

MINUTES

REGULAR MEETING – PLANNING BOARD

March 24, 2011

Minutes for the Regular Planning Board for The City of Daytona Beach, Florida, held on Thursday, March 24, 2011, at 6:00 p.m., in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida.

Board members Present were as follows:

Jeff Hurt
Tracey Remark
Bob Hoitsma
Janet LeSage
John McGuinness
Larry Moore
Kevin Fishback (6:15)
Cathy Washington
Shirley Benjamin
Matthew Bohon

Absent Members:

James Neal

Staff members present:

Richard Walton, Planning Director
Dennis Mrozek, Senior Planner
Carrie Lathan, Assistant City Attorney
Rose Williams, Planning Technician

1. **Call to Order**

Louis Moore, Chair called the meeting to order at 6:03 pm. He stated last month the Board welcomed a new member Ms. Shirley Benjamin and tonight there was another new member to welcome Mr. Matthew Bohon. He stated with the two new members, the Board was now at full capacity. He asked Board members to stop by after the meeting to welcome and introduce themselves to Mr. Bohon.

2. **Roll Call**

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

3. **Approval of the Minutes:** February 24, 2011

Board Motion

It was moved by Mr. Hurt to approve the February 24, 2011 Planning Board Meeting Minutes. Seconded by Mrs. Remark.

Board Action

The motion was approved 9-to-0.

4. **Land Development Code Text Amendment, Notice Requirements, DEV2011-016**

An administrative request by the Development and Administrative Services Department, to amend the Land Development Code (LDC), Article 4, to modify notice requirements for public hearings.

Staff Presentation

Dennis Mrozek, Senior Planner gave a brief PowerPoint presentation that included the request as stated above and the current Land Development Code (LDC) requirements. He stated the LDC requires mail notice for all public hearings within The City of Daytona Beach and the mail notice included the following: Who gets noticed, where the notice area is located, content of the notice, including dates, type of application and location of the project. He stated the notices are sent certified mail and the requirements include when the notice was delivered. He stated for this amendment, the focus was on the number of days required prior to a notice requirement. Mr. Mrozek stated prior to September, 2008, the notice requirement read, “the notice shall be mailed certified or registered mail” and that language would not change, but that it was “at least 15 days prior to a public hearing before the Planning Board or Board of Adjustments and at least 30 days prior to a public hearing before the City Commission.” He stated in September 2008, Ordinance No. 08-238 modified the language in an effort to clean-up the text, and clear up a lot of different issues; notice requirements were part of that clean-up. He stated the change kept in the requirement for certified or registered mail but the requirement for number of days changed to 10 or more days prior to any public hearing, which included Planning Board, Board of Adjustments, Historic Preservation Board and City Commission. He stated a sentence was added that read, “notice of more than one scheduled public hearing may be included in a single written notice provided the 10 day minimum was met.” Mr. Mrozek stated the current process is each time there is a public hearing separate hearing notices go out, which can be a financial burden on the applicant to do multiple notice requirements. He stated concurrent to this particular ordinance going through, Ordinance No. 08-302 (Historic Preservation ordinance) was drafted but it had the old LDC text. When the ordinance was finalized, it did not include the new notice requirements and that the Historic Preservation Board wanted the requirements to include their board so they modified the language to include “all other public hearings.” He stated in doing so, the language for 30 days and 15 days was added back into the amendment. Mr. Mrozek stated it took a while for staff to catch up with the change and identify it as an error. Staff had tried working with Muni

Code to correct the error. After doing a little research it was determined that one code superseded the other. He stated the amendment being presented tonight was the exact same amendment that was approved in September 2008 with the language that reads, "the notice shall be mailed by certified or registered mail 10 days or more before the public hearing", and includes the language for both notices to be written on a single notice provided it meets the 10 day minimum requirement. He stated the item was tentatively scheduled for the May 4th City Commission on first reading, May 18th for second reading (public hearing) and an affirmative vote of six was required by the Board to recommend approval to the City Commission. He stated staff recommends approval.

