

MINUTES
REGULAR MEETING – PLANNING BOARD

May 28, 2009

Minutes of the Regular Meeting of the Planning Board of The City of Daytona Beach, Florida, held on Thursday, May 28, 2009, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

Board members Present were as follows:

John McGhee, II (6:02) pm
Jeff Hurt
Tracey Remark
Bob Hoitsma, **Chair**
Janet LeSage
John McGuinness
Larry Moore
Sam Rogers
Cathy Washington, **Secretary**

Absent Members:

James Neal
Edith Shelley, **Vice-Chair**

Staff members present:

Mr. Paul McKitrick, Chief Administrative Officer
Mr. Richard Walton, Planning Director
Mr. Thad Crowe, Planning Manager
Ms. Carrie Lathan, Assistant City Attorney
Ms. Rose Askew, Planning Technician

1. **Call to Order**

Robert Hoitsma, Chair called the meeting to order at 6:00 pm.

2. **Roll Call**

Ms. Washington called the roll and noted members present as listed above.

3. **Approval of the Minutes: April 23, 2009**

Mrs. Remark stated the spelling of her name on page one should have been "Tracey" and on page five under Board Comments, next to the last paragraph, second sentence, the word should be fee instead of feet.

Board Motion

It was moved by Mr. Hurt to approve the April 23, 2009 Planning Board Meeting Minutes, with corrections. Seconded by Mrs. Remark.

Board Action

The motion was approved 8-to-0.

4. **Land Development Code Ordinance, DEV 2009-044 – TPA Appeals**

An Administrative request by the Development and Administrative Services Department, Planning Division, to amend the Land Development Code (LDC), Article 17 (Conditions and Requirements for Specific Uses), adding language for an appeals process for temporary outside activities. *(Continued from the April 23, 2009 Planning Board Meeting)*

Staff Presentation

Thad Crowe, Planning Manager gave a brief PowerPoint presentation. He stated Temporary Promotional Activities (TPA) pertaining to outside displays were associated with principal uses only; they were granted to year round business only and not transferrable to other parties. He stated at this time staff reviewed and approved TPAs based on the criteria that was in the Land Development Code (LDC) and the code prevented code violators from receiving TPAs unless the City Commission waived it. He stated the intent of this request was to transfer the waiver responsibilities from the City Commission to the Special Magistrate who currently handled various code enforcement issues. Mr. Crowe stated at the last meeting, the Board directed staff to bring back language that showed cost recovery from the applicants. He stated staff reviewed the information available and was now proposing a fee of \$125 for a waiver application, which was equal to one hour of the Special Magistrate's time, which staff believed, was sufficient to cover the cost. He stated staff was recommending approval of the LDC change to transfer authority for granting waivers from the City Commission to the Special Magistrate and to amend Article 20 of the LDC to institute the fee for waiver request.

Mr. Walton stated it was not really a waiver request it was an appeal of a TPA and fee schedule change.

Board Comments

Mr. Hoitsma asked if one hour was enough time to hear the appeal and if \$125 was enough because he wanted the applicant to cover all of the cost.

Mr. Walton stated he believed that the average hearing would be well below an hour.

Mrs. Remark stated even when the appeals went before a committee they ran approximately 30 to 45 minutes per appeal.

Board Motion

It was moved by Mrs. Remark to approve Land Development Code Ordinance, DEV 2009-044 – TPA Appeals. Seconded by Mr. Hoitsma.

Mr. Walton stated the motion needed to include Article 17 and 20 the fee section.

Mrs. Washington stated part of the reason for the delay of the last meeting was the discussion on cost. She stated the Board just discussed cost but did not include it in the motion. She asked where the Board was on cost.

Mrs. Remark stated that was Article 20.

Mrs. Washington stated the Board now knew the cost but she wanted to know if it would be included in the motion.

Mr. Walton stated the amendment to Article 20 was adding the fee.

Ms. Washington asked if that was the fee or the cost per hour because they did not put the wording in the motion and she wanted to be sure that when she voted the cost was included and not assumed.

Mrs. Remark asked as long as she was saying Article 17 and Article 20 was there a need to say as amended to include cost.

Mr. Walton stated the motion should say as proposed.

Mrs. Remark restated the motion.

Board Motion

It was moved by Mrs. Remark to approve Land Development Code Ordinance, DEV 2009-044 – TPA Appeals as proposed to include the \$125 fee for the appeal of the TPA. Seconded by Mr. Hoitsma.

Board Action

The motion was approved 9-to-0.

5. **Semi-Public Use, DEV 2008-066 - Catholic Charities**

A request by Ms. Anna Landman, P.E., of MSCW, Inc, on behalf of Bishop Thomas G Wenski as the Bishop of the Diocese of Orlando, for a Semi-Public Use Permit, for a social service outreach center, for a 0.77± acre property located along the west side of North Ridgewood Avenue, north of San Juan Avenue. *(Staff recommends continuance to the June 4, 2009 Special Planning Board Meeting)*

Staff Presentation

Richard Walton, Planning Director stated this was the item staff was recommending be continued to the June 4, 2009 Special Planning Board Meeting. He stated the City Commission recommended the request come back to the Board due to changes requested. He stated staff mailed the neighbor notification letters to all property owners within 500 feet and on Friday, sent the legal ad to the News-Journal for advertisement in their Monday edition. He stated the ad was not in the Monday edition of the News-Journal and staff met with News-Journal representatives this morning in an effort to try to develop better communication and also reduce the City's advertising costs. Mr. Walton stated staff contacted all of the Board members and secured a date of June 4, 2009 to hold a special meeting to hear the request and therefore staff was recommending continuance of the request to the June 4, 2009 Special Planning Board Meeting.

