

Local Planning Agency
Thursday, October 9, 2014
8:30 A.M.
Bonita Springs City Hall
9101 Bonita Beach Road
Bonita Springs, Florida 34135
MINUTES

I. CALL TO ORDER.

Chairman Henry Bird called the meeting to order at 8:33 A.M.

II. ROLL CALL.

Chairman Bird and all Board Members were in attendance.

III. REVIEW OF THE FOLLOWING ORDINANCE FOR CONSISTENCY WITH THE CITY OF BONITA SPRINGS COMPREHENSIVE PLAN:

AN AMENDMENT TO BONITA SPRINGS LAND DEVELOPMENT CODE, AMENDING AND REPLACING THE SIGN ORDINANCE, CHAPTER 6 OF THE CITY OF BONITA SPRINGS LAND DEVELOPMENT CODE; AMENDING THE FOLLOWING SECTIONS: 6-1 PURPOSE AND INTENT OF CHAPTER, 6-2 DEFINITIONS AND RULES OF CONSTRUCTION, 6-5 PROHIBITED SIGNS, 6-6 PERMITTED SIGNS, 6-37 VARIANCES AND SPECIAL EXCEPTIONS, 6-38 PERMITS; INSPECTIONS, 6-39 NONCONFORMING SIGNS, 6-40 SIGN SETBACK OPTION, 6-69 MEASUREMENT OF SIGN AREA, 6-70 MEASUREMENT OF SIGN HEIGHT, 6-72 CONSTRUCTION STANDARDS; LANDSCAPING, 6-73 SIGN AND STREET IDENTIFICATION AND MARKING; 6-111 TEMPORARY SIGNS, 6-112 PERMANENT SIGNS IN RESIDENTIAL AREAS, 6-113 PERMANENT SIGNS IN COMMERCIAL AND INDUSTRIAL AREAS, 6-154 INTERSTATE HIGHWAY INTERCHANGE AREA SIGNS, 6-115 PERMANENT SIGNS IN THE BONITA BEACH ROAD CORRIDOR, 6-116 PERMANENT SIGNS ON OLD U.S. 41 FROM BONITA BEACH ROAD TO ROSEMARY STREET, AND 6-148 BILLBOARDS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

8:33:44 AM City Attorney Audrey Vance began by explaining that changes were made to the Ordinance, some of which were from the LPA and others from City Council. The language still of concern has been placed in boxes. The LPA also expressed a concern with respect to consistency with the Comprehensive Plan, to which she explained that the LPA should be reviewing the Ordinance. She addressed the Board's last meeting as a few members were absent for that meeting.

8:37:07 AM Board Member Carolyn Gallagher stated there were several places in the Ordinance that reference "dark skies," and suggested that the introduction mention that the City supports this policy. She suggested it

also be mentioned in Article I and/or in the "whereas" clause. She further suggested including "encourage the protection of property values and aesthetics." She also feels numbering is important, as it was somewhat confusing as to whether they meant for something to be under something else, or whether they meant for it to be stand alone on its own. City Attorney Vance stated that some of that is the codifier, as sometimes she can work on it and it gets changed. Board Member Gallagher questioned the possibility of seeing a final before it goes to City Council. City Attorney Vance explained she can bring it back to the LPA in November, with Permission to Advertise in December.

8:39:47 AM Jay Sweet, Community Development, furnished a PowerPoint presentation to furnish the background. He explained that months earlier City Council directed Staff to look at usages, signage, etc., along the U.S. 41 corridor, and as part of Staff's review they realized that the sign code in general needed to be updated. Conditions are different for the Bonita Beach Road Overlay, and with completely different rules for the Old 41 downtown redevelopment area. The sign code is very outdated in that the City adopted Lee County's sign code, who had it for over 30 years. Also, technology and conditions have also changed, and so Staff is working to update the code.

8:41:30 AM Staff has met with the four major sign companies, they looked at permits, and held forums with the Chamber for purposes of obtaining public input. They also received a lot of input from McDonalds.

