

**MINUTES
ORMOND BEACH CITY COMMISSION
AND PLANNING BOARD JOINT WORKSHOP**

October 1, 2012

7:00 PM

Senior Center

I. Call to Order

Mayor Ed Kelley called the meeting to order at 7:00 p.m.

Present were Mayor Ed Kelley, Commissioners James Stowers, Troy Kent, Rick Boehm, and Bill Partington, City Manager Joyce Shanahan, Assistant City Manager and Public Works Director Ted MacLeod, City Attorney Randy Hayes, Planning Board members Doug Thomas, Doug Wigley, Pat Behnke, Rita Press, Harold Briley, Alan Jorczak, Planning Director Ric Goss, and Senior Planner Steven Spraker.

II. Discussion

Mr. Ric Goss, Planning Director, stated that the Planning Board had requested a joint workshop with the City Commission.

Site Signage

Mr. Goss stated that the Planning Board had held two work sessions regarding signage, on June 14, 2012, and on July 12, 2012. He stated that at the first work session the Planning Board reviewed current ordinance provisions and regulations. He stated that the Planning Board then requested that staff bring in sign companies for the work session on July 12, 2012. He stated that two sign companies attended along with a third party that owned a major shopping center. He stated that there was no action taken and that the issue was what caused the Planning Board to ask for the joint workshop.

Mr. Goss explained that monument signs were normally located in gateways, office districts, downtown overlay districts, US1 north of Melrose, and in the zoning districts. He stated that pole signs could be located anywhere on A1A, US1 south of Melrose, Nova Road, Orchard Street, or any roadway that did not require monument signs and were typically allowed in the older commercial areas of the city. He stated that you did not find pole signs along any of the major gateways into the city. He stated that the last time sign regulations had been changed was in 2004. He stated that there was no amortization schedule to remove non-conforming signs. He stated that pole signage allowed a larger sign area and that was why people liked them. He stated that the Planned Business Development (PBD) regulations favored monument signs over pole signs. He stated that almost all PBDs that came to the Planning Board and City Commission included monument signs.

Mr. Goss stated that there was a five foot (5') height limit for monument signs. He stated that staff had heard from many people that it was too low. He stated that raising the height limit to eight feet (8') was discussed with the Planning Board. He stated that a number of other jurisdictions used that height limit. He stated that the code had experienced several amendments over time that allowed additional signs based on site conditions such as multiple principal buildings and the size of the

buildings. He stated that the size of the multiple signs was determined by lot frontage. He stated that they were not aware of any issues related to the location requirements.

Mr. Goss stated that a number of people had expressed a desire to have more than six tenant panels on a sign. He stated that the problem with the tenant panels was that when the number increased it became more difficult to see them based upon the square footage of the sign. He stated that typically when there were more than six tenant panels, the colors and fonts would be different and when looking at the sign they would blend together. He stated that staff was suggesting increasing the six tenant panels to eight but requiring consistency in font and color. He stated that there had been no issues with regard to landscaping of the signs and that staff did not recommend a change to landscaping. He stated that there was currently no authority in the Land Development Code (LDC) to file a variance for sign type. He stated that meant that a pole sign could not be introduced into a district that only allowed monument signs.

Mr. Goss stated that although you could not go through a variance process you could go through a PBD. He stated that historically sign variances had always been negotiated through the PBD. He stated that there was no change recommended to the area allowed. He stated that staff's recommendation was to use PBD to permit the property owners to use pole and monument signs in areas not allowed. He stated that staff recommended no increase in the number of signs or change of the locations. He stated that the Planning Board had not made a recommendation with regards to signage.

Commissioner Kent stated that both he and Mayor Kelley had mentioned previously that there were several monument signs with plants at the bottoms of the signs that covered parts of the signs. He stated that he felt that landscaping did need to be looked at.

Mr. Goss stated that the landscaping that was specified in the code was not supposed to be high profile type landscaping. He stated that it was supposed to be ground cover to decorate the bottom of the sign base. He stated that sometimes developers put landscaping in that did not suit the signs, but it was not required by them to do so.

