

**CITY COMMISSION WORKSHOP
LDC Amendments**

City Hall Training Room
April 3, 2012 5:30 p.m.

I.Call to Order

Mayor Ed Kelley called the meeting to order at 5:30 p.m.

Present were Mayor Ed Kelley, Commissioners James Stowers, Troy Kent, Rick Boehm, and Bill Partington, City Attorney Randy Hayes, City Manager Joyce Shanahan, Assistant City Manager Ted MacLeod, City Clerk Joshua Fruecht, Planning Director Ric Goss, Senior Planner Becky Weedo, and Senior Planner Steven Spraker.

II.Discussion

Ms. Joyce Shanahan, City Manager, stated that staff had some discussions with the Commission over the past few months about the Land Development Code ("LDC") and that there had been several items which they felt needed further direction. She stated that Mr. Ric Goss, Planning Director, would outline and review items for discussion. She stated that all of the items had been before the Planning Board except the pole and monument signs and outdoor activities and storage, which were being brought to the Commission first.

Item #1: Docks, Boathouses, and Boat Lifts

Mr. Goss stated that the city had amended the city code to reflect the Florida Department of Environmental Protection's (DEP) code. He stated that the only two areas in which the city had stricter regulations were with regard to the size of the boathouse and platform. He displayed a table prepared by Ms. Becky Weedo, Senior Planner, which showed the permitting restrictions and outlined the restrictiveness in each area. He stated that under the proposed code amendments Ormond Beach would be the least restrictive of most of the local cities. He stated that there were reasons why the city had made reference to the DEP code in their language. He stated that if a resident went to DEP, they would still have to go to the city for a building permit to build their dock; and if that project involved wetlands, then a wetlands review would be required by Engineering. He stated that since the resident would have to come to the city anyway, the idea was to put that criteria into the code to make the review faster when it reached DEP.

Ms. Weedo stated that the proposed code dealt with the major regulations in the ordinance. She stated that they had decided last year when they met with the dock permitting contractors that there was an issue with the DEP regulations, which had changed to allow boathouses in aquatic preserves. She stated that staff felt those changes presented a really great opportunity to streamline the city's code so that it would be an easier process for applicants. She stated that last year the code for the boathouse height was also amended from a maximum roof height of 12 feet to 18 feet and also amended to allow anyone who was exempt from having to get a DEP permit to not have to obtain one for the city as the city currently had an exemption for them. She stated that because of maximum sizes being instituted, all would be exempt from DEP; and therefore, one could go straight to the building department and apply for a permit.

Mayor Kelley stated that the only problem he foresaw with the city being more restrictive than DEP, even on two items, was that a person could first go to DEP with their plan and receive approval, then come to the city and have what they presented be unacceptable according to the city's code.

Ms. Weedo stated that DEP did not regulate the building of docks and boathouses and stated but the Florida Building Code did and so they complied with the code. She stated that DEP did regulate platform size.

Mayor Kelley asked if a person who needed to go to DEP would be able to get information locally from the city first on what would be allowed when they built their dock; whereby Mr. Goss stated that they would be able to do so.

Mr. Goss stated that essentially the platform regulations for aquatic preserves were the same as DEP. He stated that the Commission had the ability to increase the square footage up to the maximum that DEP permitted, which was up to 500 square feet.

Mayor Kelley asked if the platform regulations were the same as DEP; whereby Ms. Weedo stated that they were the same for platforms in aquatic preserves.

Mr. Goss stated that platforms in the outstanding waters were not regulated by DEP. He asked whether the Commission wanted to have some restrictions on the size of a boathouse or the size of a platform within outstanding waters. He stated that while restrictions could be removed if the Commission desired, there would be unintended consequences in doing so.

Commissioner Kent asked what the unintended consequences might be.

Mr. Goss stated that if there was no restriction on the platform size then someone could build a platform as large as they wanted.

Mr. Steven Spraker, Senior Planner, stated that the size of the boathouse would start blocking view corridors for adjoining property owners, and as the size of the boathouse became larger and larger it would basically become a home on the boat.

Mr. Goss stated that may happen, particularly in areas where the homes were closer together without a lot of riverfront frontage.

Mayor Kelley stated that the key word was "may" and in areas such as the Tomoka River, where properties were 400 or 500 feet away, that would not be the case but the rule would still apply. He stated that one would also be restricted on how far out their dock could be based on the width of the river. He stated that it would depend on the dock location whether or not someone's view would be blocked.

Mr. Goss stated that while that was true, it could happen. He stated that right now with the code, it could not.

