

**Local Planning Agency  
Thursday, April 12, 2011  
8:30 A.M.  
Bonita Springs City Hall  
9101 Bonita Beach Road  
Bonita Springs, Florida 34135  
MINUTES**

I. CALL TO ORDER.

Chairman Don Colapietro called the meeting to order at 8:30 A.M.

II. ROLL CALL.

Chairman Colapietro and all Board Members were in attendance.

III. APPOINTMENT OF A VICE-CHAIR TO THE LOCAL PLANNING AGENCY.

8:35:19 am Board Member Rex Sims motioned the appointment of Board Member Sam Vincent as Vice Chairman to the Local Planning Agency; Board Member Bob Mills seconded; and the motion carried unanimously.

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

A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, PERTAINING TO SHELTERS FOR HOMELESS PERSONS; ESTABLISHING A MORATORIUM ON THE PROCESSING OF ANY PERMITS FOR THE OPERATION OF "HOMELESS SHELTERS" IN THE CORPORATE BOUNDARIES OF BONITA SPRINGS FOR THE SHORTER OF (1) 12 MONTHS OR (2) THE ENACTMENT OF A REPLACEMENT ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS; AND PROVIDING AN EFFECTIVE DATE.

8:35:52 am City Attorney Audrey Vance began by reading the title blocks of both Ordinances (Items A. and B.) into the record. A second reading for Item A., regarding the Ordinance relating to the moratorium on homeless shelters is scheduled to go before City Council on April 18, 2012. A first reading for Item B., regarding the process relating to the process for Special Exceptions and Variances for Little Hickory Island, is scheduled for a first reading on April 18, 2012, and a second reading on May 2, 2012.

PUBLIC COMMENTS:

8:37:28 AM Janet Bartos, Executive Director of the Lee County Homeless Coalition, began by addressing the mission of the coalition, which is to advocate, educate and promote awareness of issues and obstacles facing those who are homeless. The 10-year plan initiative to end homelessness began in late 2007 and was partially funded by the City of Bonita. One of the objectives of the plan is to increase emergency shelter beds to current and/or emergency needs.

Part of the coalition's task is to conduct an annual census blitz which is referred to as "the point in time" since they look at only one specific date. The U.S. Department of Housing and Urban Development requires that communities receiving Federal funding conduct a count of the homeless every two years. The count is a tally of who is homeless on a given night and provides a snapshot of who experiences homelessness during the year. It also involves a combination of methods to identify persons who are homeless including the use of the HMIS (Homeless Management Information System) data collection, and a street count using volunteers. The 2011 census indicates 1,054 homeless persons, out of which 59% reported having a disabling condition. There was also a 36% increase in the number of children. The total estimate of the homeless in Lee County is 3,400. She further addressed the Access Program (food stamps, Medicaid, temporary aid for needy families) of the Department of Children and Families, noting that 6,226 people indicated on their applications they were homeless in Lee County. A recent report from the Lee County public schools indicates that the total number of homeless students in Lee County is 1,300, with 58 of those in Bonita Springs. She further addressed various other reports on the number of homeless persons in Bonita Springs and Lee County. Overall, there are between 3,400 and 6,200 homeless people in Lee County.

A few years ago, they conducted a cost study, following 12 individuals for a 2-year period to document the resources they used. They looked at jail, detox, Lee Mental Health, the hospitals, court costs, etc., and found that it costs \$56,000 a year. If those individuals were provided with services and permanent supportive housing, that cost would go down to \$6,000 per year.

The coalition supports all efforts and projects that work to eliminate homelessness. They are against anything that restricts homeless services. The coalition does believe there's a need for a shelter. They also understand all the concerns the neighbors have, which need to be addressed through conversations. The coalition would like to be a part of the process and supports the education and promotion of awareness. They also feel that in working together they can generate solutions to accommodate the needs of the community and the facility. Also, if St. Matthews does build a shelter in Bonita Springs, that facility will have a positive impact on the community.

8:45:40 AM Board Member Mills referred to a comment in the newspaper in that "if you build it, they will come." Ms. Bartos responded that she believed "they" were already here. It's a hidden population, noting that there are 58 homeless students in the Bonita schools. She further responded of the need to educate the public.