Citizen Comments

John Nicholson, 413 South Grandview Avenue, Daytona Beach stated he was not speaking for or against the request. He requested the language be changed to read "10 business days." He stated 15 days was two weeks and it takes a little over two weeks to get a letter from Daytona to Deland. He stated by changing the requirement to 10 business days gives two weekends which would give recipients nine days to receive the notice.

Board Comments

Mrs. Remark stated since the Bill France mail facility would be closing, she was going to propose the language read business days or make 12 days. She stated she spoke with the post master today and was told, certified or registered mail takes three business days for delivery and with the mail having to go out to Lake Mary will add on another day and the Post Office only counts business days. She stated she was pretty sure Saturday mail was going to end, which would cut out another day. She stated given these facts, worst case scenario, and a person who was supposed to receive notice for the meeting tonight would not have received the notice until this past Monday. Mrs. Remark states she felt this was not enough time for residents to get questions answered and concerns addressed prior to the meeting.

Mr. Walton stated if the Board makes that change it will cause inconsistency in the LDC and staff was trying to clean up inconsistencies.

Mrs. Remark stated maybe the entire LDC needed to be changed to make it consistent because she feels the proposed change will be a problem with the changes that will occur with the postal service.

Mr. Walton stated staff was trying to make the LDC consistent and would revisit notices as part of the Clarion re-write. He stated currently Board packets are being mailed out on Thursday and you all receive them by Friday.

Mrs. Remark stated they are not sent by certified mail. She stated certified mail takes three days to receive because it is handled through a completely different process.

Mr. Walton stated so it cost more but takes longer.

Mrs. Remark replied yes three days.

Mr. Hurt asked Mr. Walton if the City had received complaints from residents saying they did not receive their notice on time.

Mr. Walton replied staff had not heard from anyone stating they had not received their notice on time. He stated typically if you get it to them too early, they forget the meeting date. He stated one of the recommendations coming from Clarion was to change the process from certified mail to regular. He stated his belief was that most residents find out about the meeting from the posting notice placed on the property.

Mr. McGuinness stated if the Clarion re-write making all mail notices 10 days.

Mr. Walton replied yes and to also make the requirement regular instead of certified mail.

Mr. McGuinness stated he recalled a discussion surrounding 15 and 21 days. He stated based on that he went back and researched Planning Board, City Commission and Historic Preservation Board minutes. He stated he found some discussion in the Historic Preservation Board meeting minutes because when this was passed it was part of several changes and no separate discussion was held.

Mr. Walton stated that was because at that time the Commission thought it was consistent with the current code but the two crossed in the process.

Mr. McGuinness stated he recalled discussions where people were holding out for more than 15 days and from the experiences he has had regarding receipt of certified notifications for developments that were within 500 feet of his property, he felt certified mail takes longer. He stated if you live in a condominium the notice can be sent to the management office and depending on the communication between management and residents that could be a problem. He stated he agreed with having consistency and also with 10 days as long as it was 10 business days and he wanted the notices to remain certified mail because that was the applicant's proof that the appropriate parties were served.

Mr. Walton stated the main reason for the change was the cost, certified mail can be costly.

Mrs. Remark stated for regular mail the post office will still do a count and affidavit of receipt.

Board Motion

It was moved by Mrs. Remark to approve Land Development Code Text Amendment, Notice Requirements, DEV2011-016. Seconded by Mr. Hurt.

Board Action

The motion was approved 10-to-0.

5. **Land Development Code Text Amendment – Reformat LDC, Article 20 (Fees), DEV2011-015**

An administrative request by the Development and Administrative Services Department, to amend the Land Development Code (LDC) by removing Section 2 and Section 3 of Article 20 (Fees), and allow for future modifications to the Fee Schedule to be reviewed and approved by action of the City Commission.

