

**Local Planning Agency**  
**Thursday, February 17, 2011**  
**10:00 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 10:06 A.M.

II. ROLL CALL.

Present:

Don Colapietro, Chairman  
Rex Sims  
Joseph Ariola  
Bob Mills

Absent (Excused):

David Morton  
Jose Lopez

Also in attendance was Councilwoman Janet Martin.

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

10:08:20 AM Dawn Koncikowski addressed definitions contained in the Florida Statutes and Section 27 of the City Charter. She asked that the Board postpone any decision regarding Chapter 4 and consult the Attorney General for an advisory legal opinion.

A. AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 4 (ZONING); AMENDING CERTAIN PROVISIONS SO THAT SPECIAL EXCEPTIONS AND VARIANCES CAN BE PROCESSED BY RESOLUTION INSTEAD OF ORDINANCE; AMENDING SECTIONS 4-83, FUNCTIONS AND AUTHORITY; 4-84, REHEARING OF DECISIONS; 4-152 ZONING BOARD STANDING OF REVIEW; AND 4-232, REQUIRED HEARINGS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

10:11:27 AM City Attorney Audrey Vance began by reading into the record the title blocks of the Ordinances in both Items A. and B. Both Ordinances are scheduled for a first reading on March 2, 2011 and a second reading on March 16, 2011. City Council also adopted a Resolution to clarify that the intent of Section 27, that regulates land use and development, did not apply to Special Exceptions and Variances. Resolutions are still advertised, but the advertising

requirements to not mandate a first reading where there is no public comment, and then a second reading where there is public comment - resulting in one meeting with public comment. She further explained that the City previously adopted Lee County's Land Development Code as a transitional document, which included delegated authority for certain Special Exceptions and Variances by Staff - via an Administrative Order. She further explained, noting that the overall changes are very minimal.

10:15:55 AM Board Member Rex Sims addressed discussions held during the creation of the City Charter relating to Ordinances and how they would be drafted, which included the 30 day effective date, which was not changed during the election. His concern is that Special Exceptions can result in a very big change to a property. He suggested listing all uses that require Special Exceptions and weigh their impacts to determine how that specific request should be handled. John Dulmer, Community Development, referred to the Stevie Tomatoes case and explained that if that application was processed as a Resolution there would have been two public hearings - one in front of the Zoning Board and one in front of City Council. Also, that Resolution, if approved, would have gone into effect immediately instead of having the 30 day delay required for Ordinances. Overall, this would shorten the process by two to three months. Board Member Sims stated that most cities don't have the waiting period before Ordinances go into effect, and questioned whether that was something that needed to be changed rather than changing from Ordinance to Resolution. City Attorney Vance explained that's a change that would have to go before the voters.

10:29:56 AM Board Member Sims stated his concern regarded the large list of Special Exceptions, noting that they all go through the same process and procedures. He suggested perhaps a different category for Special Exceptions. Mr. Dulmer stated that to date there have been 13 Special Exceptions filed in Community Development, two of which were withdrawn before they reached the hearing process, with half of the remaining being for outdoor consumption on premises. Also, most of those have gone through with hardly any public comment or none at all.

10:31:51 AM Chairman Colapietro stated he also was uncomfortable with the number of uses on the list for Special Exceptions.

10:37:57 AM City Attorney Vance explained that the question was whether the Board finds the Ordinance consistent with the City's Comprehensive Plan. Board Member Colapietro stated that was the quandary - finding it consistent even though they don't agree with it. Board Member Sims stated that if there are Special Exceptions of lesser importance, he feels there could be a separate category for those. He feels that Special Exceptions that dramatically change the use of the property need to remain via the process currently in effect. He feels there has to be something different that can be done other than that which is being proposed. He feels

someone can come up with something that would be more acceptable and find a better solution.

10:39:21 AM Board Member Sims agreed with the City Attorney regarding her understanding of the Board, which was "still consistent but untimely. Wait until City Council has a list of Special Exceptions and Variances to weigh their impacts and require Ordinances for those with greater impacts. Find a better solution." Discussion followed.

10:47:32 AM Board Member Bob Mills entered a motion finding the Ordinance to be consistent with the City of Bonita Comprehensive Plan; Board Member Joseph Ariola seconded. Board Member Ariola stated he also was not comfortable with an open ended list that includes everything under every situation and scenario. He agrees with concerns raised by Board Member Sims.

The motion failed 2-2 (Chairman Colapietro and Board Member Sims opposed)

B. AN AMENDMENT TO THE BONITA SPRINGS LAND DEVELOPMENT CODE CHAPTER 3 (DEVELOPMENT STANDARDS); AMENDING SECTIONS 3-411 THROUGH 3-440 (OPEN SPACE, BUFFERING AND LANDSCAPING) PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN EFFECTIVE DATE.

10:50:47 AM City Attorney Vance addressed revisions, which entail a "fine tuning" of the landscape provisions. The Ordinance will also be reviewed by the City's Tree Advisory Board.

10:51:35 AM John Dulmer, Community Development, explained this stemmed at the time when several communities reduced their minimum tree size from 12 to 10 feet. The reduction of two feet saved approximately 50% of the costs of the tree and the installation. The changes address this. Mike Kirby, Environmental Sciences, had several meetings with the local landscape architect community and other environmental professionals on revisions to the landscape code that clarify a lot of issues that had been previously undefined, and adopted generally accepted practices.

10:52:40 AM Chairman Colapietro addressed his concern which regarded the 100% overlap in the irrigation system, which had been revised to 50%, but was now shown at 100%.

10:53:25 AM Board Member Sims entered a motion finding the Ordinance consistent with the Comprehensive Plan; Board Member Mills seconded; and the motion carried unanimously.

#### IV. APPOINTMENT OF A VICE-CHAIRMAN.

Board Member Rex Sims nominated David Morton; Chairman Colapietro seconded; and the motion carried unanimously.

V. PUBLIC COMMENTS:

10:55:09 AM Dawn Koncikowski thanked the Board.

10:55:36 AM Doug Both thanked the Board for the deliberations regarding Item A. above. He also expressed concerns regarding it being too quick a process. He also agrees that there needs to be a way to categorize Special Exceptions.

VI. NEXT MEETING. Thursday, March 10, 2011, 10:00 A.M.

VII. APPROVAL OF MINUTES: 12/09/10

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

VIII. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 11:00 A.M.

Respectfully submitted,

---


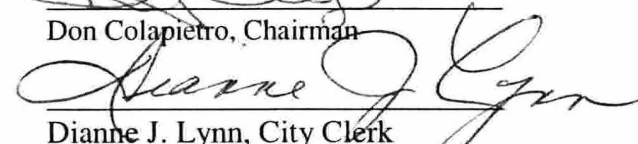
Debra Filipek, Recording Secretary

APPROVED:

LOCAL PLANNING AGENCY:

Date: 3-10-11

AUTHENTICATED:

  
Don Colapietro, Chairman  
Dianne J. Lynn, City Clerk