

TOWN OF LONGBOAT KEY
PLANNING AND ZONING BOARD
MINUTES OF REGULAR MEETING

OCTOBER 21, 2014

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

Members Present: Chair Allen Hixon, Vice Chair Jack Daly, Secretary John Wild, Members Andrew Aitken, Walter Hackett, Ken Schneier, George Symanski

Members Absent: BJ Bishop, Leonard Garner

Also Present: Maggie Mooney-Portale, Town Attorney; Alaina Ray, Planning, Zoning & Building Director; Steve Schield, Planner; Jamie Anderson, Temporary Assistant

Chair Hixon informed the Board that he had received a communication from the Town Clerk requesting board members to turn off any electronic devices to avoid any perception of Sunshine Law issues during the meeting.

AGENDA ITEM 1
EFFECTS OF SUNSHINE LAWS ON PLANNING AND ZONING BOARD

Maggie Mooney-Portale, Town Attorney, thanked the board members for participating in the training courses that were provided on the Sunshine Law, and continued with discussion of the training.

Mr. Wild asked why no one discussed cell phones. Attorney Mooney-Portale responded it was discussed as they specifically talked about appearances that occur when members were texting or emailing, etc.; the impression the audience has when communications were occurring from the dais. Mr. Hixon commented the obvious question would be when people on both sides of the dais were working on their phones, and it was unknown if they were discussing issues privately. Attorney Mooney-Portale replied that was the risk; the risk was minimized by putting the devices away as it solved the problem entirely.

Discussion ensued on the following:

- Representation by the Town's attorney
- Liability coverage for board members
- The Town Code and Florida Statutes entitled the members to indemnification for the acts done in the scope of their duties

- they were obligated to follow the laws, but if they stepped outside the law, committed an ethics violation, violate the Sunshine Law, or withhold public documents, in those circumstances they may not be provided indemnification
- the way local government has been handling Sunshine lawsuits was analogous to the insurer defense
- the distinction between defense and indemnity; the issue of whether the Town was going to defend and assign a lawyer
- the reason for taping meetings and whether any towns had rescinded that decision; there was no obligation to record a meeting, but if it was done, it was considered a public record. Rescinding was a policy decision for the Town Commission
- if a board member could talk one-on-one with a commissioner; it was okay as long as the board member was not serving with the commissioner on a committee or subcommittee.
- If it was appropriate for a board member, along with a town commissioner, to go to a potential applicant to encourage and discuss their submission; when the board heard applications, the members were sitting in a quasi-judicial capacity, so they should not be engaging in those communications with applicants
- Board needs to be impartial and not give an indication of bias

George Spoll, Harbourside Drive, believed the question asked was whether the Planning & Zoning Board could hold a meeting of the interested property owners concerning the Town Center, as long as it was advertised. Attorney Mooney-Portale responded if it was legislative, and not a particular application, they could meet as long as it was noticed and held under the Sunshine Law.

AGENDA ITEM 2
DISCUSSION REGARDING OCTOBER 20, 2014, JOINT TOWN COMMISSION /
PLANNING & ZONING BOARD SPECIAL WORKSHOP

Chair Hixon mentioned that he was impressed with the presentation. Alaina Ray, Planning, Zoning & Building Director, thanked the board for their participation as it was very helpful for staff to receive input and direction.

Mr. Wild left the room at 9:36 AM.

Ms. Ray envisioned as the board went through the process of revising the Comprehensive Plan and Land Development Codes, more round table workshops with the P&Z Board. She noted that staff was planning on having more joint meetings, but it would also be helpful to have workshops with just the P&Z Board members. Mr. Symanski commented that it was important to have joint meetings. He mentioned that the Town Charter kept the Town from 'growing,' and the board needed to know if the Town Commission wanted the Town to grow.

Mr. Wild returned to the meeting at 9:41 AM.

Mr. Symanski questioned the impact on the Charter from the state issue on referendums. Attorney Mooney-Portale pointed out that one of the things in the Florida Statutes (163.3167) was the Town was grandfathered, because there was a Charter provision that had been in effect since July 2011. The question was if it was the Town's intention to maintain Section 22(b) and the density referendum requirement, then how much that section could be modified without losing the grandfather status.

Mr. Schneier noted that it was his understanding from yesterday that those items where there was consensus to pursue included tweaking some density, which could be done with a referendum, but Charter amendments were not necessary. Ms. Ray responded that was correct; the Town Commission had the authority to fully legalize existing densities and converting into new land use categories might result in the likelihood that potential density might be bumped up slightly, so the question would be how to handle the difference between the existing density and the additional density it might be 'bumped up' to. Additional density could be handled through a referendum without changing the Charter. Mr. Schneier questioned why the board was discussing the possibility of a Charter amendment. Ms. Ray explained staff wanted the board and Town Commission to understand what their options were and to have the information of what could be done; staff received the go ahead yesterday to explore.