Board Motion

It was moved by Mrs. Remark to continue Semi-Public Use, DEV 2008-066 - Catholic Charities to the June 4, 2009 Special Planning Board Meeting. Seconded by Mr. Moore.

Board Comments

Ms. Washington stated she felt the Board had pushed the request around quite a number of times and she wanted to know if there were any other options the City could use for advertising other than News-Journal because she would hate to come back on next Thursday and have the same problem.

Mr. Walton replied the law required the item to be advertised in a newspaper of general circulation at least 5 days a week and right now, the News-Journal was the City's only option. He stated the News-Journal had changed their procedures and had new staff members. He stated staff spoke with a staff person from the News-Journal on Friday when the ad was submitted and thought it would run but it was not in Monday's paper. He stated he felt a lot of progress was made from the meeting earlier today and one thing that was clarified in the meeting was there were two different departments that handled advertising. Mr. Walton stated some ads were run in the legal section and some were run in what is called the retail section, which is the section where the ads are the most expensive and staff only ran ads in the retail section that were required by state law and that a policy had been implemented to submit ads early enough to receive a proof for review before the ad went to print.

Board Action

The motion was approved 9-to-0.

6. **Other Business**

A. **Downtown/Balough Road Redevelopment Area Board Report**

No report.

B. **Midtown Redevelopment Area Board Report**

No report.

C. **Main Street/South Atlantic Redevelopment Area Board Report**

No report.

D. **Vision Committee Report**

No report.

E. **Public Comments**

No comments.

F. **Staff Comments**

Mr. Walton stated he had a couple of things to discuss. He stated the Board's agenda packet for the June 4, 2009 Special Meeting was being distributed tonight to allow time for the Board to review the information and in the packet for Catholic Charities there was a letter to the City Commission written by Marie Hartman, City Attorney explaining what had transpired since the request came before them the first time. He stated it also included a copy of the judge's ruling, which stated the request had to come back to the City Commission because there was not substantial evidence to support the denial and the City Commission felt since the request was further clarified after this board made their recommendation, it should come back for you to review the new information. Mr. Walton stated the applicant had added more limitations; it included a list of uses they would like and a list of uses that would not be allowed and had also agreed to some additional conditions. He stated the packet also included a copy of the May 6, 2009 City Commission meeting minutes when they heard the request, it included two maps, one was information obtained from the state's website that had social service providers licensed by the Health Department and also providers that were licensed to assist with housing in the area. He stated the second map showed a list of the United Way members that provided social services in the area and the maps were not all inclusive. He stated if any Board members knew of any social service providers in the area that were not on either map to please let staff know so they could be added.

Mr. Moore asked if the changes the applicant agreed to were made during or after the City Commission meeting.

Mr. Walton replied both, there were some changes that were made after the item came before this board and in addition to that, the City Attorney had been working with the agent to come up with a draft resolution that took the things indicated in the chart and put them in the resolution with conditions.

Mr. Moore asked for clarification on the judge's reason for the City to reconsider the request.

Mr. Walton asked Ms. Lathan to respond to Mr. Moore's question.

Ms. Lathan replied the judge said there was not enough competent substantive evidence to support the Commission's denial. She stated the City needed to have a better record.

Mr. Walton stated essentially what the judge said was, as if our record did not happen and he wanted it to come back to get more information and make the request clearer to the Board what the applicant was requesting and for the Commission to be able to see the Board's recommendation.

Mr. Rogers stated so the Commission was really waiting to see how the Board felt about the request.

Mr. Walton replied yes, the Commission did want to hear the Board's input.

Citizen Comments

Chris Daun, 132 Pierce Avenue, Daytona Beach stated specifically since the ruling dealt with lack of evidence he asked if the Board had the authority to request other rulings from the judge who made the ruling or from the applicant.

Ms. Lathan replied the Board could not request anything from the judge. She stated on June 4th the applicant would be present and the Board could ask questions then.

Mr. Daun stated for example like evidence gathering, one of the statements made by the applicant was that 80 percent of their services went to residents in the 32114 zip code. He asked if the Board could request the applicant to prove that the 80 percent they spoke about were actual residents in the 32114 zip code and not people that had been given ID cards with the shelter address on them.

Ms. Lathan asked Mr. Daun if he was requesting the Board to have the applicant prove their assertion.

Mr. Daun stated basically the applicant stated they were not providing services to homeless people as part of their application and he was sure if the Board requested they give a total of how many people on their list actually lived at the address on their ID he was sure the Board would find that a large quantity of them would be homeless people and that to him it would challenge part of their argument.

Mr. Walton stated he had one last comment. He stated the consultants would be in the City on June 10th and 11th to start Phase I of the Land Development Code (LDC) rewrite and the Planning Board Sub-committee would need to meet preferably on Wednesday, June 10th and right after that have a public kick-off meeting. He asked the Sub-committee members what time would be convenient for them to meet.

It was the consensus of the sub-committee members to meet at 5:00 on Wednesday, June 10th.

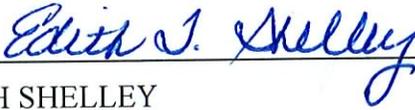
Mr. Walton stated staff would set up the meeting from 5:00 p.m. to 6:30 and schedule the public kick-off meeting at 7:00 p.m. and all of the Board members are welcome to attend both meetings. He stated in the meeting packet that was distributed, there was a questionnaire the consultant was asking to have completed. He stated the questionnaire was about the LDC because they were trying to get as much input as possible while they were here. He stated essentially Phase I was gathering data. He thanked the Board for their time.

G. **Board Member Comments**

No comments.

Adjournment

There being no further actions to come before the board, the meeting was adjourned at 6:25 pm.



EDITH SHELLEY
Vice-Chair

ATTEST:



JEFF HURT
Acting Secretary