Mayor Kelley asked if what was currently being proposed was acceptable to the rest of the Commission. He stated that it limited the size of boat one could put in the boathouse by limiting the size of the boathouse.

Ms. Weedo stated staff had never received a complaint of that nature. She stated that typically the larger boats were housed at marinas and not at a private owner's dock. She stated that the waterway would not be navigable with a large boat because the water would often be too shallow.

Mr. Goss stated that the biggest issue he believed they ever had was with the roof height about a year ago. He stated the previous height limit was 12 feet and staff realized people could bump their heads because they could not get under the roof. He stated that it was changed to 18 feet. He stated that Ormond Beach was not the most restrictive community with regards to height.

Ms. Weedo stated that during the discussion of maximum roof height, the Planning Board also brought up the fact that lifting the boat during high tide into a 12 foot boathouse was a serious issue.

Mr. Goss stated that there were people in attendance, such as Ms. Janis Steele, a dock contractor, that assisted in the preparations of the proposed regulations and brought a wealth of experience and knowledge.

Mayor Kelley stated he was happy with the amendments if the rest of the Commission was.

Ms. Shanahan stated that the next step would be to bring back the proposed code for approval.

Commissioner Stowers stated that he had been outspoken on this topic at a previous Commission meeting and that his question had been what the rationale was for imbedding the same DEP language and provisions into the code at the local level. He stated that at the onset of the discussion, Ms. Weedo explained the reason and he understood. He stated that he was still uncomfortable with the requirement to secure a waiver from your neighbor but understood it to be a DEP regulation and that there was nothing that could be done about that.

Mr. Goss stated that it was a DEP regulation and what staff had done was take that process on at a local level rather than through DEP.

Ms. Weedo stated that it was being done that way to eliminate the need for variances and to lessen the permitting process for residents who wanted docks that had less than the 65 foot shoreline.

Commissioner Stowers stated that his concern was that if two neighbors hated each other and one did not want a dock near their property then that one would refuse to give the waiver. He stated that it was probably unlikely that would occur, and if it did, they would just get lawyers.

Mr. Spraker stated that if one neighbor did not sign the waiver the other would still have the option of requesting a variance.

Commissioner Stowers stated that in his mind the sovereign submerged areas of the state were regulated by the state. He stated he understood regulating the height of the boathouse but he started to get a little leery when it came to the city wanting to limit the size of platforms. He stated that he really did not think that it would have an impact on viewing angles and that there were also economic factors against someone building a

giant platform.

Mr. Goss stated that one of the reasons he believed there to be limitations on platform sizes was because of the submerged underground aquatic life.

Ms. Steele stated that the limitations in aquatic preserves were due to the light needing to get through for any aquatic vegetation to grow. She stated that in outstanding waters there were no limitations but if they wanted a larger platform and they exceeded the exemption rules, they would have to get a lease and “rent the river bottom” and it would be more costly for the applicant. She stated that anytime they saw a client for dock permitting, they would try to keep in mind what the DEP rules and local LDC codes were.

Commissioner Stowers stated that he agreed with everything but he wanted to try to limit the city inhibiting people’s rights to do something.

Item 2: Commercial Vehicle Storage

Mr. Goss stated that city staff had noted the growing size of commercial and non-commercial vehicles. He stated that staff proposed a change from a $\frac{3}{4}$ ton to one ton limitation on these vehicles. He stated that the Commission had the following options: to remove regulations and allow people to bring their commercial vehicles home, to go to the larger one ton size limit, or to stay with the current size of $\frac{3}{4}$ ton.

Mayor Kelley stated that he did not think anyone would be driving much more than a 1 ton vehicle to and from work. He stated that if there were not any restrictions people would probably bring their dump-trucks home.

Commissioner Kent stated that he was also comfortable with the one ton limitation.

Item 3: Fences and Walls

Mr. Goss stated that the provision was the same as the current LDC which allowed up to 50% of a fence or wall to be replaced without a permit. He stated that at first staff had removed that provision but the Planning Board did not agree with that decision. He stated that the new provision also added that an existing fence would need to be repaired with similar materials. He stated that the biggest change in the proposed code related to the noise attenuation barriers. He stated that staff wished to structure an amendment to allow a noise attenuation barrier that would be greater than six feet. He explained that the barrier would have to be more than six feet and be designed so that it had off-sets in order to cut down on the noise from vehicles bouncing off the wall. He stated that it would not work as well if it was a straight wall. He stated that originally the provision included standards for aesthetics, which were removed in order to leave the design up to the design engineer so that it could be designed based on the maximum ability to attenuate the noise.

