

**TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
REGULAR MEETING MINUTES**

*Jarvis Hall – 4505 Ocean Drive
Thursday, September 11, 2014
6:00 P.M.*

1. CALL TO ORDER

Chairman David Chanon called the meeting to order at 6:02P.M. The Pledge of Allegiance was recited. Members present were David Chanon, Patrick Potts, Charles Clark, Roseann Minnet, and first alternate Patrick Murphy. Mr. Yann Brandt and 2nd alternate Gerri Ann Capotosto were absent. Also present were Town Attorney Kathy Mehaffey, Town Planner Linda Connors, and Clerk Idalia Gutierrez.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Previously recited.

3. APPROVAL OF MINUTES – Previous Meeting Minutes for July 16, 2014.

Ms. Minnet made a motion to approve the minutes of July 16, 2014 as presented. The motion was seconded by Patrick Potts. The motion carried 5-0.

4. PUBLIC COMMENTS

The Chair opened the meeting for public comments and closed public comments at this time as there were no public comments.

5. NEW BUSINESS

- a. Proposed Amendments to Chapter 30, Article VIII – Sign Regulations (Linda Connors, Town Planner)

Town Planner Linda Connors spoke about the Staff Report in the packet that outlined the summary of issues and how the Board voted on the proposed amendments. It also answers the Board's request for additional research on maximum window letter size, real estate and political signs.

Ms. Connors began the ordinance review by discussing the proposed changes to real estate and commercial signs and explaining the research that was completed on these issues at the Board's request. Town Attorney Kathy Mehaffey explained that constitutional law requires a correlation between political signs and commercial real estate signs, so as not to discriminate. Real estate signs are temporary and have some of the same characteristics as political signs. It could be different for residential real estate signs. Ms. Connors said that for political signs, it was limited to two per candidate or issue with the sign being 2' x 4'. She also asked the Board if they wanted a separate standard for commercial real estate signs. Ms. Mehaffey said that the legal department was asked if there was another way to handle commercial real estate signs in

terms of a maximum size not to exceed "X" sq. ft. For discussion purposes, a maximum of 20 sq. ft. could be broken up however the Board would like but no sign could be bigger than 8 sq. ft. This is legally defensible but has some drawbacks. Ms. Minnet stated that she thought the Board did not want two political signs per candidate and Ms. Mehaffey confirmed that the Board requested one political sign per candidate. Ms. Minnet's opinion is to stay with the original size and only one political sign per candidate. Mr. Potts did not want to exceed 16 sq. ft. He would prefer the sign being no more than 2' x 2'. Ms. Connors said that for residential real estate signs, the maximum was 3 sq. ft. (2' x 1.5'). The proposed amendment is 8 sq. ft. for commercial real estate signs (2' x 4'). That was why the political signs were 2' x 4'. Ms. Minnet suggested 2' x 1.5' political signs in residential areas and one per candidate and issue. Ms. Connor said that for a corner lot, two political signs were recommended per candidate and issue. David Chanon thought it was reasonable to have two real estate signs on a corner lot. Ms. Connors answered that in the past, real estate signs were one per street frontage and waterway. All real estate signs on a single property shall count as one temporary sign. She said there were not a lot of regulations regarding political candidates other than it may not be erected on public right-of-way. There was a limit on the size of 6 sq. ft. Ms. Minnet was concerned about two signs on a corner lot and other residential lots would want two signs as well. Patrick Potts felt that regulations could lead to extra administrative work. Mr. Clark was in favor of limiting the amount of signs with the same amount for each lot corner. Ms. Minnet proposed that corner lots or waterway lots should be allowed two signs but non-corner and non-waterway lots only one sign. The sign should be 3 sq. ft. Code Enforcement would have to enforce this. Patrick Potts said that the Board is in agreement that less signage is better for residential districts. Discussion ensued about real estate and political signs in commercial districts. The Board's recommendation is a cap of 21 sq. ft. with no individual sign above 12 sq. ft. Town Attorney Mehaffey summarized the two Board recommendations. For residential properties, political signs would be 3 sq. ft. per sign. This is the same as real estate signage with one sign per street frontage or waterway. For commercial properties, real estate signs of 12 sq. ft. and political signs a total of 21 sq. ft. with no individual sign to exceed 12 sq. ft. Political signs for residential and commercial areas were one per candidate and issue.