He next provided a summary of changes. Changes were made to definitions, to prohibited signs, sign requirements, and to non-conforming standards. They have also addressed flagpoles, temporary signs, place making signs, wall mounted signs, sandwich signs and interstate signs. They have also included a provision to allow one to apply for a "special exception" for a sign. He explained that Staff realized that there may be uses and businesses, that by the nature of what they are, they don't fit within the normal sign code, and so this provides an opportunity for people to come in and request a special exception for things that may be appropriate for a very specific use, but that might not be appropriate throughout the City.

8:43:50 AM The most controversial item addressed was color. One thing they talked about was limiting the amount of primary color on free standing signs only. It would allow one to choose one primary color or one secondary color for their sign. The problem, however, is the many variations of color. They have included a provision to allow a 15 degree variation in color.

8:45:59 AM He next addressed place making signs. The intent is to let people know they've arrived at a destination - to create a sense of place. He further explained, noting that in addressing this, Staff looked at safety, benefits, and aesthetics and have limited the size and shape of a sign. Staff has established a set of rules for place making signs limiting them in size to 8 feet tall and 12 feet wide, measuring height from the

centerline of the road to ensure traveling vehicles can see the sign. Place making signs are allowed one primary color and logos are allowed to utilize 20% of the copy area, with no restriction on color. One item they proposed to change is that one can move their sign to within one foot of the right-of-way to bring the sign in front of the landscaping for visibility. Board Member Rex Sims stated that Bonita Springs Utilities doesn't allow one to place a sign over their utilities. He asked if they could be forced to allow one to do that. Mr. Sweet responded by giving the example of the new Racetrack on Bonita Beach Road, of which their sign is one foot off the right-of-way. City Attorney Vance also responded, explaining that when they say "to the right-of-way" that did not mean to the start of the asphalt in most places. She normally tells people that the telephone poles are the edge of the right-of-way. Mr. Sweet explained that because they want tenants to be located, Staff has proposed increasing the sign allowed on the building by 50% with no restriction on color. Discussion followed.

Board Member Sims stated he felt they were losing track of the purpose of signage, as they were looking at them as an enhancement of a building instead of their purpose, which is to attract customers. City Attorney Vance stated that the purpose of the LPA is to look at the business community, and also the public community - what is the aesthetics of the public. Mr. Sweet explained that signage on the building has a greater impact than menu board signage on the road that one cannot see. Staff looked to make it better inside the center.

9:12:14 AM Mr. Sweet next addressed sandwich signs, menu boards and directories. Staff has added the opportunity for directories within the shopping center for safety. He next addressed sandwich boards, which he explained were currently not allowed. Staff included regulations, as they believe sandwich boards are important, especially for businesses within a shopping center, or in a downtown area. They are required to be on sidewalks on your property, and must be removed when closed. They are also not allowed to affect handicap access. With respect to menu boards, if one has two drive through lanes they can have two menu boards - one at each order, or point of sale position.

9:15:16 AM Don Colapietro referred to the directory sign language which states that directory signs cannot be visible from the street or from any public right-of-way. Mr. Sweet stated that the intent is to make sure there are not any unintended consequences. They are to be so the car is within the center. Staff can include language, as they want it to be 100 feet or so within the center so people don't stop or back up traffic in the public right-of-way.

9:17:56 AM Board Member Fred Forbes questioned changes made from the last version the Board reviewed. Mr. Sweet responded that in the last version they measured the height of the sign from the edge of the road; they were now measuring it from the centerline of the road, which consists of about 1 ½ feet. McDonalds has proposed allowing freestanding signs of 60 square feet or less to be any color. Staff is still reviewing this and has requested additional information to review.

9:20:08 AM Board Member Sims referred to the Special Exception, stating he feels that Staff's language really requires an effort to be made to get one, including the fee and the need to hire an engineer. He referred to the words "shall not be granted" on page 21, and to page 22 item 4) which states "they are to be discouraged." Overall, these are negatives which he feels make it difficult for the business person to obtain a special exception. He feels language should instead address what can be done to help people obtain special exceptions. He feels "to be discouraged" should be stricken. He also feels that the words "shall not be granted by City Council unless..." should be changed to reflect what can be done to help one get a special exception. City Attorney Audrey Vance furnished examples of where the Special Exception could or could not apply. She referred to the Steinway piano store where they wanted to place a large sculpture of a little girl playing a piano, whereby the girl would have been about 9 feet tall. City Council denied that request. The concern was not only the large sculpture and immensity that would be on U.S. 41, but also the concern of placing a sculpture to advertise. She next addressed a situation where a special exception might be granted in one circumstance, noting that they would not want to allow a proliferation of that particular type of signage.