Mr. Spraker stated that there were still aesthetic standards in other sections of the fences and walls code. He explained that the wall could not be unfinished; therefore the barriers would not be unattractive. He stated that the height was the main issue, as it had to be higher than six feet in order to be effective.

Commissioner Stowers stated that throughout the state the noise attenuation barriers he had seen often had some sort of consistency in design. He stated that he felt that different

property owners could each fit the standard and have their walls finished but they would all have different nuances in the walls. He stated that he felt that the city would want to be consistent.

Mayor Kelley confirmed that everyone was comfortable with the amendments.

Item 4: Greenhouses

Mr. Goss stated that greenhouses were currently not allowed in most of the residential districts. He stated that there had been a request to allow them. He stated that this amendment would allow greenhouses to be in all residential districts, subject to accessory structure set-backs and heights.

Mayor Kelley stated that he had one comment regarding the following language in the provision “the applicant shall demonstrate that anticipated water usage will not have an adverse impact on the local aquifer”. He stated that the cost of proving that would be ridiculous and that it would not be able to be done. He stated that requirement should be removed from the provision.

Mr. Goss stated it had existed in the code previously but could be removed.

Commissioner Boehm asked if there was a definition of what a greenhouse was. He asked if it was meant to be a permanent structure or if someone could just pull visqueen over wood.

Ms. Shanahan stated that the LDC defined greenhouses as a glass enclosure used for the cultivation and protection of tender plants.

Mr. Spraker stated that a greenhouse would be permanent structure that would be permitted and have to meet the Florida Building Code.

Item 5: Outdoor Storage, Parking, or Use of Personal Property

Mr. Goss stated that outdoor storage was regulated within the districts; therefore, there was no reason to have a provision in accessory use. He stated they wished to delete the issue of accessory use with outside storage.

The Commission approved the deletion.

Item 6: Play Structures

Mr. Spraker stated that the city had experienced a number of properties with larger and larger play structures built on them. He stated that there had been complaints from residents about structures that were so tall that you could see over a six foot fence and into other properties with them. He stated that staff had struggled with the question of when to regulate a play structure. He explained that staff did not want people who were buying play structures from Home Depot or Wal-Mart to have to obtain permits. He stated that their solution was to establish two categories of play structures: a Type One and a Type Two. He stated that Type One would be a more typical play structure that was less than seven feet in height, with a 7.5-foot setback, and would not require a permit. He stated that Type Two would usually be built and constructed in a manner similar to constructing a home. He stated that they wanted to increase the setbacks for those types

of structures to a 15-foot setback if they were less than 12 feet in height; and if they surpassed 12 feet in height, then they would need to meet the setbacks of a principal structure. He stated that currently the structures could be any height, up to the zoning district height, which was 30 feet. He stated that there was no setback or buffering.

Commissioner Kent asked what would happen with those types of structures that were already in existence if the code was amended to include those changes.

Mr. Spraker stated that those structures would become non-conforming and would be able to stay until they were destroyed.

Mr. Goss stated that you did not want a 25-foot structure along the side property line.

Mayor Kelley stated that he did not think any of those existed.

Mr. Goss stated that his experience had been that if you do not think you will ever see something, it ended up happening. He stated that the potential existed for it to occur.

Mayor Kelley asked if the provision could allow for a person that did not have an abutting property behind them to not have to meet setback requirements. He stated that if he were to stand on top of a 7-foot structure he would be almost two stories high and could still see in the back of someone's pool.

Mr. Goss stated that they could amend it to be similar to the pool provision, which stated that if the property backed up to recreation open space or a conservation easement that it could then be within the setback.

Mr. Spraker stated that the pool setback was five feet if you were abutting a conservation area. He asked if the Commission would be comfortable with that distance.

Mayor Kelley stated that he would be comfortable with whatever that setback was. He stated that he would hate for someone to have to bring it within the 15 feet if no one else was going to see it. He stated that there was a news story he saw on television about a man that was going to Afghanistan and had built a beautiful playhouse for his son that the city told him that he had to take down. He stated that Ormond Beach was not the only one dealing with these issues.