Mayor Kelley asked if the landscaping could be grass; whereby, Mr. Goss stated that it could not and the requirement was low cover plants to go around the base. Commissioner Kent asked if society garlic would be one of those low cover plants; whereby, Mr. Goss stated that he did not know. Mr. Goss stated that he did not believe that the city would tell someone they could not have that. He stated that in their Site Plan Review Committee (SPRC) review remarks might be made regarding the proposed landscaping; but at that time, signage was usually the last item thought of and was not the primary concern of someone developing and going through site plan review. He stated that typically the developer would show staff the location of the sign but not really go into the details about it.

Mr. Harold Briley, Planning Board member, stated that in the downtown Granada area he saw a lot of areas where a pole sign would be the only kind of sign appropriate. He stated that the Planning Board had discussed the encroachment into the line of sight that could occur with monument signs.

Mayor Kelley stated that there were areas that had restrictions and he knew that the downtown area was one of them.

Mr. Goss stated that the only way a pole sign could be introduced into the downtown area or along the gateways was through PBD and not a variance.

Commissioner Boehm stated that under the form based code in the downtown area there was not to be any type of signage other than on the buildings.

Mr. Goss stated that they suggested that signs should be projecting signs or wall signs. He stated that they never thought pole signs would do well in the downtown area. He stated that there were some properties that wanted monument signs if they fit in well. He stated that they did fit well when the property was almost up to the right of way. He stated that a monument sign was not precluded, however.

Mr. Briley asked how that addressed strip sections; whereby, Mr. Goss stated that pole signs could be located in those districts, but only through PBD.

Mr. Doug Thomas, Chairman of the Planning Board, stated that at the Planning Board's last meeting the general belief was that monument signs were very hazardous in a lot of cases. He stated that he would cite the 7-Eleven monument sign on Nova Road as a prime example. He stated that the Planning Board spoke about pole signs not being pole signs but being pedestal signs, which had the same appearance and were designed as a monument sign but had more of an open area underneath to allow vision through it.

Mr. Alan Jorczak, Planning Board member, stated that both points that the Planning Board spoke about were relative to the site, how it was located, and the perspective of anyone driving down the street trying to locate that site. He stated that as the density of the downtown area got tighter, it could become more of a problem. He stated that the issue was writing specifications that would permit the redevelopment activity to allow site specific signs that might be a pole sign so that there would be some flexibility.

Mayor Kelley stated that he would suggest allowing a variance as opposed to going through a PBD, which was very timely and expensive, but he stated that a variance procedure would not necessarily give everyone exactly what they wanted.

Ms. Rita Press, Planning Board member, stated that she felt that the downtown area was distinct from any other. She stated that because of the new design elements all of the buildings would be closer to the street. She stated that people would be driving rather slowly in that area and if they stopped at a red light they could see the building and its contents. She stated that her question to Mr. Goss would be if there was any signage that was allowed in the downtown area that was not allowed in any other area.

Mr. Goss stated that, except for the monument signs, you could have anything in the downtown area that you could anywhere else in the city. He stated that other areas in the city allowed the use of wall signs, signs on awnings, or projecting signs, if desired.

Commissioner Boehm asked how the variance process would work if that route was taken.

Mr. Goss stated that anyone who wanted a pedestal sign or pole sign would go before the Board of Adjustments and Appeals, file an application, and have to meet the variance requirements.

Mayor Kelley asked if the only way to obtain a variance was to go through the Board of Adjustments and Appeals.

Commissioner Boehm stated that a lot of work was put into creating a form based code to create a distinctive downtown. He stated that if the variance procedure was implemented it would cede the decision on the appearance of downtown to the Board of Adjustment and Appeals. He stated that he was not comfortable with that. He stated that it may be simpler that way, but he did not think simpler would be best in that instance. He stated that he did not want to see downtown get ruined because the Commission ceded their own authority to the Board of Adjustments and Appeals. He stated that the Planning Board would also not have involvement in that process.

Commissioner Partington stated that he agreed with Commissioner Boehm.

Mr. Briley asked Mr. Goss whether the special exception process could be utilized instead.

Mr. Goss stated that he did not think so. He stated that typically it was a variance if the attempt was to introduce something that was not permitted. He stated that a PBD was a negotiation instrument.

