

**Local Planning Agency
Thursday, December 12, 2013
8:30 A.M.
Bonita Springs City Hall
9101 Bonita Beach Road
Bonita Springs, Florida 34135
MINUTES**

I. CALL TO ORDER.

Chairman Sam Vincent called the meeting to order at 8:35 A.M.

II. ROLL CALL.

PRESENT:

Sam Vincent, Chairman
Carolyn Gallagher
Rex Sims
Henry Bird
Don Colapietro
Bob Thinnes

ABSENT:

Fred Forbes (Excused)

III. DISCUSSION OF THE FOLLOWING ORDINANCES:

- A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA; PERTAINING TO THE DENSITY REDUCTION GROUNDWATER RESOURCE AREA DESIGNATED ON THE CITY OF BONITA SPRINGS FUTURE LAND USE MAP; ESTABLISHING A MORATORIUM ON THE PROCESSING OF ANY COMPREHENSIVE PLAN AMENDMENTS WITHIN THE DENSITY REDUCTION GROUNDWATER RESOURCE FUTURE LAND USE CATEGORY LOCATED IN THE EASTERN PORTION OF THE CITY OF BONITA SPRINGS, EAST OF I-75 AND NORTH OF BONITA BEACH ROAD; PROVIDING FOR LEGISLATIVE FINDINGS; PURPOSE (ESTABLISHING A SPECIFIC PLAN FOR THE DENSITY REDUCTION GROUNDWATER RESOURCE AREA THAT BALANCES THE INTERESTS OF DEVELOPMENT, CONSERVATION AND RESOURCE PROTECTION); DECLARING A TEMPORARY MORATORIUM; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

8:36:39 AM City Attorney Audrey Vance read the title block of the Ordinance into the record, and addressed revisions made.

8:38:21 AM Board Member Don Colapietro addressed a revision he thought was previously made regarding allowing public schools in the DRGR, which is a use he feels shouldn't be in the DRGR. City Attorney Vance stated it's a use that will remain until City Council directs her to change it. Board Member Colapietro next addressed typographical errors that needed to be revised.

8:40:56 AM Board Member Carolyn Gallagher informed the Board of a sign she saw in the DRGR area that states "for public schools," and asked if it was dangerous to have a school near the satellite dishes Comcast has there. John Dulmer, Community Development Director, stated that was something the School District would address. Board Member Colapietro stated he thought they were only receiving dishes; not transmission dishes.

8:42:50 AM Board Member Rex Sims addressed a concern of his in that the Comprehensive Plan does not mention moratoriums. It's the same issue during the discussions relating to the homeless shelter with the LPA, at which time it was determined that the moratorium was not an issue with the Comprehensive Plan and that the LPA really didn't have the authority to grant. Also, referring to page 3, d., states "no applications may be processed even though they have been submitted." In response to a further concern of Board Member Sims, City Attorney Vance responded that the Jones Trailer Park property and the YMCA are not located within the DRGR. She next addressed case law to address the moratorium, which she explained, if you are going to create any kind of LDC moratorium, it must have the same formality as any land use ordinance, which is the reason it is before the LPA to review for consistency with the Comprehensive Plan.

8:52:12 AM Board Member Gallagher stated that this Ordinance is for 12 months and speaks to putting the whole picture together. It also addresses the Task Force, however, the Task Force is only given 12 months, with the Task Force ending in December, and the moratorium ending in January. The Task Force is only addressing water issues and is not looking at development or the population in different areas that would affect development. She feels there needs to be a holistic look at the entire area if they wanted to develop it. The Ordinance implies that there will be a plan at the end, and so there is not enough time to do the Water Task Force have it end, and then have a month to finish everything else. City Attorney Vance responded that she cannot do a moratorium over a year without it being a taking. She has a timeframe based on State and Federal law that limits the time. It was an issue that was brought to City Council which the City Manager addressed. It would be handled by Staff or other committees as far as transportation and other concerns. The City Manager is working on those issues in addition to the Water Task Force. Discussion followed.

9:12:27 AM Board Member Sims entered a motion finding the Ordinance to be consistent with the Comprehensive Plan; Board Member Henry Bird seconded; and the motion carried unanimously.

- B. AN ORDINANCE OF THE CITY OF BONITA SPRINGS; RELATING TO BUILDING AND CONSTRUCTION CODES; IDENTIFYING WORK NOT REQUIRING A PERMIT; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, INCLUSION IN CODE, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

9:12:59 AM City Attorney Vance read the title block of the Ordinance into the record, explaining that the LPA reviewed this at their November meeting at which time they made a motion finding the Ordinance to be consistent with the Comprehensive Plan. The Ordinance was revised on December 5th to add the language for water heaters on page 2.