Commissioner Stowers stated that he appreciated how the amendment was constructed but that he was opposed to it from a policy standpoint. He stated that he felt like they were expanding their government purview. He stated that he felt that with this provision the homes that backed up to Sanchez Park, a giant nature park, would now have to get a permit if a father wanted to build his child a unique structure beyond seven feet. He stated that he would expect tree-houses probably fell under the same provision. He noted that he lived in the same neighborhood as one of the Type Two structures in the provided photographs. He stated that he had driven past it before. He stated that in the rear of his own property if he looked out his living room there was about ten feet between his back porch and his neighbor's fence. He explained that that fence was maybe six feet in height and his neighbor's home was right on the other side, and they could see into each other's living rooms. He stated that a child could climb a tree or onto a Type One structure if they wanted to be curious and look over their neighbor's fence. He stated that to him that did not seem to be a necessary primary reason for instituting broader regulations, and requiring building permits for play structures beyond seven feet. He stated that he was a

future father and that the provision would add more and more cost for all the fathers that wanted to build a playground for their kids.

Ms. Shanahan stated that the reason for the amendment was not because the city just felt there needed to be regulations. She stated it was because the city had received complaints from adjoining and abutting property owners about these structures. She stated that in one case of a Type Two structure, there was an option to allow it to stay where it was located but the abutting property owner would not agree and so it had to be moved, but the move actually made it closer to the property owner that was offended by it to begin with. She stated that they had not had any flexibility with that issue.

Mr. Goss stated that the person that was really affected had no objection to that structure.

Mayor Kelley asked why one would take precedence over the other.

Mr. Spraker stated that there had been multiple properties with similar issues. He stated that it would come down to a decision of how close the structure could get to the adjoining property and how tall the structure could be.

Commissioner Kent stated that the Type One structures appeared to be purchased at a “big box” store. He stated that he felt the Type One photograph on the right was over seven feet tall. He stated that the Type Two structure on the bottom right also appeared to be from a “big box” store and he did not like that they would need a building permit for that. He stated that he agreed with Mayor Kelley and Commissioner Stowers on the issue completely. He stated that the provision would mean more cost and headache for parents wanting to build their child a play structure. He stated that he himself had not heard any complaints about this issue.

Commissioner Stowers stated that he knew that the back neighbor retained an attorney in the instance with the homemade Type Two structure that was pictured. He asked whether or not they had made the argument that because there was not a specific reference in the code that therefore it was not prohibited.

Mr. Goss stated that the argument had been that when the structure was put in the permit was issued in error because the city misunderstood what they were actually putting in. He stated that the play structure was within the set-back. He explained that they went to the Board of Adjustment and Appeals for a variance and it was denied on a 3-2 vote. He stated that when they attempted to come to a resolution at the Planning Board, one of the ideas was to move it away from the property owner that was complaining because the other property owner who was directly adjacent to it and also had children, did not mind it. He stated that the play structure was moved to meet the set-back and actually ended up being moved closer to the complaining neighbor’s property.

Commissioner Stowers asked why a permit was issued in the first place.

Mr. Goss stated that was the problem with having simplicity in regulations. He stated that staff had thought it was a certain type of play structure that would not be so tall and in fact it ended up being extremely tall.

Mr. Spraker stated that it had met the criteria of a built structure. He explained that it had components that lead it to be a structure such as the size, scope, the way in which it was constructed, and anchoring, among other things. He stated that there was a review of

how it was constructed and of the location. He stated that the other issue that staff had faced was whether or not a hard roof should be allowed. He stated that once that was allowed, under the city's code, unless specifically exempted, it would move the structure to a principal building set-back. He stated that the constructed one he had just referenced had a soft cloth roof. He explained that one of the directions that staff needed from the Commission was whether or not they desired to allow a structure to have a hard roof at 7.5 feet to the property line.

Mayor Kelley stated that he favored a hard roof; whereby Commissioner Kent agreed. Mayor Kelley stated that then the kids could spend the night out in the structure.

Commissioner Kent stated that if you went to Wal-Mart or Sam's Club and purchased one, they came with hard roofs.

Ms. Shanahan stated that they would still have to meet the setbacks unless they changed that requirement.

Mr. Spraker stated that all accessory structures had a minimum of a 7.5-foot setback. He stated that was what should have been in the referenced permit in the first place. He stated that the proposed amendment basically increased the setback the taller the structure was.

Mr. Goss stated that the structure he referenced, that was in the setback and had to be moved back, was 18 feet tall at a 7.5-foot setback. He stated that with the code as it was, currently that was allowed.

Mr. Spraker stated that the picture shown was not of the one that he and Mr. Goss were discussing. He stated this was another property with a similar code violation to the pictured one they had discussed earlier. He said that they would do as the Commission decided and could put the regulation back into item 7 (sheds, utility structures, and gazebos) where it was before. He stated that if the direction was to leave it the way it had been, then that would mean a 7.5-foot setback, on the side and the rear, with no height limit, and with a hard roof being allowed. He stated that the Commission could establish a height limit, if they desired.

