TOWN OF LONGBOAT KEY

PLANNING AND ZONING BOARD

MINUTES OF REGULAR MEETING

APRIL 19, 2016

The regular meeting of the Planning and Zoning Board was called to order at 9:00 AM by Chair Jim Brown.

Members Present: Chair Jim Brown; Vice Chair BJ Bishop; Secretary Ken Schneier; Members Andrew Aitken, Leonard Garner, Stephen Madva, George Symanski

Also Present: Maggie Mooney-Portale, Town Attorney; Alaina Ray, Planning, Zoning & Building Director; Maika Arnold, Planner; Donna Chipman, Office Manager

AGENDA ITEM 1
PUBLIC TO BE HEARD
Opportunity for Public to Address Planning and Zoning Board

No one wished to address the board.

AGENDA ITEM 2
CONSENT AGENDA

MRS. BISHOP MOVED APPROVAL OF THE MINUTES OF THE MARCH 22, 2016, REGULAR MEETING AND SETTING THE FUTURE MEETING DATE FOR MAY 17, 2016, REGULAR MEETING. MR. GARNER SECONDED THE MOTION. MOTION WAS APPROVED UNANIMOUSLY.

AGENDA ITEM 4
ORDINANCE 2016-12, PERSONAL WIRELESS SERVICES

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, provided an overview of the ordinance noting:

- On November 3, 2015, funding for the Gulf of Mexico Drive Undergrounding Project was approved by the electorate
- On March 15, 2016, funding for the Neighborhood Undergrounding Project was also approved by the electorate

- On April 4, 2016, the Town Commission adopted Ordinance 2016-06, creating a new Chapter 58 – Underground Utilities
- The adoption of the underground ordinance required a 'tweak' to the Town's Personal Wireless Service Facilities Ordinance
- Because the Town would be removing utility poles from the island, there was a need to add language that would accommodate above-ground wireless equipment, which typically were located on light poles or light fixtures
- Since the Town was planning on including a 'lighting plan' in conjunction with the undergrounding project, new light fixtures would go up along Gulf of Mexico Drive
- Some of those fixtures might be tall utility light fixtures, or some might be at ground or walking level
- The proposed ordinance included a definition for 'light fixture' to address any type of lighting that could be used and where Wi-Fi equipment could be located

Mr. Garner believed the language was contradictory with 'Wi-Fi' included; lighting was not exclusive. Ms. Ray responded staff wished to limit it so no other utilities could be affixed to the structure. Mr. Symanski questioned why it did not state, "*utilized exclusively for lighting, common signalization, or Wi-Fi*.". Ms. Ray pointed out that if it stated "or Wi-Fi" it would no longer be a light fixture. She explained under the ordinance it allowed something that looked like a tree, but did not have lighting, but if it was a fixture that has lighting, that was the primary purpose. Maggie Mooney-Portale, Town Attorney, noted that within the Town Code were illustrative pictures of wireless facilities.

Chair Brown asked if the Town was protected against any utility coming in and saying they want to install a new pole and put up what they wanted within Federal guidelines. Attorney Mooney-Portale responded the precursor to this ordinance was another ordinance that was approved by the Town Commission, which basically states, "all utilities shall be underground from this point forward." This language ensures the scenario suggested does not occur. The ordinance was to provide for typical 'Wi-Fi' nodes, and making it as unobtrusive as possible; it was contemplated that it would provide for that opportunity. Chair Brown discussed Distributive Antenna Systems (DAS) and asked if a provider would be able to install a pole. Ms. Ray reviewed the illustrative pictures contained in Section 158.201 of the Town Code. She pointed out that under the new underground ordinance, the Town did anticipate there might be some unknown technology that would want to be placed above-ground and not included in the list. The list that existed for utilities included cable, telecommunication, etc., but also states not limited to these things. Any service that was provided had to be underground.

Mr. Schneier commented that it seemed to be a narrow thing the Town was wanting to accomplish. He mentioned that at this time wireless nodes can be placed on utility poles, but since the Town would not have utility poles, they were allowing on the lighting poles. He asked why it did not state, "light fixtures shall mean any… or similar structure utilized for lighting." Ms. Ray responded it might not be a light pole, but lighting affixed to a building, and staff was wishing to add a definition for 'light fixture,' and include that a wireless node can be attached on a light fixture. Chair Brown noted there was a need to define 'light pole' and then define what was allowed on the light pole.