Mayor Kelley stated that it could go through a special exception if it was created that way.

Mr. Goss stated that he would secede to the City Attorney on that.

Commissioner Partington asked how the PBD process could be streamlined and have the costs reduced for those instances.

Mr. Steven Spraker, Senior Planner, stated that a special exception cost about \$1,500. He stated that a PBD had three public hearings and cost \$2,200.

Mr. Jorczak asked if the consensus was that a special exception would be a better way.

Mayor Kelley stated that he felt that was the only way because he felt that the Commission did not want to turn the decision of a variance over to the Board of Adjustment and Appeals.

Commissioner Stowers asked if the decision would be appealable to circuit court or the City Commission; whereby, Mr. Goss stated that it would be to the circuit court.

Mayor Kelley asked if a mechanism could be created for a special exception within that district which would still need to go through the Planning Board and City Commission.

Mr. Goss stated that they would need to have criteria that were very specific as to why you could appeal for a pole sign and not a monument sign.

Mr. Briley stated that site constraints could be one of the criteria.

Ms. Pat Behnke, Planning Board member, stated that visibility would be another.

Mayor Kelley stated that the Frappes monument sign was not easily seen and did not provide site recognition. He stated that a smaller elevated sign on a column would be more visible.

Commissioner Boehm stated that as he understood the form based code, it encouraged buildings to be closer to the street with parking behind them. He stated that if buildings were to be adjacent to the sidewalk then any kind of sign would have to be put in the right-of-way.

Mr. Thomas stated that things would change downtown and there would be different uses or applications. He stated that he wanted to ask Mr. Goss whether the city had looked for some of the new innovative things that were being done in quaint little towns regarding signage that may have been able to incorporate some sort of elevated sign. He stated that there had to be something out there that could accomplish their purpose and still help the businesses. He stated that if the sign was put on the wall and someone was driving down Granada Boulevard at 25 or 35 miles an hour they could not read it. He stated that wall signs were not business or user friendly to him.

Mr. Goss stated that the vision for downtown was not for the vehicles but for people. He stated that he had looked at several towns that dealt with signs but he typically got the response that those options would not work in this town. He stated that staff took their design models and went around downtown taking examples of signs, windows, doors, and elements that they wanted to replicate in one fashion or another. He stated that they tried to replicate what existed in downtown. He stated that it did not mean that a new building had to be built exactly the same but that it could be replicated in a modern fashion and still have those design aspects that were unique in downtown. He stated that staff looked at other towns but decided to go with what existed downtown as they thought those were good examples. He stated that he wanted to stress that the downtown was not for drive-through traffic. He stated that it was for people who want to walk around downtown. He stated that five years ago he would agree with those who said there was no one walking around downtown. He stated that now on Thursday and Saturday nights there were people walking across the streets downtown.

Mayor Kelley stated that he felt the most recognized sign in the downtown was the baseball card shop sign. He stated that was because it was hanging up where it could be seen. He stated that was creative. He stated that there were more cars going down Granada Boulevard than people walking, regardless of what they wanted it to be.

Commissioner Stowers stated that he agreed with Commissioner Boehm about downtown and that there was some agreement about not wanting monument signs downtown because the area was unique. He stated that in terms of the pole sign discussion, he sensed that there were concerns about quality and that you did not

want to open Pandora's Box and make allowances that they did not want. He stated the special exception approach would allow for some review by the Planning Board and City Commission to look at the totality of the circumstances. He stated that in small towns and big cities you saw adaptive reuse, for example of a small business taking a gas station and turning it into a restaurant. He stated that he would hate it so focused on pole signs that opportunities would be missed for creative adaptive reuse. He stated that he felt that having more flexibility and letting entrepreneurs come up with options was a good thing.

Ms. Press stated that Billy's Tap Room's projecting sign was a landmark. She stated that it seemed to fit in beautifully. She stated that before Rose Villa was Rose Villa there was an obnoxious huge monument sign that did not belong. She stated that Mr. Bill Jones with his creative and architectural eye put in a very small sign but one that enabled everyone to know where the Rose Villa is located. She stated that a lot of the things in downtown were very great and that she did not think that they should be looking to change them. She stated that the exception should be if a particular person or entrepreneur came in and had an idea that seemed creative, there would be a method to come before the Planning Board and then the Commission for approval.