Commissioner Partington stated he was comfortable with everything so far but felt that there could be some safety issues by not having a height limit. He asked how far you would want a child to potentially fall out of one of these structures.

Mr. Spraker stated that the structure that was 18 feet was that high at the pinnacle of the structure and not where occupants were actually standing.

Mayor Kelley stated that they probably stood at about the 12-foot mark and had a six foot area for them to stand up in. He stated that it was expensive to build a structure that tall. Mr. Goss stated that it was also expensive to move them.

Commissioner Kent stated that he felt Commissioner Partington made a good point about the safety issue.

Commissioner Partington stated that 18 feet seemed like a good height limit to him.

Mayor Kelley and Commissioner Kent stated they were both comfortable with that

limitation.

Mr. Goss stated that they would keep the setback at 7.5 feet, and amend the height requirement to not exceed 18 feet. He asked whether the Commission preferred a hard or soft roof; whereby, the Commission stated that they preferred a hard roof.

Item 7: Sheds, Utility Structures and Gazebos

Mr. Goss stated that they eliminated the play structure from the sheds, utility structures, and gazebos. He stated that it would be added back based on the last discussion.

Item 8: Site Signs - Monument and Pole Signs

Mr. Goss stated that the Planning Board had not discussed this item at all. He noted that staff provided a chart showing where the city allowed pole signs and where they required monument signs. He stated that the question was whether or not the Commission wanted to revisit where types of signs were allowed and change any of the requirements from monument signs to pole signs.

Mayor Kelley stated that he had been a proponent of pole signs but felt like calling them all pole signs was like calling a manufactured mobile home a trailer. He stated that all pole signs were not created equal. He stated that there were beautiful examples of great pole signs in the city but acknowledged that there were also some that were awful. He stated that he felt that pole signs were safer and increased visibility. He stated that it was much more attractive and much more effective for the owner to have a pole sign to let people know where they were located. He stated that with monument signs you often had to look down on the edge of the road to see what was there.

Mr. Goss stated that pole signs could be pretty or ugly and it was tough to try and define the two.

Mayor Kelley stated that there could be design standards. He noted that Mr. Goss did not like pole signs or elevated signs.

Mr. Goss stated that was not necessarily true and he felt that there was a proper place for pole signs and a proper place for monument signs. He stated that he thought that the Commission, many years ago, prior to his employment with the city, wanted monument signs at least in the gateway and entrance ways to the city.

Mayor Kelley stated that not all of them had agreed, but it had passed.

Ms. Shanahan stated that was why they were revisiting the issue, to see if they had a different direction for staff.

Commissioner Stowers stated that to the extent that all pole signs were not alike he agreed with the Mayor. He stated that all the new directional signage and parking signage throughout downtown were on top of poles and were beautiful. He stated that the challenge was getting only high quality pole signs. He stated that the monument signs in the primary gateways had a consistency element that was aesthetically pleasing. He stated that he tended to think that downtown had a different vibe than driving through the gateway areas.

Commissioner Boehm stated that the memorandum said that the current ordinance had

been amended less than two years ago and that the Commission had approved it. He inquired who was driving the desire to change it presently. He asked whether there had been any complaints.

Ms. Shanahan stated that someone had come forward about a sign and there had been some exploration of gateway entrance signage.

Ms. Dorian Burt, audience member, stated that downtown adhered to the form based code and had brought the buildings up. She stated that in some places there was no room for a monument sign so there would need to be options such as allowing a sign to be off the building.

Mr. Goss stated that he felt that there should not be pole or monument signs in the downtown area and that there should be signs on the buildings.

Commissioner Partington stated that he liked the monument signs on the gateway areas. He stated that he liked the way that Port Orange's monument signs looked at the entrance on Dunlawton Avenue. He stated that he would like to see some higher monument signs because some of them were so low to the ground that it made it difficult to see them. He stated that even if those particularly low signs were raised a few feet it would make a big difference. He stated that he was satisfied with the pole signs being allowed in certain areas and agreed with Mayor Kelley and Commissioner Stowers about creating standards so that all pole signs were as aesthetically pleasing as the way finding signs recently erected.

Mayor Kelley stated that they should be able to establish options or guidelines for any pole sign to meet certain standards.

Commissioner Boehm asked if there were already standards. He stated that he was still having trouble understanding why this issue was being discussed since the ordinance was in place, appeared to be working, and had been recently dealt with. He asked whether or not the Commission wanted to make any changes.

Ms. Shanahan stated that staff wanted them to have a discussion.

