

**CITY OF TREASURE ISLAND, FLORIDA
PLANNING AND ZONING BOARD
Sitting as the
LOCAL PLANNING AGENCY
April 16, 2009**

1. ROLL CALL:

Lynn Dayvault	Present
Steve Ferguson	Present
Susan Givens	Present
Daniel Helton	Present
Heidi Horak (Chair)	Present
Kevin Johnson	Present
Pam MacIntyre	Present
Bill McAlduff	Present
Frank McConnell	Present
Kathy McCreary	Absent
Susan Reiter	Absent
Joe Roberts	Present
Robert Shogren	Present
Christopher Sierra (Vice-Chair)	Present

The Chair, Heidi Horak, called the meeting to order at 2:03 pm and noted that the City Attorney, Maura Kiefer, the City Planner, Lynn Rosetti, and the Planning Associate, Steve DeMerritt were present.

It was noted that Ms. McCreary stated at the March meeting her absence today and she also sent an e-mail to that effect.

2. MINUTES

The minutes of the meeting of March 19, 2009 were approved as printed and passed by unanimous consent.

3. ITEMS OF BUSINESS

a. Discussion: Proposed draft LDR language regarding swimming pool setbacks

The City Planner offered a review of her memo of April 10, 2009 regarding Swim Pool Setbacks and also reviewed a proposed LDR Revision to Sec. 68-483.

Upon a suggestion by Mr. Sierra to eliminate the words *where greater setback is required under the building code* which appears after the newly inserted language in the Proposed LDR Revision, the City Planner responded as to why she felt the language should remain. Ms. Rosetti explained that building setbacks are actually set out in Chapter 68 and Chapter 64 deals with building code issues as in the Florida Building Code and there may be situations where the Florida Code may mandate something different. The City Planner agreed to change the word **and** which appears at the end of the newly proposed language to **or** and to also add the words **and Chapter 68** to the end of the sentence.

The Chair reminded the Board that last month there was a case with a setback issue regarding a swimming pool similar to this and was denied by the Board.

ACTION:

Motion was made by Mr. McConnell and seconded by Mr. Roberts to recommend to the City Commission the consideration to forward the Proposed LDR Revision regarding Swimming Pool setback requirements back to the Board for approval.

Upon roll call the vote to approve was 8 nays and 4 ayes as follows:

Lynn Dayvault	aye	Pam MacIntyre	nay
Steve Ferguson	nay	Bill McAlduff	nay
Susan Givens	nay	Frank McConnell	aye
Daniel Helton	nay	Joe Roberts	aye
Heidi Horak	nay	Robert Shogren	aye
Kevin Johnson	nay	Christopher Sierra	nay

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b. Discussion: Information to members regarding 1) legal representation and 2) legal issues with respect to member liability

The City Attorney stated that the Board need not have a concern with personal liability, there isn't any. Ms. Kiefer noted that if any claim arises out of any action taken by the Board the claim is against the City and if it would name the Board it is a Board of the City. The City Attorney stated that pertaining to the Planning & Zoning which is quasi judicial meeting a claimant may appeal to the Circuit Court. Ms. Kiefer noted that an exception to any personal liability would be if a Board member acted outside the bounds of his/her authority. The City Attorney noted that when acting as the LPA the Board is acting strictly as an advisory function.

Mr. Roberts requested clarification regarding the liability of the Board in the absence of the City Attorney.

The City Attorney stated that there is no individual member liability for any action taken as a Board. Ms. Kiefer stated that the Board is a component of the City and does not have the capacity to be sued and the method to avoid an ethical violation is to recuse yourself from the case if there is a self interest factor.

c. Discussion: Subcommittee meetings – fact findings or advisory – clear direction needed

The Chair noted that this discussion is a result of her request to have a sub committee in lieu of splitting the Board.

The City Planner noted that in her meeting with the City Manager there seems to be more questions than answers. Ms. Rosetti noted the TV time is for regularly scheduled meetings. The City Planner stated that the Board does need clear direction as to the definition of fact finding and recommended that until a time when the Board's Rules of Procedure outline the specifics of how to organize sub committee meetings that the regular LPA meetings be held more often.

The City Attorney suggested that she copy the relevant pages from The Sunshine Manual for distribution to the Board and noted that there is a distinction that fact finding not include any discussion. Ms. Kiefer suggested a revision to the Rules of Procedure to define what is applicable to the sub committee.

The Chair suggested that a meeting in the Sunshine could be held in the area of

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the auditorium near the kitchen with the use of a tape recorder and notice to the public at the prior meeting.

The City Attorney reviewed the Rules of Procedure as written pertaining to Special Meetings for the purpose of informing the Board of restrictions that are now in effect. Ms. Kiefer will revise the Rules of Procedure to institute a lesser number for quorum for sub committee meetings.

The next LPA meeting will be held May 21, 2009 at 2:00 pm since there are no cases for P & Z.

4. Old Business

Mr. Helton requested a date be set to address the City Commission regarding TDR's.

The Chair read a memo prepared by Mr. Helton to be presented to the Commission and noted that she will bring up as a separate item density/intensity averaging.

Ms. MacIntyre stated that she wanted to address the last meeting and after giving a lot of thought she stated that when the City Attorney and the City Planner, in her opinion, kind of cherry pick sentences out of the code and they are taken out of context and then the Building Official concluded that taking a structure and adding an identical structure on top of it did not add square footage that she is unable to work within those parameters and is resigning from the Board effective today.

(Above paragraph has been reviewed as requested and is printed word for word)

5. New Business

The Chair introduced to the Board the Settlement Agreement that was reached regarding properties located in front of Caddy's on the Waterfront. Ms. Horak noted that the problem she had with the agreement was on page 3, paragraph 5 in which the State is giving zoning rights to the owner that they have no jurisdiction to give.

Mr. Roberts requested clarification regarding the parking requirements for a beach business.

The Chair noted that she will be, along with the City Planner, attending a native plant tour and also that she will be out of town for the August meeting and suggested the meeting could be cancelled if there are no cases.

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6. Adjournment

Motion was made by Mr. Sierra and seconded by Ms. Givens to adjourn.
Meeting was adjourned at 4:00 pm.

Next LPA meeting will be May 21, 2009 at 2:00 pm.

A J. Sarko
Recording Secretary

Heidi Horak
Chair