Mayor Kelley stated that not everyone parked and walked around downtown. He stated that people came from other areas to eat and may not be familiar with Granada Boulevard. He stated that projection signs aided the ability to locate businesses. He asked if they were currently allowed.

Mr. Goss stated that projecting signs were currently permitted. He stated that pole signs were the only ones not permitted in downtown except through a PBD.

Mr. Thomas stated that the reason that the Planning Board asked for the workshop was because they wanted to be in the same neighborhood as the Commission. He stated that they did not want to spend the Commission's time and do things that they were not even interested in.

Mayor Kelley stated that the Commission would like a special exception process created for pole signs in areas in which they were not permitted.

Mr. Thomas asked if special exception criteria could be made for signs only or would it have to be the same special exception process regardless of the type. He asked if criteria could be made for the process of a special exception for a sign as opposed to a special exception for putting up a wall between two pieces of property. He asked if there was a way to reduce the cost, as a special exception cost \$1,500.

Mr. Spraker stated that there were three forms of advertising required for a special exception. He stated that there was a display advertisement required for both the Planning Board and the City Commission, notices that would be sent to the abutting property within 300 feet, and the applicant had to post a specific sign. He stated that for each public hearing there were those three forms of advertising.

Mr. Thomas stated that was why he asked if there could be special exception criteria for signs that would not require such an extensive process and cost.

Mr. Hayes stated that the cost was to recoup administrative costs. He stated that the whole purpose of cost for government was not to be a revenue stream but to recoup administrative costs.

Mr. Thomas stated that the purpose of government was to serve the citizens. He stated that in his business they filled out many insurance forms that cost a lot of administrative fees but that they did not charge the fees to their customers. He stated that he was not sure that every cost had to be recouped.

Mayor Kelley stated that Mr. Hayes and staff would develop the criteria and bring it back to the Planning Board.

Mayor Kelley stated that as far as the amortization schedule went, he believed that if the sign was 50% or more destroyed, or the property was vacant for more than six months or longer, then it was supposed to come down.

Mr. Spraker stated that also applied in changes to permitted use. He stated that if there were similar permitted uses such as office to retail, then it could stay.

Mr. Thomas stated that a perfect example was a sign that was destroyed in a car crash.

Mayor Kelley stated that he did not like the aspect regarding destruction. He stated that if a hurricane knocked a sign down, he did not think that it was fair that it would have to be replaced to conform to new standards, but if it the sign had deteriorated that would be different.

Mr. Briley stated that under the new code, if the special exception procedure was implemented, that person would be able to bring in a pole or pedestal sign under certain guidelines.

Mayor Kelley stated that if they just wanted to replace the panels or pole on the sign they had previously, then they should not need to spend the \$2,000.

Mr. Thomas stated that every situation had a different circumstance. He stated that he felt the process could be more user friendly for both business and the consumer.

Mayor Kelley asked about the special exception criteria that was established if a person had an existing pole sign that was damaged by lightning if they could re-apply to put it back through a special exception.

Mr. Hayes stated that would be a non-conforming use. He stated that the exception could provide for that occasion, if they desired.

Mayor Kelley stated that it should at least be an option for future discussion. He stated that monument signs were currently limited to five feet (5') and that the recommendation had been to raise them to eight feet (8').

Commissioner Partington stated that he was comfortable with eight feet. He stated that it would help with the landscaping issue.

Mayor Kelley stated that he felt the sign owners should be informed that was allowed because many signs being put in were not even five feet above the crown of the road. He asked if applicants were given a list of how high their signs could be.

Mr. Hayes stated that applicants were always informed of what they could do but sometimes chose to do something different. He stated that staff did not try to change their minds as long as it met the code. He stated that typically the city's minimums were the applications maximums.

Ms. Press asked if the new rule was that the address had to be on the top of the sign; whereby, Mr. Goss stated that it was allowed at the top or the bottom.