Staff Presentation

Dennis Mrozek, Senior Planner gave a brief PowerPoint presentation that included the request as stated above and the current Land Development Code (LDC) requirements. He stated one of the proposed sections to be removed was Section 2 (Fee Schedule) which primarily deals with application fees such as site plans, rezonings, sign permits and variance requests to the Board of Adjustments. He stated also included in the fees are zoning verification letters, site inspections and appeals. Mr. Mrozek stated Section 3 (Construction Permit Fee Schedule) deals with all of the building permits such as plumbing, mechanical, electrical, etc. The request for the change was due to some of the legislative updates and statutory requirements that have created changes in the planning environment and staff felt the immediate need to address some of these concerns. He stated the modification of fees was an administrative function that was a policy decision made by the City Commission and they require a Planning Board Hearing and two City Commission hearings, which is an extended process that can take a while. He stated the proposed change removes Section 2 and 3 from the LDC and amends Section 1 to allow fee changes to be approved by resolution at one City Commission hearing. Mr. Mrozek stated land development orders and regulations will continue to be reviewed by the Planning Board with the same recommendations to the City Commission. He stated the amendment was tentatively scheduled for the May 4th City Commission Meeting with the 2nd reading (public hearing) scheduled for May 18th, staff was recommending approval and an affirmative vote of six was required to recommend approval to the City Commission.

Citizen Comments

No citizen comments.

Board Comments

No Board comments.

Board Motion

It was moved by Mr. Hurt to approve Land Development Code Text Amendment – Reformat LDC, Article 20 (Fees), DEV2011-015. Seconded by Ms. Washington.

Board Action

The motion was approved 10-to-0.

6. **Other Business**

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

Mrs. Washington stated the Board met on March 1st at 12:00 noon in the City Commission Chambers. She stated the Board heard reports from Code Enforcement and the Police Department but the bulk of the discussion surrounded the Transportation Concurrency Exception Area (TCEA) to all Community Redevelopment Areas. She stated there was discussion on the downtown retail strategy and some misunderstandings about the proposals submitted. She stated in the end, the Board accepted the proposal pertaining to the downtown public market. She stated it was approved and the location of the market will be 166 South Beach Street. She stated the remaining discussion was on projects updates.

B. **Midtown Redevelopment Area Board Report**

Mrs. Benjamin stated the Board met on March 8th at 6:00 pm in the City Commission Chambers. She stated the Board's greatest concern was that someone explains the City's Comprehensive Plan to them.

Mr. Walton stated he would address that concern during staff comments.

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

Mrs. Remark stated the Board met on March 9th at 6:30 pm in the City Commission Chambers. She stated the Board voted to continue the LSCPA extending the Transportation Concurrency Exception Area (TCEA) because several members felt they had little to no information on the amendment. She stated staff did point out that this was typical for redevelopment areas, which are usually the core areas in the city. She stated they also discussed different types of grants for economic development and they looked at grants from Delray's redevelopment area, business development grants, real estate grants based on the discussion, staff was directed to research more grants. She stated there was also discussion on appearance standards and staff was given cameras to take photos of things they liked and disliked.

D. **Public Comments**

No public Comments

E. **Staff Comments**

Mr. Walton introduced Tom Weitnauer as the Planning Division's new planner. He gave a brief summary of Tom's credentials and primary responsibilities. He spoke briefly on the design guidelines staff was working on and would bring forward in the near future; the TCEA LSCPA and the Transportation Development Plan Public Workshops scheduled for March. He stated with Mrs. Shelley's resignation from the Board, it left the Planning Board Subcommittee for the LDC Re-write with only three members. He stated if someone would volunteer, it would bring the committee back to full capacity. He stated all Board members were invited and he was hopeful that staff would receive the Module 2 within the next month.

Mr. Moore asked if any Board members wanted to volunteer to serve on the committee.

Mr. McGuinness volunteered to serve and asked how often the committee met.

Mr. Walton replied they met on an as needed basis. He stated at a minimum there will be three to four more meetings before the new code starts the public hearing process.

F. **Board Member Comments**

Mr. Hurt thanked staff for reformatting the fees because it could have added 90 days to the process and if there were questions, it could have added 120 days.