8:52:24 AM Board Member Fred Forbes addressed a concern he had regarding people being imported from other areas. Ms. Bartos responded they could be, noting that there is a need for a shelter in the City. Board Member Forbes stated that the concern is that if they build a large shelter, they will be importing homeless from Lehigh Acres and other areas into the City. Board Member Mills agreed that the importing of people from other areas is a big concern. Ms. Bartos stated that there are homeless veterans as well as homeless people who have college degrees.

8:55:05 AM Board Member Forbes stated that the good thing about the proposed Ordinance is that it will give the City the opportunity to find out what type of homeless shelters would work best. He also heard that people would rather have a smaller facility. City Attorney Vance stated that Mr. Forbes question regards whether there's a trend towards larger facilities, more licensed community homes, or smaller group homes in residential areas. The contract for the shelter is not in a residential area, but rather in an area in the industrial part of the City. The question also regards whether it would be more appropriate in residential neighborhoods and in smaller pockets. Ms. Bartos stated that the new trend is the rapid rehousing, housing first, because it's very costly to allow someone to remain homeless. If you can get them on the brink of homelessness and rapidly rehouse them that would be the best alternative. Also, because there is not enough affordable housing or transitional housing to place them in, there is a need to look at shelters. She gets calls every day from people who are homeless and have nowhere to go.

8:57:28 AM Board Member Sims stated he sees the fastest growing group of homeless individuals in the United States are veterans, and while it may not be an issue in Bonita Springs today, the work that the LPA does here is over a 10-year period. Also, if this is the situation they wouldn't want to do something that would be in any way detrimental to helping veterans.

8:58:29 AM Board Member Vincent asked if the number of homeless in the City would grow in numbers like in a larger city. He questioned whether they would drive here, or whether they were transported here. Ms. Bartos stated she believed that south Florida was lacking in resources and shelters.

8:59:28 AM Board Member Mills asked if it could be specified that shelters would only serve those in Bonita Springs, and not from outside the City. City Attorney Vance referred to a case in Illinois where it was determined that was a legitimate governmental interest

with emergency shelters, and only allowed that person in the shelter for a series of days if the person could not establish they were already residents in that community. Overall, it is a possibility.

9:04:35 AM Board Member Sims addressed the need to establish definitions, especially one to limit the size of the facility.

9:05:21 AM Board Member Sam Vincent stated that if St. Matthew's House was called a hotel, and they charged one dollar per night, he questioned whether it would be considered a homeless shelter. City Attorney Vance responded that they would have to be regulated under the State law for a hotel. In further response to Board Member Vincent, Mr. Dulmer explained that programs would be treated differently. In terms of being a shelter or a hotel would depend on the operation - different standards for each use.

9:06:37 AM Board Member Forbes referred to the comment to restrict the use to Bonita springs area residents and stated he didn't think this was something that could be done if Federal funds are accepted. He next referred to a newspaper article that talked about an inmate being released from the state of Washington to St. Matthews House. If there is one person released into their custody that is still serving time, then the facility can be classified as a minimum security facility. It's something they have to make sure does not occur here.

9:09:39 AM Board Member Sims stated that in his review of the Comprehensive Plan, he could not find any procedures to require the Board to review the Ordinance for consistency with the Comprehensive Plan. He feels that stating it is consistent with the Plan would only be his opinion. City Attorney Vance responded and discussion ensued.

9:16:20 AM Attorney Neale Montgomery addressed concerns she had with the moratorium Ordinance. Her first concern regards the Land Development Code (LDC), wherein homeless shelters doesn't show up anywhere. It, therefore, seems inconsistent to use a term that's not in the code. The LDC does speak to homes for destitute men and women under Social Services Group III. The ordinance further speaks to taking a year break to look at what zoning categories permit this use. She doesn't know why it would take a year to do that, because they know what category it's in - Category III, in CF-2 (Community Facilities) and CF-4 (Community Facilities), and in a very limited number of planned developments. Both CF zoning categories permit Social Services and schools. The City has revised their code, and over the past 12 years there wasn't a need to amend the LDC, and when they did they didn't feel the need to address this issue, so it's hard to determine why all the sudden this is such an emergency and there is the need to take a year break to address the issue.