9:14:34 AM Board Member Sims addressed a concern with temporary buildings, which is something he was not sure they should be encouraging. He suggested some sort of time limit be placed on them to prevent them from becoming permanent. Mr. Dulmer suggested they look at zoning regulations to address their length of stay and location. Mr. Dulmer explained that the language before the Board today is saying that it does not need a building permit. The questions raised by Mr. Sims regard whether temporary buildings should be there, how long they should be there, and where they should go, are all zoning questions. questions.

9:18:03 AM Board Member Carolyn Gallagher referred to car covers (carport structures), and stated that she feels that limiting to a certain time really does not solve the problem because if they are permanent residents they're going to need a car cover. Additionally, these people have car covers because they can't have a garage, or can't afford one, or can't locate one on their property because of setbacks. She asked why even allow them if they don't want them sprouting up all over the city. She was not saying that she was opposed to them, as she has not looked around at enough of them to know what they look like. It seems like limiting the time is not worth the effort. Mr. Dulmer agreed, and stated that what's before the Board is saying that it does not need a building permit. The question regards should it be there, how long should it be there, where should it go, are all zoning questions. If the Board wanted to they could include in their recommendation to City Council that they either do or do not feel they are consistent with the Comprehensive Plan, and additionally, they feel it should be addressed in the Zoning Ordinance. City Attorney Vance stated she felt it should be addressed in the Property Maintenance regulations since the concern regards them becoming derelict.

Board Member Gallagher suggested addressing it as a condition of the structure rather than the length of time they are there. The first decision should be whether they should be allowed, and secondly, if allowed, are they going to allow them to deteriorate. Mr. Dulmer further discussed, explaining that while there are some standards within the current property maintenance code that allows Code Enforcement to address this, they are not as strong or direct as they could be.

9:22:50 AM Board Member Colapietro entered a motion, approving the Ordinance as is, as revised to correct the grammatical errors; Board Member Henry Bird seconded; and the motion carried unanimously.

- C. AN AMENDMENT TO BONITA SPRINGS LAND DEVELOPMENT CODE, AMENDING AND REPLACING CHAPTER 7 (ENVIRONMENTAL) OF THE CITY OF BONITA SPRINGS LAND DEVELOPMENT CODE; AMENDING 7-41 - 7-81 DOCK AND SHORELINE STRUCTURES CREATING FACILITY SITING CRITERIA, TRANSFER OF (WATERCRAFT) SLIP CREDITS (TSC) AND BEACH/DUNE WALKOVERS PROVISIONS; AMENDING 7-111 - 7-116 MARINE SANITATION; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

9:25:49 AM City Attorney Vance read the title block of the Ordinance into the record, explaining that the LPA has previously reviewed it and found it to be consistent with the Comprehensive Plan. She also informed the Board of a recent amendment requested by Code Enforcement regarding rip rap that Mike Kirby provided to her in an e-mail dated December 10, 2013. The revision is reflected on page 14 to add additional language to paragraph (2).

9:27:40 AM Board Member Gallagher questioned "deteriorating docks" which City Attorney Vance explained Code Enforcement has been directed to look at the issue. It's a more difficult issue and not addressed in this Ordinance.

9:34:54 AM Board Member Sims referred to page 10, item (g) (1) which speaks to how one would obtain approval for a dock. This section indicates the lot must be a buildable lot. He stated that there are numerous lots in the Heitman's area that are on seawalls that may not be buildable. Mr. Dulmer clarified if they are legal lots, there are regulations in place to address those.

9:37:34 AM Board Member Colapietro addressed typographical errors that needed to be corrected.

9:48:44 AM Board Member Colapietro entered a motion to accept the Ordinance; as revised; Board Member Bird seconded; and the motion carried unanimously.

- D. AN AMENDMENT TO BONITA SPRING LAND DEVELOPMENT CODE, AMENDING AND RESTATING CHAPTER 2; THE ADMINISTRATION CHAPTER; WHICH PROVIDES ART. 1, 2-1 GENERAL REQUESTS FOR INTERPRETATIONS OF CODE PROVISIONS AND COMPLIANCE AGREEMENTS; ART. II, CONCURRENCY MANAGEMENT SYSTEM; PROVIDING FOR STATUTORY AUTHORITY, APPLICABILITY OF ARTICLE, INTENT OF ARTICLE, PURPOSE, CONCURRENCY CERTIFICATION, CONCURRENT DEVELOPMENT ORDERS, MANAGEMENT INFORMATION SYSTEM, VARIANCES AND APPEALS, REVOCATION OF CONCURRENCY CERTIFICATES, NONLIABILITY OF CITY MANAGER, AND PENALTIES FOR PROVIDING FALSE INFORMATION; ART. III, DEVELOPMENT

