

Local Planning Agency
Thursday, November 13, 2014
9:00 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 9:03 a.m.

II. ROLL CALL.

Chairman Bird and all Board Members were in attendance except for Board Member Don Colapietro.

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

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS; AMENDING BONITA SPRINGS LAND DEVELOPMENT CODE §3-440, REQUIRED TRANSIT FACILITIES FOR LARGE-SCALE RETAIL ESTABLISHMENTS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

9:03:55 AM City Attorney Audrey Vance read the title block of the Ordinance into the record. She explained that the only change made to the Ordinance was to Section 3-440, which states "The shelter shall be located in proximity to street lighting to provide for the security of transit patrons, or provide lighting internal to the structure where street lights do not exist at the time of shelter construction."

Board Member Rex Sims entered a motion finding the Ordinance to be consistent with the City of Bonita Springs Comprehensive Plan; Board Member Sam Vincent seconded; and the motion carried unanimously.

- B. AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); AMENDING SECTIONS 4-869 AND 4-887 TO REVISE THE COLOR PALETTE AND PROCEDURES IN THE OLD U.S. 41 REDEVELOPMENT OVERLAY DISTRICT TO PERMIT ADDITIONAL COLORS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

9:05:46 AM City Attorney Vance read the title block of the Ordinance into the record, stating that the final hearing is scheduled for January 7, 2015. The revision is adding additional pastel colors to the

color palette, which she expanded on. No colors were removed. In response to Board Member Sims, Jackie Genson, Community Development, explained that currently, there was no charge for someone who comes in and requests a Special Exception. Staff would "green sheet" it and take it to City Council.

Board Member Bob Thinnes entered a motion finding the Ordinance to be consistent with the City of Bonita Springs Comprehensive Plan; Board Member Carolyn Gallagher seconded; and the motion passed 5-1 (Board Member Fred Forbes opposed)

- C. 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.

9:14:45 AM City Attorney Vance read the title block of the Ordinance into the record. Revisions include adding the dark sky provision, and adding the definitions of balloon signs, blade signs and feather signs. She concluded by addressing additional changes made to the ordinance relating to car wraps, revising the non-conforming sign repair and refurbishment percentage to 50%, revising the frontage to 330 feet, and to address logos, trademark registration, and menu boards.

Jay Sweet, Community Development, informed the Board that two workshops were held at City Hall for the public and one with the Chamber of Commerce. Information was also emailed to residents. The biggest concern regarded their ability to get additional revenue because of signage. Staff informed them that they encourage placemaking signs, noting that they do not control content. He further explained.

9:32:04 AM Board Member Sims referred to page 25 addressing "non-conforming." Discussion followed on the 6-month period to address vacation of non-conforming signs. John Dulmer, Community Development, explained that the six months is only established when it can be proved that the sign has been vacated or is no longer in compliance. Therefore, with respect to notice, there's no formal notice, but time is a start until they can show the time starts. There is no need for

additional regulations, as it's something that Staff is required to initiate. Board Member Thinnies stated that he was confident with respect to the Code Enforcement process and code enforcement working with people to help resolve problems and violations. Mr. Dulmer explained that the main goal is compliance with the current regulations.

9:46:52 AM Board Member Sims addressed a scenario whereby one obtains the proper permits and then finds himself having a non-conforming status, which he has a problem with. He referred to Policy 1.4.1 of the Comprehensive Plan that states "existing inconsistent uses shall be allowed to continue until voluntarily removed, but shall not be increased in size or intensity, and once voluntarily removed or abandoned shall not be reinstated." Signs that would have to have a permit would apply here. Overall, if he has an inconsistent/non-conforming sign, he would be allowed to have it until he voluntarily removes it. He's having trouble saying that this Ordinance is consistent with the Comprehensive Plan. There's a conflict between the Policy in the Comprehensive Plan and what is being stated here, that we're mandating a legal permitted structure or sign to become non-conforming. Once it becomes non-conforming it says it shall be immediately withdrawn.