Secondly, it was also stated that they want to look at operational issues. She doesn't know why they have to prevent the issuance of a building permit and construction if you're going to deal

with operational issues. Also, the second page of the Ordinance reflects a definition that is way more broad than it needs to be. It states: For the purpose of this Ordinance a "homeless shelter" or "shelter" means a facility intended to provide temporary housing to people in need and without homes." She gave the example of a child who comes home from college after getting their degree, they are in need and have no home, so as written, every person whose child comes home from college is running a homeless shelter, and as written it includes hotels, group homes, etc. The Comprehensive Plan does include a definition for group homes, which would fall under this broad definition of homeless shelters. It's in the definition section of the Housing Element, and states that a Group Home is a place that provides a living environment for unrelated residents who operate as the functional equivalent of a family. She further explained, addressing the WCI case referenced on the greensheet.

9:26:53 AM Charles Maurer, President of Development Associates, stated he was present representing the estate of James Bernett and Bernwood Enterprises, Inc., who is the owner and developer of the Bernwood Business Park. He stated that his development firm manages in excess of 400,000 square feet of commercial property in the City of Bonita Springs. He suggested Board Members visit any of the Bernwood properties on any evening after midnight and they will see there are homeless people living in those properties every day. Regarding the proposed Ordinance, in a court of law, any judge will look at the series of events that led up to the taking of the property right. Mr. Bernett resided in the City for over 40 years and is a citizen. There are no operational guidelines of any industry in the City. He met with residents near the site, who are for the homeless shelter. If a sufficient application is filed before the adoption of the moratorium ordinance, the city cannot stop them. Feels they are denying a citizen of the City, their vested rights.

9:35:18 AM Vann Ellison, President of St. Matthews House and owner of a business in the City since 2005, began by stating that 68 percent of the children in Bonita Springs live below the poverty level. He feels a moratorium is foolish for several reasons. It's not consistent with the Comprehensive Plan, and is discriminatory to one property owner. The proposed use is not an inmate re-entry program. There is a daycare facility adjacent to their facility, which has not had any complaints for years. They are not building a facility for hundreds of destitute men, and they will not be busing in inmates. They would be happy to talk publically about their plans. They found a site that was zoned for their use and a zoning verification letter was filed. They are proceeding with their plans, and they will continue to try to educate people and inform them of their plans. They've been working on this effort for seven years.

PUBLIC COMMENTS:

9:52:15 AM Konrad Schultz, a resident of Spanish Wells and member of "Concerned Citizens of Bonita," stated he objected to the "fear mongering" comments. Their group researched the facility in east Naples and facilities all over the country. He addressed the previous proposal for 200 beds. Mr. Ellison has responded to questions they had. Two percent of people at St. Matthews are from Bonita Springs. He urged the Board to get the information available on the homeless situation in Bonita Springs. He can provide documentation relating to a case in Washington.

10:01:02 AM Debra Maclean voiced her opposition to the proposed St. Matthews House. Referring to the facility in Collier County, she stated that burglaries in that area have greatly increased.

10:02:07 AM Linda Mascali stated that there are retirement communities near the property, as well as Pueblo Bonita. Another location needs to be found.

10:03:32 AM Marina Coury a resident of Cedar Creek and member of BSAFE Bonita, was in attendance to voice her opposition to the proposed facility. If this facility is built, she was told by parents of the nearby school, they will pull their children out of that school. She is against such a use being located in this very populated area. She asked that the Board thoroughly research the issues. Homeless shelters don't work, but group homes do. Homeless shelters do not allow men with children. She asked if the City would be willing to spend the money to patrol such a facility, conduct background screening of people, etc. She stressed the importance of proper regulations and proper location for such a facility.

10:14:36 AM Lloyd Zimmerman, a 15-year resident of the City, asked that the LPA remember that their job is to do what is best for Bonita Springs; not what is best for Mr. Ellison or a homeless shelter.