Mr. Hurt and Mrs. Remark asked Mr. Walton to elaborate on the request they received for their email and cell phone information.

Mr. Walton stated staff needed a contact for each of the Board members other than what was listed on the City's website. He stated any contact information given will be public record. He stated some board members give their cell phone and email address as contact information for public information. He stated staff did not want Board members to give any information that they did not want the public to have. He stated the list would not be posted on the website but staff members needed to have contact information in more than one spot other than Rose's computer because when she is not around it will be something that any staff member will have access to. He stated when the Manager's office calls and wants to get a hold of a Board member and Rose is not around there is no way to contact you all. He stated that was the purpose of the call and staff was trying to accomplish more than one contact other than dropping something in the mail.

Mr. Hoitsma asked why their information had to be a public record.

Ms. Lathan replied any document created for purposes of conducting business is a public record.

Mr. Hurt stated in the past if there was a big issue he received letters at his home, numerous people came to his house and his home phone number was listed in the phone book for people to contact him. He stated he was not trying to limit access but he was a realtor and his personal email address was for his business and any emails he receives that are not on his list will go straight to spam. He stated he uses his personal cell phone for business only. He stated in the past it has been sufficient to just mail him a letter, come to his home or look in the phonebook and use that number to contact him.

Mr. Walton replied if that was the only information he wanted staff to have for contact purposes then he would only receive things in the mail.

Mr. Hoitsma stated he felt Mr. Hurt's comments were a good point because when people get your email address they set you up on their personal agendas and add your name to the list of people they send information out too. He stated he already receives enough junk email and does not want to receive any more.

Mr. Hurt stated he knows his would go straight to spam and he would never see them.

Mrs. Remark replied so would hers. She stated she does not email other than with family because she feels it is private.

Mr. Hoitsma stated Mr. Hurt was correct when he stated if people want to get in touch with you, they will find a way. He stated he did not want to set up something that made it too easy to contact them. He stated there are enough ways to get contact people now that are too easy and make it carte blanche.

Mr. Moore stated he agreed.

Mr. Hurt stated since it was a City Commission directive to have that information available to the public, maybe a generic email address and contact number could be set up the way commissioners' have. He stated their personal email addresses and cell phone numbers are not publicized. They have a City assigned cell phone and email address to prevent them from receiving thousands of emails and phone calls on their personal contact information. He stated he would be fine with a generic City email address and contact number that would only be used for City business. He stated Ms. Williams has never had a problem contacting Board members.

Mr. Walton stated the contact information she has is public record.

Mr. Hurt stated that was fine because that number was already listed in the phone book and he was fine with that number being given out. He stated he diligently studies his packet before the meetings but sometimes when he is in the meeting someone says something that is different from the way he interpreted it and it changes his opinion. He stated he would not know he would communicate that if people called to discuss it with him before the meeting.

Mr. Moore asked what the Commission's reason was for requesting additional contact information.

Mr. Walton stated other staff members and other departments may need to reach Board members quicker than putting something in the mail. He stated if that was the only information Board members want distributed, that was fine.

Mr. Moore asked what if a Board member gave their information to Rose today based on what they were told and they start receiving large amounts of spam emails and phone calls you don't want, can you have the information removed.

Open discussion among Board members regarding removing contact information.

Mr. Moore stated he has no objection to City staff having his personal contact information; he just does not want it posted on the City's website.

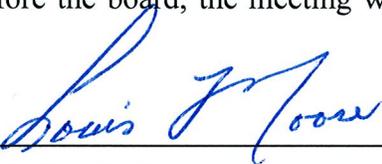
Mr. Walton stated it will not be posted on the City's website.

Mrs. Remark stated if someone or a neighborhood group calls and request the information staff would be required to give them the information.

Mr. Walton replied yes.

Adjournment

There being no further actions to come before the board, the meeting was adjourned at 7:10 pm.



LOUIS MOORE
Chair

ATTEST:



CATHY WASHINGTON
Secretary