Mayor Kelley stated that if Commissioner Boehm wanted to leave the code the way it was, he was entitled to that opinion.

Commissioner Boehm stated that he wanted the Planning Board to give the Commission their opinion.

Mayor Kelley stated that the idea was to give the Planning Board some direction from the Commission.

Ms. Shanahan stated that they needed to let the Planning Board know whether or not they wanted pole signs or if they wanted them to have a certain design characteristic that was more than what they already had. She stated it was a broad area and needed some focus.

Mayor Kelley stated that the monument sign height limit was five feet above the crown of the road.

Mr. Spraker stated that oftentimes when people came in they did not realize the difference between the crown and the grade. He stated that with Chase Bank they had some difficulty in having to raise the sign to the crown of the road. He stated that one of the options the Commission had was to increase the height. He stated that if it was amended to seven feet instead of five feet, it would provide a larger sign area.

Mayor Kelley stated that he felt a sign should be there for its intended purpose, which was to give people the ability to read it. He stated that stop signs were not five feet and were up where you could see them. He stated that on Granada Boulevard he doubted that there were very many monument signs, unless they were on elevated areas, which were five feet above the crown of the road. He stated that there was an abundance of small monument signs and if they were placed on pillars three or four feet taller they would look better and be more visible. He stated that if the beautiful new airport sign, that was recently put up for the sports complex, was just two or three feet taller it would have made a huge difference and you would not have to look down at it. He stated that he was probably the one "driving the stagecoach" and if everyone else was satisfied with the current provision he would accept that. He stated he felt that the Planning Board should look at the issue.

Commissioner Kent stated that he was in agreement with Commissioner Partington and stated that he was comfortable with where they allowed pole signs. He stated that the monument signs were actually rather attractive but he stated that when you were new to an area and looking for a business it was easier to see a pole sign. He stated that his issue with the monument signs was the vegetation that was growing around them and he asked whether the city was requiring the owners to plant it. He stated that some of the plantings looked horrible and he would be angry if it was his sign and he had to put plants there that covered up a quarter of the sign. He stated that plants were fine on either end of the sign but not in the middle.

Commissioner Kent stated that he had a comment about the beautiful sign at the sports complex. He stated that he initially had said they needed to mow 15 to 20 feet in front of the sign and actually now he felt it needed to be 50 to 75 feet up to the length of the property, even if they had to buy that piece of property. He stated that he had almost missed it numerous times driving up from the south even though he has lived in the area his whole life. He stated that the sign was covered by trees.

Mayor Kelley stated that if the sign was four feet taller, you would be able to see it.

Commissioner Kent stated that visibility of the sign would increase if that area was cleared out or if the sign was brought out more. He stated that he wanted to talk about moving that sign out further towards the road at some point. He stated that the city spent a lot of money and effort on that area and to him that sign was broken because of vegetation.

Ms. Shanahan stated that the Florida Department of Transportation (FDOT) was part of the issue with where they could put that sign, as well as what property the city actually owned. She stated that she understood Commissioner Kent's feelings.

Mayor Kelley stated that on the topic of landscaping and plants, two pillars holding a sign can have landscaping underneath, on the side, or even in a bed around it that did not block the sign. He stated that was why he said it would be better to raise the signs.

Commissioner Kent stated he was not against raising the monument signs, but he

was averse to changing them to all pole signs. He stated that he was in favor of removing the vegetation around them.

Mr. Goss asked if the Commission would consider raising the height limit to seven feet on a monument sign.

Commissioner Boehm suggested it be revisited in a workshop with the Planning Board.

Mayor Kelley stated that they were in a workshop now and were to send the Planning Board what their thoughts were.

Commissioner Kent stated that he agreed with Commissioner Boehm and stated that he did not want to do the job of the Planning Board.

Commissioner Boehm stated that he could not envision what these changes would look like. He stated that he had no plans, no pictures, and no examples. He stated that he felt the Commission was being asked to change something and believe it would work without any further study.

Mayor Kelley stated that it would be going to a workshop and not voted on by them.

Ms. Shanahan stated that any amendments would be in a very preliminary stage at this point and staff was asking for the Commission to give guidance which would then be sent to the Planning Board for their ideas. She stated that staff would then draw up regulations to bring back before the Commission.

Commissioner Boehm stated that staff had studied other communities and what they allowed with the boathouses and the other issues. He stated that he assumed that staff could look into what other communities in the area had in the way of signs and find out if there was some sort of alternative in terms of raising monument signs or having some sort of lower pole signs and then maybe they could show some pictures or information to the Planning Board.

Mayor Kelley stated that he was going to create that but did not have time.