10:15:24 AM Dan Wettlaufer stated that the moratorium may be beneficial as he feels time is needed to address all the issues. He referred to another area he resided in which he was hassled for money. He feels this time will be to the benefit of all involved.

10:18:26 AM Diana Durante, a resident of Cedar Creek, stated this facility will affect numerous communities. She is not opposed to shelters, but feels that there is a need for guidelines to address buffer zones, distance from schools, etc. She was told by a woman in Collier who lives near St. Matthews House that she was called home by her daughter who told her that someone was trying to break into their home, and found out it was a resident of St. Matthews.



10:24:01 AM Andrew DeSalvo stated that because of the fear of such a facility, he feels an ordinance would be appropriate. He asked that input be taken from businesses and people in the area. He also suggested looking at other ordinances around the country to allow the development of a feasible and reasonable ordinance that keeps personal property rights intact.

10:26:07 AM Neil Volz, a resident of Lee County, stated he has run a homeless shelter, and has seen the positives of such shelters. His point is that when dealing with homeless issues, they are dealing with a unique challenge. He concluded by telling a story of a homeless gentleman who invited him to his camp on Thanksgiving.

10:31:17 AM Jeanne Watson stated that the LPA's job is to figure out an appropriate Ordinance for the City, and look at how to make shelters fit in the City appropriately. The ordinance should preserve Bonita and protect the residents. She spoke with Mr. Ellison on the phone in March and he told her three times that he had no plans to build such a facility near the Charter School.

10:46:41 AM Deb Harrop, a resident of Bonita Springs, urged the Board to support the moratorium which will provide time to develop an ordinance. She feels it is a strategic objective of the City. She shares a lot of the concerns already mentioned, and suggested a phone number or email address to contact LPA members to discuss this. She has seen communities destroyed by these kinds of reckless organizations. This moratorium is critical to the City and the creation of a well-researched Ordinance.

10:51:37 AM Board Member Sims stated that although the LPA is being asked to render a decision regarding consistency with the Comprehensive Plan, he feels there are no provisions in the Comprehensive Plan that provide for this action, or for a moratorium.

10:53:38 AM City Attorney Vance responded to Board Member Sims by referring to the Florida Statutes, of which the LPAs role is to review the Ordinance for consistency. She further explained, and discussion followed, with the City Attorney addressing case law.

11:03:44 AM Board Member Bob Thinnes stated that he agreed with Board Member Sims. In response to Board Member Vincent, City Attorney Vance responded that the 12 months gives time to the government to figure out what they want to do. She also referred to her memorandum to City Council Member Peter Simmons regarding the moratorium. She noted that if there is an application in the process, they would have to allow that application to be processed, noting, however, that no application has been filed to date.

11:11:39 AM Board Member Henry Bird agrees to the moratorium to get the process started.

11:12:48 AM Board Member Sims asked if there was another way this can be handled and come before the LPA. City Attorney Vance stated that although there are other tools, the moratorium provides breathing room. She agreed with Board Member Vincent that the issue can move forward without a moratorium. A lengthy discussion followed on a potential motion.

11:28:46 AM Chairman Colapietro entered a motion that the Board finds that the Moratorium Ordinance is not applicable or relevant to the Comprehensive Plan; Board Member Bird seconded; and the motion carried 6-1 (Board Member Forbes opposed).

B. AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); AMENDING SECTIONS 4-83, FUNCTIONS AND AUTHORITY AND 4-232, REQUIRED HEARINGS, FOR SPECIAL EXCEPTIONS AND VARIANCES TO BE PROCESSED BY ORDINANCE ON PROPERTIES LOCATED ON LITTLE HICKORY ISLAND; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE, AND AN EFFECTIVE DATE.

11:30:22 AM City Attorney Vance addressed this Ordinance, stating that a first reading will be held on April 18, 2012 and a second reading on May 2, 2012.

Board Member Sims questioned whether the City can have different codes for this process within the same City. Is it legal? Mr. Dulmer responded yes.

No public comments were made.

Discussion followed on the legality of the Ordinance.

11:35:42 AM Board Member Sims entered a motion finding the Ordinance to be consistent with the Comprehensive Plan; Board Member Thinnes seconded; and the motion carried unanimously.