9:26:57 AM Board Member Sims next referred to the "trigger" for a special exception and stated that it is made as difficult as possible to get a special exception, when instead, he feels they should be helping. The language is very negative, and he feels it is a very anti-business ordinance. Ms. Genson explained that if it is a unique sign and it does meet this criteria, then they can be granted approval to have that sign. You don't want to always allow a sign of a certain caliber that doesn't meet the City's aesthetics for the standards within the code. Board Member Bob Thinnes stated he would prefer to see 4) deleted in its entirety. Discussion followed, with discussion held on "Big John" in Cape Coral. Board Member Sims stated that if they are going to have this Ordinance, it should be made positive. If it says "and it's to be discouraged" he feels it will be discouraged. City Attorney Vance stated that if they put in "it will be granted unless" she would have to tell Staff that they need to make it so that Council has the ability to deny. Discussion followed.

9:35:26 AM Board Member Gallagher stated that she felt that asking for a Special Exception and following the rules to ask for one should not automatically grant that Special Exception. She suggested the language be revised to state "a Special Exception from the terms of this chapter will be considered by City Council." Then remove 4) on page 22, and then item 5) where it states "Chapter 2" should be changed to "Chapter 4." Mr. Sweet suggested item 1) on page 21 state "a Special Exception may be granted," then keep items i. through vi. He also suggested keeping 4) but striking "and are to be discouraged."

9:35:26 AM City Attorney Vance clarified revisions. Item (b) 1) to state "A special exception from the terms of this Chapter will be considered by City Council if a written request for a sign special exception has been submitted demonstrating: . . ." Item 4) on page 22 delete the first

sentence so any of the legislative sanctioning and discourage, and just say "the Applicant shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion of all issues, which are to be determined by City Council."

9:39:03 AM Board Member Forbes stated at the last meeting it was pointed out that what was proposed then was less restrictive than what Naples and Estero require. He doesn't want to move further away from what was already less restrictive. McDonalds, Walmart, and all the chain stores flourish in both those communities. He asked, if adopted the way it's written now, if it would diminish the amount of signage on the canopy of the Racetrack gas station. Ms. Genson explained that Staff adopted standards for gas stations. The Racetrack that was just constructed fell under the previous regulations. As part of this change it wouldn't affect gas station signage because that's addressed in another section. Staff is currently looking at Estero, Naples and Collier County's signage for a comparison of items addressed in the City Attorney's memorandum. Council asked that Staff bring back the sign Ordinance in 60 days to allow them to further research, therefore, this draft will continue to change. She further explained.

9:41:45 AM Board Member Colapietro referred to page 36, flags and flagpoles and asked if this was new, to which Ms. Genson replied yes. She explained it was included because a lot of people have come to Community Development for flag poles and there were no standards.

9:45:34 AM Board Member Sims referred to page 25 and stated that the objection he had at the last meeting regarded the section addressing "status" has been stricken, and so his objection to the Ordinance has been eliminated.

Board Member Gallagher also addressed page 25 titled "nonconforming signs," and stated she feels that is what it should talk about. The definitions under (a) should fall under the definition in the beginning rather than here to make it clearer. City Attorney Vance responded by giving the example of the sign at Bernwood at the interstate which she explained was a legal sign at the time it was erected, and as such, it did not come under the non-conforming status for the loss of the copy. Staff to include in definition section also.

9:52:39 AM Board Member Colapietro referred to page 37, items a. and b., and an inconsistency with respect to the frontage for monument signs. Staff to revise.

9:58:59 AM Per Chairman Vincent, discussion followed on the items listed in the City Attorney's memorandum.

Item 9: Definition of pennant will include vehicle to address the car mounted flags used to obtain attention to certain businesses. Board consensus to not allow.