Ms. Ray reviewed the zoning definition for 'Wi-Fi' and 'DAS.' The definitions themselves did not note every place they can be located, but only defined what they were. Ms. Bishop believed Mr. Schneier's point was to define 'light fixture.'

Discussion continued on:

- Whether the Town would have control over a utility company wanting to install a 'tree' pole; it would have to meet certain standards and was covered in the ordinance
- If there were state requirements that would supersede the Town; staff noted it would be required to be underground
- Once the Town embarked on the undergrounding path, the Town was within their rights in requiring that from this point forward, they would be required to place it underground
- there would be a trigger date where notices would be sent to residents pointing out that under the ordinance, from this date forward, they could not install overhead wires
- If someone was wishing to install a tree, or something else, would it be allowed in a right-of-way; this was covered in the existing code, but if within a right-of-way, they would need to obtain Florida Department of Transportation (FDOT) approval, which was not typically granted for those type structures in a right-of-way

No one else wished to be heard, and the hearing was closed.

MS. BISHOP MADE A MOTION THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-12, PERSONAL WIRELESS SERVICES, AS WRITTEN. MR. SCHNEIER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; BISHOP, AYE; BROWN, AYE; GARNER, AYE; MADVA, AYE; SCHNEIER, AYE; SYMANSKI, AYE.

The Board recessed at 9:20 am and reconvened at 9:33 am in a round-table workshop discussion for the remainder of the meeting.

Agenda Item 5
Ordinance 2016-09, Comprehensive Plan Amendments
(Continued from the March 22, 2016 meeting)

Ms. Ray commented that staff was working on more detailed presentations to provide to the board for their next meeting concerning the various amendments. She also noted the only comment on the Mobility Element was a request to provide a general understanding of the element, how it was different from a Transportation Element, and how it fit within the Sarasota County plan. Staff would provide an entire overview presentation at the next meeting.

Discussion continued on:

- Community Planning Act adopted in 2011 and which replaced what was previously known as Rule 9J
- Changes made at the state level with the Department of Economic Opportunity (f/k/a Department of Community Affairs)
- That previously the Town had to update their Comprehensive Plan every 6-7 years by going through an entire review, hiring consultants to assist, and spending numerous hours going through and revising the plan to ensure it complied with state statutes
- That the Town was still required to perform that periodic review, but previously there were a number of materials required to be sent to the state agency, but now it can be as simple as sending a letter to them noting that the state had not passed any laws that required an update to the Comprehensive Plan
- How the state became more aware of the need for planning and regulations within the state

Chair Brown discussed that some of the issues seem beyond the Planning & Zoning Board's responsibility, but he assumed, since the board were advisors to the Town Commission, the Town Commission would make the final decision. He commented that it would be easier to know if something was required in the Comprehensive Plan, and asked if there was a list of the requirements. Ms. Ray responded the list was included in the reference materials provided under the Community Planning Act.

Ms. Ray continued with reviewing the comments provided on the handouts. She noted that the document changes the word 'will' to 'shall' throughout the text. Mr. Symanski voiced concern and asked if staff had reviewed each instance where the word 'will' was changed to ensure it was appropriate. Maggie Mooney-Portale, Town Attorney, commented as the 'crosswalks' were envisioned were to make more generalized such that the land development regulations, which were going to be modified to provide the details, were very general in nature. If it was a general policy, she was comfortable with 'shall;' however, if it was something more detailed and specific, she agreed with Mr. Symanski, but at this time, she believed all those items identified should use the word 'shall.' Ms. Bishop requested that staff review the document and highlight the 'wills' and 'shalls' and provide to Mr. Symanski for him to determine what he was comfortable with or not.

Ms. Ray continued with reviewing the comments regarding implementation. Mr. Garner suggested, if in the future the board was reviewing implementation, they would not want to be bound any more than saying 'we will do this.' Ms. Ray pointed out that the Community Planning Act stated the municipalities 'shall' include these things. Mr. Garner responded if it turned out there were items that were variables, they should remain with the word 'will,' and not 'shall.'