V. DISCUSS PROCESS FOR PREPARING HOMELESS SHELTER ORDINANCES:

A. LAND DEVELOPMENT CODE

B. OPERATIONAL STANDARDS FOR SHELTERS

11:37:01 AM City Attorney Vance began the discussion on this agenda item by referring to her memorandum dated March 29, 2012 (copy in Clerk's file) to address changes that would need to be made to Chapter 4. Changes would need to be made to definitions, noting that Social Service, Group III also allows Court Mandated Work Release.



Another change would entail a review of conventional zoning districts. As mentioned Social Services, Group III, is permitted by right in the CF-2 and CF-4 zoning districts. Also, a review would also need to be done to the supplementary regulations to ensure compatibility with other uses, which would entail land use regulations for what is appropriate.

The Regulatory Ordinance is where you would look at operational standards per an operational standards permit. The Board may want to do this via permit, or something where as long as they meet operational standards Code Enforcement or the Sheriff's Office can go after them if they violate those operational standards. In response to Board Member Sims, Mr. Dulmer responded that they would be creating those operational standards and find those uses that would be compatible with the City's intentions. He also agreed that there is a lot of different information out there to look at.

Board Member Sims referred to the Supplementary Regulations and stated that when you take CF-2 and CF-4 and speak to setbacks, buffering, etc., they're already covered under those zoning districts. Mr. Dulmer responded they are if there are less than 50 beds. If a facility has more than 50 beds they have to be rezoned to planned development. Staff did notice that when St. Matthew's House had an active application in for the City, whether it was the old bank building or the Causeway Lumber site, there were certain operational standards they had in place that Staff wanted to solidify through the zoning. So they would not only be one of their internal standards, but also conditions of their zoning. The supplementary regulations go along the lines of not only maintaining the operational standards within a structure but also how it relates to the outside property, i.e., access, hours of operation, what type of facilities work, how close are they to each other or to other uses, etc.

11:47:29 AM Board Member Vincent stated he sees operation standards as a safety net for land development. Mr. Dulmer stated that Community Development will be looking at not only protecting the residents, but providing consistency. City Attorney Vance added that they would be looking at vertical construction, horizontal construction and social issues. Referring to homeless shelters, she stated that in writing the regulations, it's also important to indicate what it is not. She also suggested better definitions for social service uses. Council direction to the LPA to start looking at the issues and seeing what fits and what does not fit in our community. Discussion needs to be held on how to proceed, if they want to start scheduling workshops now, and how to get communications to the Board to allow them to make decisions.

11:53:17 AM Board Member Vincent suggested starting on the process immediately, and define the process so they can understand where they are going next.

Mr. Dulmer suggested a framework of what they want to see in the ordinance. Once that is established, he would suggest talking to various groups on whether they are in favor or opposed to shelters/facilities, and include information that addresses the concerns. At that point he would suggest workshops. City Attorney Vance questioned whether they would want to first prepare an inventory and tell Staff what they feel is important so she can draft something for review. If they prefer they have something that would be their skeletal database to move forward.

11:54:57 AM Board Member Sims stated he felt the first thing they would need are definitions.

11:55:44 AM Chairman Colapietro suggested a workshop as soon as one can be scheduled. At the next meeting they would like a "skeletal outline" of what they are looking for as well as definitions and recommendations.

11:57:16 AM Board Member Bob Thinnes stated he didn't agree with designing an ordinance after certain properties, which is not the intent.

#### VI. DISCUSSION OF COMMUNITY GARDENS.

Board Member Bob Thinnes left the meeting at 11:58 A.M.

12:00:45 PM Jackie Genson, Community Development, next furnished a PowerPoint presentation (copy in Clerk's file) to address the draft proposed Community Gardens Ordinance, which amends LDC, Chapter 4. The draft Ordinance was prepared after a meeting held in November in which public comments were taken. The PowerPoint addresses the vision, which is to provide regulations relating to size, chemical application, the sale of produce and plants, permitted structures, prohibited uses and application process.

The application would be an administrative review. Staff would ask that, as part of the application, that there would be letters of no objection from the neighborhood. If there are objections, they would propose the process go to a Special Exception hearing, to allow public hearing and to allow Staff to come up with an agreement that would work for both parties.

