval abandoned construction projects; fixed items in order to attract business to the Town simpler; and fixed something that was hurting businesses today in order to comply with other codes with the accessories. He believed the Board would accomplish much more in the very near future. He went on to state the sign ordinance discussed earlier proved

there were matters that affected everyone on which the Board gave its recommendations but were things members of the public should be present to give their input and voice their concerns. Thus, more dialog could occur at this stage in the process before it went before the Town Commission. Referring an item discussed at the most recent Town Commission meeting, he understood the Board had definite support from the Commission to place items on the P & Z Board meeting agenda any one member felt was appropriate for discussion, and he looked forward to utilizing this channel. Mr. Brandt remarked his main goal for serving on the Board was to ensure Lauderdale-By-The Sea moved forward, and businesses were able to come to the Town, and encourage anyone wishing to improve their home or business by providing them with the opportunity and support of the Board.

Town Attorney Trevarthen recapped an inquiry was raised by staff and directed to her as to the protocol for Board members to call meetings and initiate items for review. She took the opportunity at the last Town Commission meeting during the Town Attorney Report to request input from the Commission on how they wished such matters to be handled. She found this was not something addressed in much detail by the Town's Code nor any municipal code she reviewed, and explained what she outlined to the Commission as a particular kind of approach to address the inquiry. She noted the Sunshine Law did not preclude a member of the P & Z Board from having a conversation with a member of the Commission; the Sunshine Law only applied when more than one member of the same board discussing business that might come before that board. This line of communication always existed and would continue to do so; the subject matter pertained to a supplementary line of communication; if a Board member wished to bring up an item at the meeting, what worked well in many cities was to broach the matter under the "Board Member Comment" agenda item. A Board discussion could then take place, the aim being to achieve a consensus on the matter of discussion; for instance, the matter mentioned earlier by Mr. Brandt on the minutes being too detailed and recommending staff place the matter before the Commission for their feedback on how to proceed. Ms. Trevarthen pointed out bringing up an issue in this manner, allowed the Board member to present their matter of concern, have it openly discussed and seek a Board consensus on how best to proceed, particularly if it might involve additional staff time. This furnished the Commission with an opportunity at an early stage to give feedback on how the Board might prioritize the matter. When she presented the matter to the Commission, the feedback was not to squelch the creativity of the Board and the ideas that could be forthcoming.

Mr. Wick supported the idea of the minutes being more detailed, as it gave Board members the opportunity to see if their input and views presented at the meeting were accurately conveyed; reviewing the minutes gave members the chance to correct any misrepresentations prior to them becoming public record. On the matter of item number four, the signing code, this matter was discussed at previous meetings and, as all Board members were businessmen in some form and voiced their concerns, so should members of the public; they could have taken the time to attend the meeting to voice any concerns. He pointed out the Board's agenda was available for the public to review prior to the actual meeting to determine if there was anything that interested them. He asked Mr. Bowman to review the definition of height in the Town, as there was a certain section in the Code where it discussed height, whether it was based off the CCL line or to use the two-foot criterion next to road. In this way, everything on El Mar Drive used the same height structuring limits. He wondered if a Board vote was required for staff to carry out his request, and made a motion to proceed for staff to present the matter to the Commission.

Town Attorney Trevarthen thought this would be a major undertaking, as it was in the Town's Charter and would require a popular election to address the matter. It would be suitable to first discuss the concept.

Vice Chairman Brandt believed Mr. Wick's request had been asked and answered, and the resulting information was contained in an encompassing Power Point presentation given by Ms. Trevarthen's firm about a year prior. This information could be forwarded to Mr. Wick.

Mr. Wick mentioned sitting on the P & Z Board for four years, and he was approached two years prior to give a definition, and the matter went back to the Town administration and was never addressed in subsequent meetings to his knowledge, unless it was discussed at the Board's two most recent meetings.

Town Attorney Trevarthen clarified staff was asked to discuss the subject issue in 2009 in relation to a number of proposed Charter amendments and, ultimately, the Commission voted in October not to proceed with putting the amendments on the ballot. Thus, the definition of height remained as is since 2006, containing a three-part definition of how it was measured. As this was an important policy initiative, it was good to first know if there was Commission support to move forward with the item.

Chairman Oldaker requested a second to Mr. Wick's earlier motion but none was given.

Vice Chairman Brandt reiterated his request for the Board's minutes to follow the same guidelines as those of the Town Commission. He made a motion to ask the Town Commission to direct staff to change the way the Board minutes were transcribed to match those of the Town Commission's minutes.

Chairman Oldaker disagreed with the motion, stating the Board held fewer meetings than the Commission, and he was able to revisit what took place at the previous meeting through the minutes.

Mr. Yankwitt pointed out the Board had a different purpose than the Commission, being of an advisory capacity, and the Commission might wish a better understanding as to why the Board chose to make recommendations in one direction versus another.

Chairman Oldaker received no second to Mr. Brandt's earlier motion. He mentioned each member of the Board was appointed by an individual member of the Commission, and he would hope the Commissioners were available to hear the comments of the Board member they appointed. He understood there were different procedural ways to get their attention, one being to just call; in his experience, he brought issues directly to a Commissioner, and they were taken directly to the Commission meeting for discussion. It would be a waste of time to try to undertake tasks the Commission did not approve of. He agreed members of the public had the ability to examine the Board's agenda prior to the meetings if they were interested. The Board met once a month and that was ample time to discover what items were on the agenda for consideration.

Mr. Yankwitt asked if Town staff sent separate notifications of upcoming meetings and the agenda to civic and religious organizations, homeowners' associations (HOA), the Chamber of Commerce, etc. along with publicizing the meeting on the Town's website.

Town Attorney Trevarthen believed the Town adhered to the noticing requirements required by law.

Mr. Yankwitt wondered if it was possible to recommend to the Commission when it was clearly obvious there were issues of concern to a particular group(s) that they should be additionally notified aside from the public noticing required by law. In this way, as representatives of their particular community might choose to inform those they served.

Town Attorney Trevarthen thought the primary implication was administrative, and it might well be a very good step to take, but it required a significant amount of work in monitoring and getting all the individual notices out to the various entities. Thus, it was a matter staff had to meet with the Town Manager to discuss further.

Mr. Yankwitt felt at least a group email could be sent. He made a motion to recommend staff send an email blast notifying civic and religious organizations, HOAs, the Chamber of Commerce, etc. on a routine basis of Board meetings and agendas.

Mr. Yankwitt made a motion as stated above, seconded by Mr. Wiick. In a roll call vote, the motion passed 4 – 0.

Town Attorney Trevarthen clarified this was now an appropriate matter for Mr. Bowman to bring forward for the Commission to consider.

VII. ADJOURNMENT

There being no further business to discuss, Mr. Witt made a motion to adjourn the meeting at 8:30 p.m., September 15, 2010.

_____
Chairman Alfred Oldaker

ATTEST:

Date Accepted: _____

Colleen Tyrrell, Board Secretary

_____