Town Planner Connors stated the next research issue was maximum window letter size. Right now, the maximum letter size is 12". The Town Commission recommended changing the letter size to 18". Ms. Connors said that in the Staff Report, there were some industry standards and suggested letter sizes. She explained how this was calculated with speed limits and amount of traffic lanes. This is why different areas in Town would have a different calculated letter size. It also depended upon if the letters would be all capital or upper and lower case letters. She also discussed standards for pedestrian signs. Discussion ensued. Ms. Minnet asked if this applies to doors. Ms. Mehaffey responded that separate standards could be assigned to door and window signage. They talked about separating districts as to east (more pedestrians) and west (more cars) of A1A. Ms. Connors recommended and Ms. Mehaffey summarized capping letters at 18" on A1A and west of A1A and 12" east of A1A. This would be a nice compromise and in line with industry standards.

Both Ms. Connors and Ms. Mehaffey spoke about Board Members speaking at the Town Commission September 23rd meeting to give feedback regarding their recommendations. Ms. Mehaffey explained about speaking as an individual or if the Board wanted to designate someone to speak on behalf of the Board for the opinions of the Board as a collective whole. David Chanon asked for public comments and there were none.

Ms. Mehaffey spoke into the record about the Planning and Zoning Board's summary of recommendations in addition to the clarification that real estate signs in residential would be limited to 3 sq. ft. and 12 sq. ft. in commercial districts with one sign per frontage and waterway. Political signs would be limited to 3 sq. ft. in residential with one sign per candidate and issue per lot frontage or waterway. In commercial districts, political signs would be limited to a total of 21 sq. ft. with no individual sign to exceed 12 sq. ft. For maximum letter sizes for windows, properties east of A1A would be limited to 12" and A1A and west would be limited to 18".

Mr. Murphy made a motion to recommend the Town Commission adopt the Planning and Zoning Board's recommendations as read into the record by Town Attorney Kathy Mehaffey. The motion was seconded by Ms. Minnet. The motion carried 5-0.

b. Corrections to Referenced Code Sections and Miscellaneous
Corrections/Amendments (Linda Connors, Town Planner)

Town Planner Linda Connors said that she distributed the amended ordinance and asked if everyone would follow along. The changes that were made since the agenda was published were highlighted in blue. The ordinance includes corrections to references in the code to reflect the reorganization of Chapter 30 that was approved last month. She stated that the staff also included a number of amendments to the code which she will individually address. She explained that they corrected the definition of kitchen to include a range or oven. They added the definition of neighborhood or low speed vehicle. They added the definition of tandem employee/valet space. They relocated the language about affirmative vote of commissioners. They deleted some duplicative information. They added language about view corridors in RM-25. Board members were happy with this added language. Ms. Connors explained the language added in the B-1-A district and the B-1 district. She talked about driveways and when conforming material needed to be used (e.g., pavers). She said that amendment requires new construction must meet current standard of pavers. Mr. Potts asked the standard as it applies to apartments and was told that asphalt was allowed. It was suggested to re-visit multi-family residents. Discussion ensued about changing the proposed language that requires properties exceeding 50% of the current replacement costs of the building to 25%. The Board consensus was that 25% should be the threshold to comply with the regulations. Building lighting was then discussed. Ms. Minnet said developments are coming up and they would need lighting requirements. The current language does not talk about lighting intrusion and lighting pollution. Ms. Minnet would like this brought back in October. The consensus is to remove this from this ordinance for the time being and in October, put some more significant lighting verbiage in. They added neighborhood/low speed vehicle space and tandem employee/valet space. She explained the changes to back out parking onto A1A. They changed exemption for bicycle parking and changed bicycle parking language. She spoke about having bicycles and/or low speed vehicles available for guests. Ms. Connors explained how the optional substitution of neighborhood/low speed vehicle spaces could be substituted for vehicular spaces. Next they talked about outside dining on private property and eligible restaurant. Town Planner Connors gave a brief description of the parking exemption program and the changes. Ms. Minnet was concerned that this program did not address employee parking. Discussion ensued about the Town losing money by giving parking spaces to property owners in perpetuity. We need to hold the business owners accountable for parking. Ms. Connors explained where there is employee parking and there is a fee for a sticker to park there each month. The Board agreed that these parking spaces have real value and should produce revenue for the Town. Ms. Connors said that this program ends in 2015. The members agreed that if a business ends, that exemption ends. Ms. Connors said that there would be a parking study coming in front of the Commission