Discussion ensued on:

- the process to go through with a Comprehensive Plan amendment
- the Comprehensive Plan versus the Land Development Regulations (LDRs) have always had the same relationship, but the Town burdens their plan by including things in it that should not have been included, which made it more difficult for land development applications
- the Comprehensive Plan was an overview of the community and what they want to do, although some items were mandatory
- it should not include items that were specific
- staff found themselves referring to the Town's Vision Plan versus the Town Comprehensive Plan
- non-conformities were considered 'vested rights;' Mr. Schneier suggested it state, "and other vested rights"
- discussion on the Bert J. Harris Act and its impacts
- discussed consideration of a policy related to art donations
- staff will contact other communities to see what they have in their codes/requirements for public art and bring it back to the board for discussion

Mr. Garner left the meeting at this time.

The board recessed from 10:40 am – 10:50 am.

Ms. Ray discussed Policy 1.2.2.2 noting that the Town's Comprehensive Plan had never had an implementation schedule. She commented it had been discussed these were typical to have and asked if the board believed an implementation schedule should be developed. Ms. Bishop agreed with the idea. She believed they needed to stress the urgency, and it makes the Town Commission and staff aware that there might not be sufficient staff to accomplish. Ms. Ray responded there were certain timetables that currently existed in some areas of the Comprehensive Plan. Chair Brown also agreed with the idea of an implementation schedule. Ms. Ray noted staff would draft an implementation schedule to present to the board and move forward.

Governance –

<u>Section 1.3.8.1</u>

- discussed the P&Z Board being named the Local Planning Agency
- it was specified in the Land Development Code and not the Comprehensive Plan
- staff was proposing to include it in the Comprehensive Plan, because it had been the practice of the Town for some time, but it was a policy decision the board would need to recommend and the Town Commission adopt
- there was a question if there was a need for another layer, but including it in another document made it another layer, which was acceptable, but it was a decision of the Town Commission

- it needs to be embedded, because it was the belief that the intent was to have a planning commission that was responsible for the planning decisions of the community

Recreation and Open Space –

Section 1.2

- this was actually a missing component of the Town's Comprehensive Plan; a recreational and open space master plan was a common component in most comprehensive plans
- discussed the recreation acreage per 1,000 persons, the uses, and how the Town wished to develop the program
- suggestion that should review the acreage per 1,000 persons, because this was based on normal communities that have kids playing soccer, baseball, football, etc., and Longboat Key did not have that
- a lot of the areas included were areas that were not open to the general public
- whether when the Town approved a development and open space was required, if it was included in the open space calculation; it depended on how it was calculated, as some developers paid a Land Acquisition Fee in lieu of open space
- island is almost built out and there was not much land remaining to build on; have to move from mindset of preserving more open space to what the Town should be doing with the open space and park areas that existed; what should the Town be doing to improve what existed and making it appeal to the next generation
- peak seasonal functional – was a calculation from water usage provided to the Public Works Department and the Town by Manatee County

Conservation and Coastal Management –

Section 2.3.3.2

- Revised to include 'require' – want to incorporate language to broaden to reflect the current direction of the Town Commission

Agenda Item 6
Ordinance 2016-10, Comprehensive Plan Amendment, Mobility Element
(Continued from the March 22, 2016 meeting)

Ms. Ray discussed the Mobility Element reiterating that staff would provide a thorough presentation at the next meeting/workshop. She noted that there was now an interlocal agreement with Sarasota County, so Longboat Key was its own district for mobility.

STAFF UPDATE

Chair Brown questioned if the board could schedule special meetings for round-table discussion through the summer months. He pointed out that under the earlier discussion of the Implementation Process it was mentioned the Town had hired a

consultant to revise the Town's Zoning Code. Ms. Ray explained staff had just received the signed contracts, and the next step would be to setup a 'kick off' meeting between staff and the consultant. The board would not see any actual ordinances before their summer break; it was anticipated that a draft Planned Unit Development (PUD) ordinance would be presented in September.

After discussion, the board scheduled workshop meetings, to review the Comprehensive Plan elements, for July 19, 2016, and August 16, 2016. Staff will contact the board members to determine a quorum for scheduling of two additional workshops during the months of July and August.

ADJOURNMENT

The meeting was adjourned at 11:38 AM

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Ken Schneier, Secretary
Planning and Zoning Board