Item 12: The monument background color prohibition is in a box to reflect the request made from Jeff Satfield o/b/o McDonalds to prohibit primary/secondary backgrounds only on monument signs with copy area greater than 60 feet. Board consensus for small signs to be allowed primary colors. Board consensus to also allow primary/secondary colors on monument signs under 60 feet.

10:08:32 AM Item 19: Section 6-7 was identified as needing changes related to passenger vehicles. Board consensus to leave as is.

10:21:22 AM Item 25: Nonconforming section 6-39 was reorganized to read easier instead of compounding. Council is discussing the percentage where a nonconforming sign must be replaced. There was a request by Jeff Satfield to increase the percentage to 50% for repair and refurbish only. Board consensus to leave as is - stay at 25%, except for damage portion at 50%.

10:37:13 AM Item 38: Discussion of state registered logos, which cost \$87.50 to register with the State (good for five years, upon which renewal is the same amount every five years). Application and information is available at www.sunbiz.org. Board consensus to leave as is.

10:40:55 AM Item 40: Councilman Gibson asked Staff to look at deleting interior drives for sign visibility. This means that in a mixed use development where there are interior roadways, additional signs may be placed on the walls of development within the interior of the shopping mall and be seen from interior drives (current recommendation is to allow wall signs, but limit visibility to interior portion so they are useful to the walking public, but not necessarily those driving). Board consensus to leave as is.

10:45:07 AM Item 42: Menu board provision was revised to clarify the signage amount allowed per drive thru lane, i.e., some fast foods have more than one lane to take orders. This was done on the request made from Jeff Satfield o/b/o. Staff made a change to allow two menu boards at fast food drive facilities that have 2 drive thru lanes, or at "purchase point". Board consensus to leave as is.

10:47:21 AM Item 46: No changes are contemplated for the Old US 41 area in Section 6-116, but there were comments, so review of that section should be considered. Board consensus to leave as is.

10:50:03 AM Item 52: The billboard replacement language in 6-148 (K) was cleaned up through discussions with Scott Hertz, Esquire, representing Carter Outdoor. Board consensus to leave as is.

10:51:23 AM Board Member Gallagher referred to page 43 and stated there's only one comment in there Section 6-115 titled Permanent Signs in the Bonita Beach Road Corridor that states "within the Bonita Beach Road Corridor Monument signs are limited to 7 feet in height." She suggested including something that this is the only requirement that differs from the

rest of the City. She also suggested ensuring that everyone understands what the other requirements are. City Attorney Vance to add "that all other requirements remain the same." She further proposed that the sentence being modified to state "Within the Bonita Beach Road Corridor, monument signs are limited to seven feet in height from the centerline of the road, but all other requirements of the sign code are applicable." The Board agreed to the change.

10:53:24 AM Board Member Thinnes stated that he felt that there were still some landscaping issues that they can look at later. He complimented Staff on their work.

IV. PUBLIC COMMENTS:

10:54:04 AM Charles Cockrill with Carter Pritchett Advertising, stated that their attorney has worked with Staff and adjusted language in K to provide for what they have had in the past - to be recognized as legal conforming structures. He addressed a "Typo" on page 6 of the minutes.

V. NEXT MEETING. Thursday, November 13, 2014

VI. APPROVAL OF MINUTES: 09/11/14

10:56:33 AM Chairman Vincent motioned approval of the minutes, as revised; Board Member Sims seconded; and the motion carried unanimously.

VII. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 10:57 A.M.

Respectfully submitted,

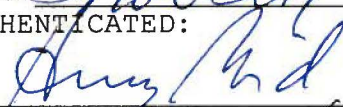

Debra Filipek, Recording Secretary

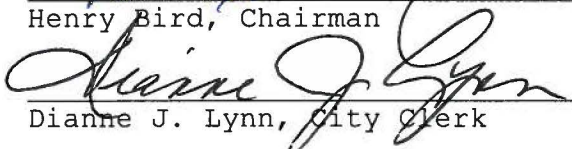
APPROVED:

LOCAL PLANNING AGENCY:

Date: Nov 2014

AUTHENTICATED:


Henry Bird, Chairman


Dianne J. Lynn, City Clerk