AGREEMENTS; PROVIDING FOR STATUTORY AUTHORITY, APPLICABILITY, INTENT AND PURPOSE, APPLICATIONS FOR DEVELOPMENT AGREEMENTS, MINIMUM REQUIREMENTS OF A STATUTORY DEVELOPMENT AGREEMENT, NOTICES AND HEARINGS, AMENDMENT OR CANCELLATION OF DEVELOPMENT AGREEMENT BY MUTUAL CONSENT, RESERVATION OF HOME RULE AUTHORITY AND CONFLICTS; ART. IV, TRANSFER OF DEVELOPMENT RIGHTS; PROVIDING FOR PURPOSE, APPLICABILITY, ADMINISTRATION, CONFLICTS, COMPUTATION OF UNITS AND LIMITATIONS; ART. V., RESERVED; ART. VI., IMPACT FEES SECTIONS 2-261 THROUGH 2-277, ROADS IMPACT FEES; SECTIONS 2-301 THROUGH 2-316, REGIONAL PARKS IMPACT FEES; SECTIONS 2-341 THROUGH 2-356, COMMUNITY PARKS IMPACT FEES; SECTIONS 2-381 THROUGH 2-397, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES IMPACT FEES; ARTICLE VII, THE SPECIAL MASTER; ARTICLE VIII, THE PRIVATE PROPERTY RIGHTS PROTECTION ACT WITH PROCEEDINGS UNDER THE BERT J. HARRIS, JR., PRIVATE PROPERTY RIGHTS PROTECTION ACT; ARTICLE IX, THE DEVELOPMENT ORDER APPROVAL PROCESS FOR CAPITAL IMPROVEMENTS PROJECTS; ARTICLE X, HURRICANE PREPAREDNESS; ARTICLE XI, CODE ENFORCEMENT; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

9:50:01 AM City Attorney Vance addressed this Ordinance, explaining that the only changes that were made to this Ordinance since the Board's last meeting were changes made at the request of the Municipal Code Corporation which related to Code Enforcement so as to be consistent with State law. Additional changes include the addition of definitions, a change to address the two fire districts, including the percentage of impact fees to collect, etc. Also, instead of including a fee schedule, they will follow Lee County's. Proportionate Fair Share and Concurrence were not included and need to be addressed later. She next addressed mitigation on page 93.

9:57:48 AM Board Member Colapietro addressed typographical errors that needed to be corrected.

10:08:19 AM Board Member Sims entered a motion finding the Ordinance to be consistent with the Comprehensive Plan; Board Member Colapietro seconded; and the motion carried unanimously.

- E. AN ORDINANCE RESTATING AND AMENDING BONITA SPRINGS ORDINANCE NO. 09-02, AMENDING CHAPTER FIVE OF THE LAND DEVELOPMENT CODE, RELATING TO THE HISTORIC PRESERVATION BOARD; PROVIDING A DEFINITION FOR FLORIDA MASTER SITE FILE; DISCONTINUING FINANCIAL DISCLOSURE FILING REQUIREMENTS WITH STATE FOR HISTORIC PRESERVATION BOARD MEMBERS; PROVIDING FOR APPEALS PURSUANT TO LDC, SECTION 4-83; PROVIDING FOR ADMINISTRATIVE APPROVAL ON REQUESTS FOR REGULAR CERTIFICATES OF APPROPRIATENESS; PROVIDING FOR POSTING AS METHOD FOR NOTICE FOR PUBLIC HEARING ON REQUESTS FOR SPECIAL CERTIFICATE OF APPROPRIATENESS; PROVIDING FOR EXTERIOR COLORS FOR DESIGNATED HISTORIC RESOURCES WITHIN OLD 41 OVERLAY; PROVIDING FOR

CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS,
INCLUSION IN CODE AND AN EFFECTIVE DATE.

10:08:43 AM Assistant City Attorney Joe Faerber addressed this Ordinance by reading the title block into the record and addressing revisions made as underlined in the Ordinance. A brief discussion followed.

10:25:48 AM Board Member Bob Thinnes entered a motion finding the Ordinance to be consistent with the City of Bonita Springs Comprehensive Plan; Board Member Colapietro seconded; and the motion carried unanimously.

IV. PUBLIC COMMENTS: No members of the public in attendance.

V. NEXT MEETING. Thursday, January 9, 2014

VI. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 10:27 A.M.

Respectfully submitted,

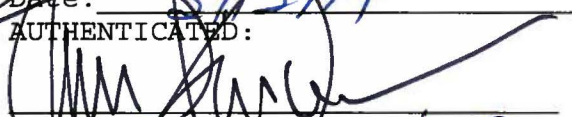

Debra Filipek, Recording Secretary

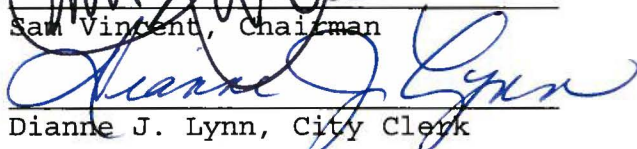
APPROVED:

LOCAL PLANNING AGENCY:

Date: 3/13/14

AUTHENTICATED:


Sam Vincent, Chairman


Dianne J. Lynn, City Clerk