Mr. Schneier asked if it was fair to think the initial objective was to see what could be modified by the board within the scope of the existing Charter and which would not require an amendment. Ms. Ray noted there was not a need to make changes to the Charter in order to address the issue with non-conformities. Mr. Wild pointed out the major issue was determining how many existed. Ms. Ray replied there were less than 1,000 island-wide, but staff needed to identify them and analyze the results.

Commissioner Younger noted it was his opinion that the joint meeting was extremely productive and "well put together." It was his hope the board would hold more joint meetings more frequently. He believed the number of units that fell into the non-conforming category was between 160-170 units, but some of the units were duplexes or triplexes in residential neighborhoods. He questioned if the Town really wished to address these units, because they might not be in harmony with the rest of the overall neighborhood. He pointed out there were also a lot of "mom and pop" tourist areas up and down the island that were not classified as such; over 100 with most at the north end. He had taken all 170 units, plotted them as to lot size, and color-coded them as to the type of property. He offered to bring the document in as a public record so the Town could see what they were dealing with.

Mr. Daly commented that it was helpful to focus on the types of properties the board was looking at from a non-conforming viewpoint. He pointed out that Seaplace, Cedars East, Club Longboat and others all had very specific restricting condominium documents that required substantial majorities to make any material changes. He believed it would be unlikely there would be enough votes to come close to addressing the hurdles to make material changes, so they would not be practical candidates to be upgraded. He concluded the board should be discussing the smaller areas where there we no restrictive covenants, such as duplexes and triplexes.

Discussion ensued on:

- Homeowner Associations would have restrictions
- How many of the properties were created before the change in zoning; were any 'going away' by virtue of them being old, being demolished and then replaced
- A lot of non-conforming properties still existed, but because they were non-conforming, the owners could not do anything with them
- The main issue and challenge for coastal redevelopment was resiliency; there were properties 40-50 years old and it was unsure how they would deteriorate over the next ten years

Mr. Spoll noted that he was president of the Longboat Key Federation of Condominiums, and they had a series of programs to urge condominiums to upgrade. There was concern of what to do with the residents when trying to rebuild. There was also the issue of involuntary and voluntary destruction. He commented that Spanish Main Yacht Club had engaged someone to prepare a concept plan, which would be allowable by the Town in the event the complex was destroyed. Ms. Ray mentioned that staff had met with the board members for Spanish Main who were being very proactive. She pointed out that after a hurricane it was a slow process, but it was helpful to have plans in place. Another issue was the label of 'non-conforming' carried a negative 'stigma' with a lot of finance companies.

The board continued with discussing different scenarios of changing the density. It was noted that the referendum process was a substantial drawback for potential developers.

CONSENT AGENDA

MR. DALY MOVED APPROVAL OF THE MINUTES OF THE SEPTEMBER 16, 2014, MEETING AND SETTING THE FUTURE MEETING DATE FOR NOVEMBER 18, 2014. MR. SYMANSKI SECONDED THE MOTION.

Chair Hixon requested that the statement, "*Chair Hixon discussed his personal summer communication and Longboat Key's Civility Code*" be included at the beginning of the minutes.

Mr. Daly and Mr. Symanski accepted the amendment.

Motion carried unanimously.

It was also noted that the word '*Adjournment*' was misspelled.

STAFF UPDATE

Ms. Ray informed the board for the November 18, 2014, P&Z Board meeting, staff would possibly have draft policy language for the Comprehensive Plan for discussion. She noted that staff would not have anything ready for the Land Use table or Land Use categories. She commented that if the board wished, staff could hold that discussion for the December meeting where they would have a more comprehensive packet to provide to the board.

Mr. Hackett left the meeting at this time.

Mr. Schneier questioned if Commissioner Younger's maps might be available for review if the board held the November meeting. Ms. Ray replied they did have a GIS team working on additional mapping, and she was not sure if they would be available for November. Mr. Daly asked if there was some way to place the focus on the numbers. Ms. Ray explained that staff was vetting the information provided by Commissioner Younger and additional information was being vetted on a property-by-property basis.

MR. WILD MOVED THE P&Z BOARD CANCEL THE NOVEMBER 18, 2014, PLANNING AND ZONING BOARD MEETING. MR. SYMANSKI SECONDED THE MOTION.

Mr. Aitken and Mr. Schneier noted their preference to hold a meeting in November.

MOTION FAILED ON ROLL CALL VOTE: AITKEN, NO; DALY, NO; HIXON, NO; SCHNEIER, NO; SYMANSKI, AYE; WILD, AYE.

The next meeting was scheduled for November 18, 2014.

Ms. Ray commented that staff had received a new application for the Mar Vista Restaurant. She pointed out it was the same application as previously submitted, but it did not include the Jordon House. There was also a new Special Exception application for the outdoor dining for the second floor. She noted the applications would be placed on the December meeting agenda.

Attorney Mooney-Portale reiterated that board members should avoid any discussion of the applications that would be brought before them for review. She noted that if a board member did have any discussions, they would need to disclose at the public hearing.

ADJOURNMENT

The meeting was adjourned at 10:29 a.m.

John Wild, Secretary
Planning and Zoning Board