Ms. Shanahan stated that it had been a good discussion and she could take the information she heard from them today and work up some options and discuss it with the Planning Board. She stated that before this Workshop she did not know where they were on the issue. She stated that now they had general direction they could work with.

Commissioner Kent stated that the way finding signs looked fantastic. He asked if they would like to discuss possibly in the downtown district, if a business did not have a good location for a sign, allowing a sign like that for them.

Mayor Kelley stated that he felt that the idea of allowing it on the building itself might work more. He stated that on the streetscape area in some places in a stretch of 50 feet there were six trees.

Ms. Burt stated that a sign like that might be nice in front of the gas station since she would have to take their old signage out.

Mayor Kelley stated that sign was grandfathered in and that she did not have to remove it; whereby Ms. Burt stated that since the property had not been in use for six months it

would have to be removed.

Mayor Kelley stated that a monument sign could not go there because it was a safety issue as it would obstruct traffic and that the Commission had voted on that issue in 1996.

Commissioner Kent stated that the Shell gas station that moved across the street had a monument sign.

Ms. Burt asked if the downtown district could be pulled out of the sign regulations and have their own.

Mr. Spraker stated that the existing property in question was nonconforming because it had been vacant longer than six months. He stated that once a business tax receipt was obtained it would have to go back to the Site Plan Review Committee. He stated that part of bringing the property up to code would be removing the non-conforming signage. He stated that the signage did not have to go back in that same place and could be moved to the middle of the property where you may or may not have the obstruction issue.

Mayor Kelley stated that the Commission had decided that it was a safety issue and there was an exemption in the code.

Mr. Spraker stated that exemption was no longer in the code. He stated that there was a process to go to a public hearing to get a pole sign.

Mr. Goss stated that you would put the monument sign at the corner where it would not block visibility because at a signalized intersection you would not be going against the light.

Mayor Kelley asked about turning right on red.

Mr. Goss stated that if you were coming in east on SR-40 you would take a right in and then you would go out at the intersection. He stated that if you were coming west, there was a median and you would have to make a left at the intersection. He stated that the dynamics had completely changed since seven years ago and you now could have a monument sign at the other end.

Mr. Stowers stated that he agreed with Ms. Burt about having something that exempted the downtown district. He stated that the experience in downtown was different than driving through west Granada Boulevard. He stated that the uses were different and it was form based code. He stated he would like increased flexibility for downtown businesses to use either option or a sign directly on or off the building.

Outdoor Activity and Outdoor Storage

Mr. Goss stated that the city permitted outdoor activities, which included outdoor music or displays of products for sale. He stated that it was done by special exception. He stated that staff had provided information on the process, the cost, and a special exemption was required. He stated that if the Commission wanted to alter those conditions they could change it from a special exception to a conditional use or a permitted use, subject to criteria.

Mayor Kelley stated that he wanted to work with the residents and businesses within the

community. He stated that Lowes was 300 or 400 feet off the road and asked why they needed a permit to put plants out for people to buy in springtime. He stated that the city was so restrictive that they could not even put their carts out front for awhile. He stated that these businesses were paying taxes. He stated that there was someone in attendance that had had issues with having their outdoor furniture sale items for display 100 feet off the road under a covered area at his business. He explained that he was passionate about this issue and if there was anything that could be done to help the businesses he would like to do it.

Commissioner Kent stated that he agreed with everything that Mayor Kelley said. He stated that the only negative thing that came to his mind was thrift shops and that some he had seen in Holly Hill had lots of junk sitting outside their business. He stated that business owners would think there was favoritism if Lowes would be allowed to have their plants out but thrift stores could not have their old bicycles out.

Commissioner Boehm stated that the current cost of a special exception was \$1,850. He confirmed with Mr. Goss that was for advertising costs. He asked that if outdoor storage was changed to a permitted use or a conditional use, would it have to be advertised; whereby Mr. Goss stated that then they would not.

Commissioner Boehm stated that just changing the category would save those businesses a lot of money. He stated that he had seen the big yellow signs out in front of Lowe's property advertising that a special exception was being requested. He stated that he also agreed with Commissioner Kent in that he did not like the idea of not having any regulations at all because he would not want a thrift shop to have a garage sale on the sidewalk every day. He stated that either a permitted or conditional use, which would drop the expense to the business, seemed to be the better way to go.

Commissioner Stowers asked if there was any expense for conditional use; whereby Mr. Goss stated that there was not.

Mayor Kelley stated that he also did not want people having used clothing and the like outside on sidewalks.