Ms. Press asked if it they should consider having the address on the top where it was visible; whereby, Mr. Goss stated that the property owner had the flexibility to put it at the bottom or the top.

Mr. Thomas stated that he agreed with Ms. Press and thought it would be helpful if it was standard at either the top or the bottom for consistency. He stated that he agreed also that the top would be better.

Commissioner Stowers stated that he was fine with the eight feet height also. He stated that in Daytona Beach the limit was eight feet. He stated that also in Daytona Beach there had been three or four instances where larger institutions that had large amounts of frontage have asked for 12 foot (12') and 14 foot (14') signs. He stated that it was not necessarily apples to apples. He stated that he would suggest discussing bifurcating it where eight feet (8') was for up to a certain amount of frontage but beyond that could be twelve feet (12').

Mayor Kelley asked if the current regulation was one sign for 100 feet; whereby, Mr. Spraker stated that typically if you had that large of frontage you would meet one of the other conditions, such as multiple principal buildings, where you would get another sign for each principal building. He stated that also you would get another principal sign if you were up or above the square footage or if you had multiple principal entrances. He stated that the code gave multiple signs based on lot frontage.

Mr. Thomas stated that Commissioner Stowers brought up a great point. He stated that the first thing that came into his mind was the former Pick 'N Save on Nova Road that was now a daycare center. He stated that piece of property was much wider than 100 feet and the building sat way back because of the parking lot in the front. He stated that he could see where they would want a bigger sign.

Commissioner Stowers stated that he did not know if there were situations in Ormond Beach that were similar to the references he was making. He stated that he was speaking about Daytona State College and Halifax Hospital where there were huge pieces of property involved. He stated that if anything he would think it might be associated with Ormond Crossings or property out west that had not yet been developed.

Mayor Kelley stated that the size of the property should allow for more signage and asked the Planning Board to take that into consideration.

Mr. Goss stated that, like Mr. Spraker had mentioned, the code already had provisions that allowed more signs as lots got larger, had multiple buildings, or more than one entrance. He stated that he felt that it was taken care of.

Commissioner Boehm stated that he would agree and could live with what was in the code. He stated that he was not comfortable with signs of ten, 12, or 15 feet.

Mr. Goss stated that the next issue was tenant panels. He stated that staff was suggesting allowing up to eight. He stated that they also suggested that those multiple panels have the same font and color. He stated that if they were all different they would blend together and you would have difficulty seeing any of them.

Mayor Kelley stated that if a company had a trademark or logo they would want that on their sign because it was recognizable. He stated that he felt the opposite and felt that if the panels all looked the same then they would blend together.

Mr. Briley stated that the Dominos in the Winn Dixie Plaza and the Pizza Hut across the street both had their own logos on the tenant panels.

Mr. Goss stated that he would love to have just logos. He stated that logos would be recognizable instead of words. He stated that businesses wanted both words and logos.

Mr. Thomas stated that when he was younger there could have been 24 tenant panels and he would not have minded. He stated that now that he was in his 60's, he would rather have five signs which he could see easier.

Mayor Kelley stated that he felt that it was pretty restrictive to allow eight panels that all had to be the same font and color; whereby, Mr. Goss stated that suggestion had been made by a sign company.

Mayor Kelley stated that he did not know why they would suggest that.

Mr. Thomas stated that he felt the reasoning was aesthetics. He stated that it was much more uniform that way. He stated that if the businesses all had their own logo on the sign it would be more recognizable. He stated that if all of the names of the businesses were the same block lettering it would be more aesthetically pleasing and easier to read in his opinion. He stated that if he was trying to read block lettering in one panel, cursive in another, and something else in another, his eyes would not connect that quickly with the change in the lettering.

Mayor Kelley stated that for offices of doctors, lawyers, and dentists, it would probably not make much of a difference if they were all the same.

Mr. Thomas stated that the Planning Board would hash out the issue and send it to the Commission.

Ms. Press stated that she did not think they would ever convince developers. She stated that she remembered when the developers came before them about a doctor's building at Hand Avenue and Clyde Morris Boulevard. She stated that she did not know how many panels were on there but thought it might be eight. She stated that none of them could be read. She stated that it would be much better if

instead of listing multiple doctors' names it had simply said 'Hand Avenue Medical Center.' She stated wanting a million panels was silly. She stated that it was important to have their name at some destination places but not at a medical center or property of that sort.

