

**CITY OF TREASURE ISLAND, FLORIDA  
PLANNING AND ZONING BOARD  
Sitting as the  
LOCAL PLANNING AGENCY  
November 15, 2007**

**1. ROLL CALL:**

Ron DeBiase	Present
Susan Givens	Present
Daniel Helton	Present
Heidi Horak (Chair)	Present
Kevin Johnson	Present
Harry Long	Absent
Pam MacIntyre	Present
Joel Manings	Absent (arrived 12:39 pm)
Frank McConnell	Present
Kathy McCreary	Present
Joe Roberts	Absent
Robert Shogren	Present
Christopher Sierra	Absent (arrived 12:39 pm)
Ruthie Starkey (Vice-Chair)	Absent

Chair Heidi Horak called the meeting to order at 12:36 pm and noted that the City Planner, Lynn Rosetti, and the Planning Associate, Steve Demerritt were present.

The Chair noted that Mr. Long, Mr. Roberts and Ms. Starkey have excused absences.

**2. MINUTES**

.The minutes of the October 18, 2007 LPA meeting were approved as corrected and passed by unanimous consent.

The Chair requested that the following items be placed on the next LPA Agenda under Old Business (Ms. Starkey's item and the Board comments regarding the City Commission's action on an appeal).

Ms. MacIntyre reinforced the request to review the concerns of the Board regarding the appeal procedure.

11/15/07

The minutes of the meeting of September 12, 2007 were approved as corrected and passed by unanimous consent.

The Chair then requested that an additional item, special exception, be added to Old Business on the next meeting agenda.

### **3. ITEMS OF BUSINESS**

The Chair, while awaiting the arrival of the City Attorney, and due to the absence of Ms. Starkey, began with the last item on the Agenda.

#### **d. Orderly Meetings**

Mr. McConnell read what he had written regarding the Rules of Procedure as they pertain to an orderly meeting. He suggested that the Rules of Procedure be modified to correct the situation of prevailing party and he related to a specific situation where this occurred and the City Attorney's interpretation.

Mr. Sierra expressed his concern with this situation and requested that the City Attorney provide general saving clause language indicating that actions ratified by the full Board shall be deemed approved by the Board and not a violation.

Ms. MacIntyre directed the Board to item h. Motion to Reconsider, Section 11, Rules of Debate of the Rules of Procedure and read the last sentence of the paragraph. Ms. MacIntyre requested clarification.

The Chair directed the Board to item a. Sequence of Debate, Section 11, Rules of Debate of the rules of Procedure and read the paragraph. Ms. Horak stated that she found this paragraph to be very confusing and reviewed the areas which she felt presented possible problems.

Board discussion ensued regarding their opinions of the language in this paragraph. Opinions were expressed by Mr. McConnell, Mr. Manings and Mr. Sierra. The Chair requested that the language regarding the second of a withdrawn motion be reviewed.

The City Planner directed the Board to page 5, item e. Withdrawal of Motions of Section 11, Rule of Debate of the rules of Procedure. Ms. Rosetti read the paragraph and determined that it is required to have the member making the second to agree to the withdrawal of a motion.

11/15/07

Ms. MacIntyre directed the Board to page 5, item f. Amending of Motions of Section 11, Rules of Debate of the rules of Procedure and stated that this paragraph does not make sense to her and then read the paragraph for the benefit of the Board. Ms. MacIntyre requested clarification on the language *motion in its original form as amended*.

The Chair requested that item f. Amending Motions be rewritten by the City Planner or City Attorney. Mr. McConnell suggested that removing the words *in its original form* would clarify the intent of this paragraph.

The Chair began a discussion of the prevailing motion and its relation to the due process consideration.

Mr. McConnell discussed his perception of a past situation as it pertains to the prevailing motion.

Mr. Sierra suggested obtaining Rules of Procedure from other cities for review.

The City Planner stated that she had already obtained Rules of Procedure from other cities and that where they had Motion to Reconsider it was included in their Code as an Ordinance. Ms. Rosetti clarified that the present Rules of Procedure are not law and when the Board has made a decision, according to Code, the decision stands unless the applicant requests a reconsideration immediately.

The Chair stated that she would like to see Motion to Reconsider reviewed and put into the Code of Ordinances. Ms. Horak indicated nods of agreement from all the Board members.

The Chair requested that the City Planner remove the last sentence of item h. Motion to Reconsider and add *at the request of the applicant* in the appropriate place and request that the City Commission recommend that the Board adopt an Ordinance.

Upon a request for clarification of prevailing side from Mr. Helton, the City Planner offered an explanation.