in October. She suggested reserving this conversation after the Commission gets the parking study. Then she would bring this back. In the interim, Ms. Minnet recommended to leave it in with stronger language. Town Attorney Kathy Mehaffey summarized that all of the clarifications from line 670-685 will be removed from this for the time being. Ms. Connors then discussed the El Mar Drive Streetscape Plan which would be the bottom threshold. Then she spoke about cleaning up the language. Public comments were requested but there were none.

Town Attorney Kathy Mehaffey summarized the changes to the substitute ordinance presented with the blue, green and yellow highlighting. There were four changes. One was at line 389 discussing the qualifications and requirements for bringing driveways up to code with replacement pavers instead of asphalt. That was to change when the replacement costs to the primary building was at 25% and not at 50%. The second change was to remove building lighting from the ordinance until later discussion. The third change is at line 566 to require minimum of two neighborhood/low speed vehicle spaces in lieu of one vehicular parking space. The fourth change is not to make the changes for lines 670-685 dealing with the restaurant exemption program and not to move forward at this time.

Mr. Potts made a motion to approve as amended Ordinance 2014-13 (Exhibit 1). The motion was seconded by Chair Chanon. The motion carried 5-0.

.c. Proposed Ordinance Addressing Land Use Regulations for Medical Marijuana Retail Center Uses (Kathy Mehaffey, Town Attorney)

Town Attorney Kathy Mehaffey gave a PowerPoint presentation regarding medical marijuana. She started out with a brief summary of the issues. She spoke about state law and the constitutional amendment regarding medical marijuana and their very distinct differences. For the constitutional amendment which is broader in scope, everything would be regulated by the Department of Health. This constitutional amendment does not impact or affect federal law. Everything indicates that this amendment will probably pass and then legislative changes would be necessary. She spoke about the debilitating medical conditions as well as other less serious conditions a patient must have in order to get this medical marijuana. She explained about Medical Marijuana Treatment Centers. She answered that the marijuana could be administered at that property. She explained what the Department of Health's role is. She said that the constitutional amendment allows for any type of marijuana. She then explained the Florida Statutes contain the existing law which is limited in scope for medical marijuana. She explained about brands and blends of marijuana that would be allowed and are "non-euphoric", Low-THC cannabis/marijuana. This is for very limited types of illnesses with very limited types of marijuana product. It cannot be smoked. A plan for the patient's treatment must be submitted to the University of Florida College of Pharmacy research. The Department of Health is still developing the rules which must be complete by January first. She explained that even though records may be exempt from public disclosure, the DEA would be able to subpoena those records regarding medical marijuana. Everything done on the state level for medical marijuana is at your own risk whether using, growing or selling. For the local governments, this would not be a significant revenue generator except for business tax receipt and licensing fees. It would boost employment in the Town.