Ms. Shanahan stated that they may be able to make the distinction of allowing only new product and not used.

Mr. Goss stated that as a conditional use they could control the placement and the maintenance, but he did not think you could restrict it to new products or certain types of businesses only.

Commissioner Boehm stated that a condition could be not blocking the sidewalk. He stated that the larger places would have items set way back off of the road and would not interfere with sidewalks. He stated that it was the smaller "mom and pop" places that were right up against the road where they would run into people that could not walk down the sidewalk because of outdoor items. He stated he was in favor of conditional use and allowing the city to establish the conditions.

Mr. Spraker stated that they would have to maintain handicap accessibility on the sidewalks, as well.

Mr. Barry Kalin, owner of Kalin Home Furnishings, stated that they had had problems with

the present ordinance when they had displayed merchandise outside; whereby Mayor Kelley asked him whether what had been discussed would be a solution. Mr. Kalin stated that as long as they could have a display off the sidewalk it would be fine. He stated that he felt the Commission was on the right track.

Mr. Goss stated that in the shopping centers without frontage, items needed to not be placed in the buffer out along the road. He stated that he could assure them there would be instances of that occurring because the merchandise would not be visible from the road.

Commissioner Stowers asked if that could be made one of the conditions; whereby Mr. Goss stated that it could.

Commissioner Boehm stated that conditions could be established to maintain the look that they would like to see Ormond Beach have, while at the same time allowing retailers the opportunity to display things outside their businesses.

Mr. Goss stated some businesses also would not have the opportunity to display merchandise outside because their doors opened right on the sidewalks, which may only be four feet wide and needed to be clear for handicap accessibility. He stated that some people may say it was not fair; whereby Ms. Shanahan stated that they could not please everyone.

Mayor Kelley stated that the condition could be within so many feet of their door and not reference the sidewalk, as there may or may not be a sidewalk.

Mr. Goss asked if they wanted to change the criteria for outdoor music. He stated that currently when someone wanted outdoor music they had to do a noise study before they even came in for a special exception.

Mayor Kelley asked if that exception cost \$2,500; whereby Mr. Goss stated that it did and that the special exception went through the Planning Board and the City Commission.

Commissioner Stowers stated that there may be a lot of discussion on the issue and noted the time restraints, as there was less than 15 minutes until the Commission meeting was to begin.

Ms. Shanahan stated that them to address this issue another time, because she had one more thing to speak to them about.

Doggy Dining

Ms. Shanahan stated that they had received a citizen's request about allowing doggy outdoor dining. She stated that the state allowed local governments to issue permits that the health department would then regulate. She stated that prior to researching and creating a code and taking it to the Planning Board, staff wanted to know what the Commission's thoughts were about even considering it. She stated that the restaurant would have to apply for the permit and they would not impose it on them. She stated that it would provide the restaurant the opportunity to apply and go through the permitting process.

Mayor Kelley stated that one individual had complained because someone at Einstein's Bagels was sitting outside drinking coffee with their dog. He stated that nobody else

complained about the dog except this gentleman who had also said that he would go to every restaurant that had an outdoor area with a dog and file a complaint with the state. He stated that it did not bother him if someone had their dog.

Ms. Burt stated that if you let the restaurants have dogs outside then patrons could bring pit bulls and that would be scary. She stated that the city needed to regulate the dogs; whereby Ms. Shanahan stated that they did not do so.

Mayor Kelley stated that you did not have to allow dogs and that the restaurant had to request it.

Commissioner Boehm stated that Ms. Burt was saying that if the restaurant did allow it then they could bring in pit bulls and German Shepherds and have all the other patrons leave because they were afraid of those dogs.

Mr. Goss stated that the restaurants would have to designate an area outside which could not be the entire outdoor area.

Ms. Shanahan asked whether the Commission had any interest in allowing the permits to be issued.

Commissioner Kent stated that he had not heard anyone ask about it, but he was not opposed; whereby Ms. Shanahan stated that only one resident had asked.

Commissioner Stowers stated that he thought the reason they had not heard about it was that people probably did not know that it was not allowed. He stated he had sat out front of a restaurant with his friend and his dog a month ago. He stated that he was unaware that that was not allowed. He stated that he would be amenable to exploring it, if it was only in specific areas and highly regulated.

Ms. Shanahan stated that Flagler Beach allowed it and New Smyrna Beach was also possibly doing it. She stated that if the Commission was not interested, she would just let a sleeping dog lie. She stated that they could revisit it at another time.

III. Adjournment

Mayor Kelley adjourned the meeting at 6:50 p.m.

Transcribed by Colby Cilento