Board Member Sam Vincent stated that what doesn't make sense to him is that if you have visual with a non-conforming condition, and then allow it to continue for an undetermined amount of time. City Attorney Vance stated that the Comprehensive Plan also includes definitions to plan for non-conforming uses. It makes it very clear that you can have ordinances that have different times or making that determination of non-conforming. She further explained and provided examples. The Comprehensive Plan also includes a definition on non-conforming use as follows:

Uses of land and structures and characteristics of uses which are prohibited under the terms of the Comprehensive Plan and zoning ordinance, but were lawful at the date of the Ordinance's enactment. They are permitted to continue, or they are given time to become conforming. The continuation of such non-conformities is based on the principal that laws cannot be applied retroactively unless there is a compelling reason such as eminent danger to health to do so. While ordinances permit legal non-conformities to continue, they prohibit the substitution of a new or different non-conformity, nor do they permit the extension or enlargement of non-conforming uses. Many ordinances permit the rebuilding of a non-conforming use when destroyed by fire, but if the use is abandoned for a specified period of time it cannot be restored, and the future use of the premises must conform to the zoning. Such ordinances provide for the abatement amortization of all or some non-conformities at the end of a prescribed period. Increasingly ordinances are distinguished among classes of non-conformities to include non-conforming

lots, non-conforming buildings, or structures, non-conforming uses of land with minor structures only, non-conforming uses of major buildings and premises, and non-conforming characteristics of use, and are provided for their individualized treatment.

Board Member Sims stated he agreed with what the City Attorney stated based on the context of which this was written. This was not a brand new city, as there were buildings and signs already here. When this was written, it took those existing buildings and signs into consideration and stated, in essence, "existing." This means those that were here when we became shall be allowed to continue. Overall, any business, building or sign that was permitted prior to the city is exempt under this policy.

10:10:20 AM Board Member Fred Forbes referred to Collier County's regulations, and stated this ordinance is more cumbersome. He would suggest staying with what the City has for now and hope that Council pursues the street vision. He will be voting no on this Ordinance, stating that while he doesn't disagree with everything, he is not comfortable with signs being placed up to the right-of-way.

10:13:28 AM Board Member Thinnes feels the problem is that the City inherited an Ordinance that hasn't been looked at for years and is far behind in time. He agrees that this Ordinance is cumbersome and that it contains a lot of stuff he doesn't like as well. Board Member Forbes stated he could go along better if they were to adopt Collier's Ordinance. Mr. Sweet stated Staff did look at Collier's code and other codes. He further responded, addressing the issues Staff addressed. Discussion followed on Policy 1.4. and Policy 1.4.1, with City Attorney Vance responding to comments made by Board Member Forbes.

Board Member Sims suggested removing section (d) on page 26 that states "Any sign that loses its nonconforming status shall be immediately brought into compliance with this chapter, or the sign shall be removed." City Attorney Vance referred to (f) 4) on page 27 which she stated was the same language as (d). Mr. Sweet stated that (d) is only triggered if any of the items in (c) are reached. Discussion followed.

Chairman Bird suggested a motion forwarding this to City Council reflecting the Board's approval with the exception of the general changes, which also addresses the section on non-conforming uses that Board Member Sims has a concern about.

Board Member Vincent entered a motion finding the Ordinance to be consistent with the Comprehensive Plan, and for Staff to address the items mentioned; Board Member Bob Thinnes seconded.

10:35:36 AM Board Member Gallagher addressed definitions she would like to have included. After further discussion, City Attorney Vance to

correct it so that the definition section and the words used in the Ordinance are the same.

The motion passed 4-2 (Board Members Forbes and Sims opposed)

IV. PUBLIC COMMENTS: There were no members of the public in attendance.

V. NEXT MEETING. Thursday, December 11, 2014

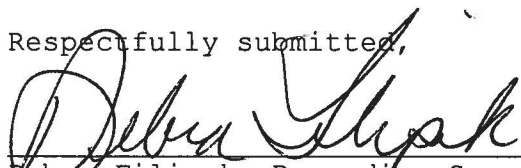
VI. APPROVAL OF MINUTES: 10/09/14

Board Member Vincent motioned approval of the minutes; Board Member Sims seconded; and the motion carried unanimously.

VII. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 10:39 A.M.

Respectfully submitted,

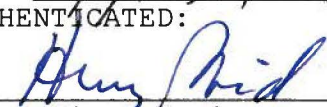

Debra Filipek, Recording Secretary

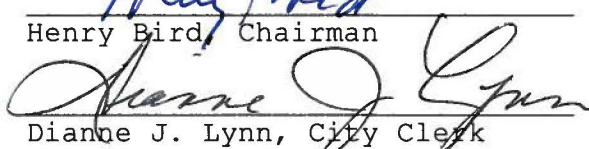
APPROVED:

LOCAL PLANNING AGENCY:

Date: 1/15/14

AUTHENTICATED:


Henry Bird, Chairman


Dianne J. Lynn, City Clerk