The options for the Town would be to regulate or prohibit. The Town could be sued for prohibiting. If the Town regulates, it would have the opportunity to make decisions about what would happen and how it would happen. The ordinance before the Board tonight is a land use zoning ordinance. It would address the location of medical marijuana uses in Town. As

currently drafted, it allows only for Medical Marijuana Retail Center subject to a two-year conditional use approval by Town Commission (which is renewable). This is just the retail component of a Treatment Center. Cultivation, processing, storage, on-site consumption, etc. would not be allowed. It would be located in the B1-A zoning district. It was not allowed to be within 300 feet of protected uses (e.g., schools, parks, etc.). Ms. Mehaffey pointed out that it was set at 1,000 feet under the Department of Health. Ms. Mehaffey said that the Town is in the process of finalizing a companion non-land use ordinance which would provide business regulations in Chapter 12. She highlighted some of the new regulations in this ordinance but it is not in the authority of this Board to review. The permit in Chapter 12 is one-year and is renewable annually. David Chanon asked for public comments.

Mr. Bruce Vanaman stated that he is a medical marijuana patient now living in Lauderdale-By-The-Sea. He is a founder of OrganaLabs in Denver, Colorado. He would be glad to help out with the process. He said that if you prohibit, you will probably be sued. If you regulate, you are much better off. He answered Patrick Murphy's question about security. Because of the heightened security, there is very little trouble by Retail Centers and crime has gone down in those areas. He answered that he is a patient advocate and would like to see a Retail Center open in Lauderdale-By-The-Sea. Concern was expressed about the State's law and the Town's ordinance regarding distance from protected uses. He answered Pat Murphy that he worked with the Denver City Council and Planning and Zoning Commission in 2004. Discussion ensued about parking for a Retail Center. Mr. Vanaman answered Patrick Potts that since the deregulation of recreational marijuana in Colorado, that state had people from Europe who took tours of facilities. The facilities see around 100 to 200 patients a day and recreational usage has even higher numbers. Ms. Mehaffey answered that recreational marijuana bills have already been introduced in Florida but have so far failed. Mr. Vanaman felt that the potential of medical marijuana users in the Town is a big number. He answered about lawsuits in Colorado. Ms. Mehaffey spoke about case law and the local government's home rule authority. There would be local governments in Florida that would prohibit and this has been upheld in other states. Mr. Clark was answered about what other cities were doing at this point in time. Mr. Vanaman said that across the State of Florida, most areas are favorable. Discussion ensued about the lessons learned in states that already have medical marijuana. They spoke about a gentleman who has been receiving medical marijuana free of charge from the federal government for the last 32 years. There is federal banking available now. Mr. Vanaman answered Patrick Murphy about Colorado's process for medical marijuana. Town Planner Linda Connors explained that both ordinances would be presented to the Town Commission at their September 23rd meeting. There were no more questions for Mr. Vanaman and no other public comments. Town Attorney Mehaffey answered Ms. Minnet that the proposed ordinance as drafted would protect the Town.

Ms. Minnet made a motion to accept proposed Ordinance 2014-14. The motion was seconded by Mr. Murphy. The motion carried 5-0.

6. OLD BUSINESS

Ms. Minnet asked for thoughts regarding if a house is sold or changed ownership that the asphalt should be changed and upgraded to driveway pavers. During discussion, it was not favored.

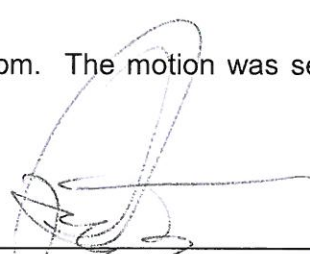
Town Planner Linda Connors said the October Board Meeting is scheduled for October 15th and she would like to change it to October 22nd. The Community Center already printed information

regarding their event on October 15th. As there was a quorum available for October 22nd, the meeting the meeting was scheduled for that date at 6:00PM.

7. UPDATES/BOARD MEMBER COMMENTS

8. ADJOURNMENT

Ms. Minnet made a motion to adjourn at 8:43pm. The motion was seconded by Mr. Murphy. The motion carried 5-0.


Vice- ~~Chairman David Chanon~~ - Patrick Potts

ATTEST:

Date Accepted: 10/22/14

Town Planner Linda Connors

Linda Connors