The Chair referred to Board rules discussions from 2005 and stated that she then reviewed some rules information from the City of St Petersburg. Ms. Horak discussed placing time limitations on cases presented at meetings and also discussed streamlined approvals.

11/15/07

The City Planner explained the procedures of streamlined approvals.

Mr. Sierra and Mr. McConnell expressed their concerns with streamlined approvals.

The City Planner suggested that if the Board were interested in streamlining that they begin with minor amendments to site plans rather than variances.

Ms. MacIntyre stated that she would not be in favor of streamlining site plans or variances and felt that the agendas did not indicate the need to streamline anything.

The Chair questioned the City Planner if surveys were required for site plans and variances.

The City Planner stated that the City requires signed and sealed surveys and signed and sealed site plans. Ms. Rosetti stated that for site plans the survey must not be older than 3 years but for a variance the survey may be older but the applicant must state that nothing has changed in the survey.

The City Planner explained the proof of ownership and where it is filed and also explained the attempt to streamline the amount of paper in the Boards packet.

The Chair questioned the City Planner regarding the permission to visit a property.

The City Planner read Section 70-10, Power to make Reports, Require Information, Enter Property, Plan for Disaster Areas and Exercise Necessary Powers. Item c stated that the Board does have right of entry to a property at time of application.

The Chair re-capped the issues to be continued for discussion; savings clause, amend Section 11 Item f, review deletion of last sentence of item h in Section 11 (Motion to Reconsider) and clarify prevailing party and request by applicant.

Motion was made by Mr. McConnell and seconded by Mr. Sierra to delete the words *in its original form* from item f, Amending of Motions, Section 11 Rule of Debate of the Rules of Procedure. Upon a voice vote the motion was passed by unanimous consent.

11/15/07

Ms. Givens directed the Board to Section 17, Effective Date of the Rules of Procedure which indicated that these rules have been adopted by both the Board and the City Commission and shall remain in effect until amended or repealed.

Motion was made by Ms. Givens and seconded by Ms. MacIntyre to change Section 17, Effective Date to read *to be the adoption by the Board* versus the City Commission. Upon a voice vote the motion was passed by unanimous consent.

The meeting adjourned at 1:40 pm to be reconvened after the scheduled P & Z meeting.

The Chair reconvened the LPA meeting at 3:55 pm and noted that the City Attorney, Maura Kiefer, is present. Ms. Horak referred to the two items on the agenda, Ex-Parte Communication and Sunshine Rules that the City Attorney wished to address.

The City Attorney noted that packets of law cases were distributed to illustrate due process. Ms. Kiefer then began a review of noted cases which pertained to Planning and Zoning. She noted the importance of allowing the applicant full opportunity to be heard. The City Attorney explained the difference between procedural due process which pertains to the noticing of the case and substantive due process which pertains to the merits of the case like applying the proper criteria. Ms. Kiefer discussed a case example of ex-parte communications and noted the need to declare ex-parte communication before the case is heard.

Ms. MacIntyre reviewed research she did regarding ex-parte communication for purposes of providing the general information for the Board.

The City Attorney clarified the difference between ex-parte communication and the Sunshine rules.

Ms. McCreary left the meeting at 4:22 pm

The Chair clarified for Board members and the TV audience the Rules of Procedure, the Code of Ordinances and State laws and common law in relation to due process.

11/15/07

The Chair referred the Board to the last page of the October 18<sup>th</sup> minutes and to the comments by Board members regarding the appeal of a case that was taken to the City Commission after being denied by the Board.

The City Attorney addressed the appeal process for the Board for purposes of gaining an understanding of the process and also clarified that an appeal is not an offense against the Board but just another review.

The City Planner explained that there is room for negotiation where site plans are concerned regarding any change that the Board would recommend.

The City Planner advised the Board that they could continue a case for up to 4 months and request the applicant return with suggested changes in the site plan.

Mr. McConnell cautioned the Board and in particular the Chair that it is necessary to control the making and voting of a motion in order to allow additional feedback from the applicant when changes to the site plan are suggested by the Board.

#### **4. Old Business**

Redevelopment Concepts and Land Regulations Report were postponed to next meeting.

The City Attorney offered an update on pending legal cases.

#### **5. New Business**

There was no new business.

11/15/07

**6. Adjournment**

The meeting was adjourned at 4:30 pm.

Next LPA meeting will be December 5, 2007 at 4:30 pm.

The next P & Z meeting will be December 20, 2007 at 2:00 pm.

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A J. Sarko  
Recording Secretary

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Heidi Horak  
Chair