12:11:50 PM Chairman Colapietro questioned the sale of produce and plants and asked if a permit would be needed every time they wanted to sell something. Ms. Genson responded that the sale of items would only be from that specific plot. It would not stop one from taking their vegetables to a farmer's market or donate them to a food bank. Jennifer Duffala-Hagan added that the primary reason for this is to provide the opportunity to grow food; not to sell it.

12:13:10 PM Board Member Vincent referred to the structures, and asked what kinds of materials would be used. Ms. Genson responded that structures cannot exceed 10% of the lot coverage, and so it would depend on the size of the lot. Structures would be reviewed at time of application with Staff and would require permitting.

Board Member Sims suggested a brochure for people. Staff's request is to have this placed on the City Council Agenda with a request for permission to advertise. Board consensus to proceed.

12:17:20 PM Ms. Hagen, Community Development, informed the Board of three successful well-known local gardens. The Lakes Parks Community Garden, the Heartland Gardens which is on the way to Sanibel, and Roots Heritage Garden located off Martin Luther King Jr. Boulevard, at the City of Fort Myers Cultural Heritage Center.

#### VII. PROPOSED DESIGN WIND SPEED RISK CATEGORY BOUNDARIES.

12:19:34 PM City Attorney Vance stated this was another item that will need to be adopted by Ordinance. She referred to a small area on Little Hickory that was now in a different risk category for residential buildings. Mr. Dulmer explained that the Florida Building Code changed, explaining that the State has allowed the flexibility to provide some common sense when it comes to enforcing wind speeds, and thus, Staff's proposal is to keep property together. Discussion followed.

12:21:45 PM Board Member Sims questioned the effect on building permits, to which Mr. Dulmer stated there will be a bit of an impact. In response to Board Member Vincent's statement that the 2010 Florida Building Code reflects 150-160 for Lee County, and here it reflects 180, City Attorney Vance responded that it's 180 for Risk Category III and IV., which include hospitals - it's the category of building. Risk Category II entails residential uses, and Risk Category I are things such as ted sheds. The variance that's being requested that will come back as an Ordinance, will be a variance to allow all of the buildings that are in risk category 2 (commercial buildings and single-family residences). Discussion followed.

12:28:18 pm City Attorney Vance explained that at this point the intent was to make the LPA aware, noting no action was needed.

#### VIII. PUBLIC COMMENTS:

12:29:08 PM Konrad Schultz referred to the issue of homeless shelters and asked that the Board keep in mind the importance of the public being informed. He referred to an ordinance that addressed a problem in Cincinnati, which addresses very important items to address - density and size. The study concluded that you should not build a homeless shelter with more than 50 beds. He recommended the Board look at Ordinances in other cities and states.

12:34:34 PM Debra Maclean stated the need to look at the needs of the young community in the City. She asked that the Board look at the pros and cons of such a use.

12:36:03 PM Deb Harrop encouraged Council to support funds to address the process.

12:37:16 PM Linda Schwartz, a former social worker, stated she would be very interested for the inclusion of operational standards for any such facility.

IX. NEXT MEETING:

Thursday, May 17, 2012, at 8:30 A.M.


X. APPROVAL OF MINUTES: 01/17/12

12:38:24 PM Board Member Bird motioned approval of the minutes; Board Member Mills seconded; and the motion carried unanimously.

XI. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 12:38 P.M.

Respectfully submitted,



Debra Filipek, Recording Secretary

APPROVED:

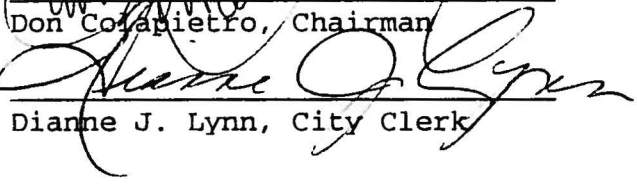
LOCAL PLANNING AGENCY:

Date: \_\_\_\_\_

AUTHENTICATED:



Don Colapietro, Chairman



Dianne J. Lynn, City Clerk