Mayor Kelley stated that he agreed and that he had seen some of that type of naming in Holly Hill.

Mr. Thomas stated that if they were going to do that then perhaps they could make an allowance for identification signs at their individual locations on the wall or a projecting sign so that when you were in the center you could identify that individual place. He stated that he agreed with Ms. Press that he could never pick his doctor's name up off that board. He stated that when you drove into the parking lot, there was a noticeable sign that you could see.

Ms. Behnke stated that there were directional signs once you turned in and they had their number on the door where you could see it.

Mayor Kelley asked for the Planning Board to return with options and thought that they may get acceptance on it.

Mr. Goss stated that if the property owner so chose they could have just their address or use a name like the "Hand Avenue Medical Center." He stated that nothing in the code prevented them from doing that.

Ms. Behnke commented that if it was a medical center, you knew who you were going to see when you went in there.

Mr. Goss stated that he felt that was why monument signs were in the office districts and medical office areas because it was a destination type location.

Mr. Briley stated that the Planning Board had discussed electronic and LED signs. He stated that he knew some had been approved a while back for the Trails Shopping Center. He stated that he thought that signs similar to those that were done tastefully should be considered.

Mayor Kelley stated that topic was separate than what was on the agenda. He stated that if anyone wanted to speak about it to interject.

Mr. Thomas stated that he would really like to interject because the Planning Board had spent two and a half years on that subject. He stated that the Planning Board had made a recommendation to the City Commission that it not be allowed. He stated that he understood that the item was on the agenda at an organizational meeting with two new Commissioners. He stated that it was never discussed by the Commission for a lack of a second. He stated that quite frankly he personally felt that after spending two and a half years on the subject that it should have been discussed. He stated that the Planning Board would like the Commission's direction. He stated that he knew it was a very controversial subject but did not know of anyone in the room who tried to back away from controversy.

Mayor Kelley stated that he did not back away from controversy and that he would be the first to say that he thought those signs could be great.

Mr. Thomas stated that spending two and a half years on the subject and not even having it discussed was why the Planning Board wanted to meet with them to get guidance.

Commissioner Boehm asked why they were suddenly hearing about this. He stated that they were not presented with any information on it.

Mr. Thomas stated that no one wanted to mention it again.

Commissioner Partington stated that he agreed with Commissioner Boehm's point, that if they were going to discuss it, he would like it to come back to the Commission as a discussion item with the full minutes and full package from staff. He stated that he had not had the opportunity to review that issue but would be happy to discuss it.

Commissioner Stowers stated that he agreed with Commissioner Partington.

Commissioner Kent stated that he would add that sometimes there not being a second to a motion was saying enough about it. He stated that there was a reason there was not a second. He stated that some of the Commission had discussed it in length.

Mayor Kelley stated that it could be brought back as a discussion to see if it went anywhere.

Commissioner Kent stated that he did not need it back.

Commissioner Boehm stated that he certainly did not mind discussing any issue but he was not prepared to discuss it that evening.

Mayor Kelley stated that Commissioner Partington had suggested bringing it back at a Commission meeting.

Ms. Shanahan stated that perhaps they could bring it back after the New Year.

Mayor Kelley stated that would be fine.

Outside Activity

Mr. Goss displayed some photographs of the different types of outdoor retail displays, such as pottery, consignment, dresses on mannequins, clothing racks, and golf carts in front of a business. He stated that the issue was discussed in May and June by the Planning Board. He stated that the Planning Board asked to have staff look at what other communities were doing. He stated that they did so and gave them a compendium with a number of other cities' ordinances. He stated that the types of activities they would find would be seasonal displays of merchandise such as Christmas trees, non-profit activities such as Girl Scout cookies and carnivals for churches, outdoor music, permanent sale of merchandise and temporary displays of merchandise, which was allowed up to four times a year. He stated that they discovered that other jurisdictions all allowed seasonal displays. He stated that all the regulations were very similar to Ormond Beach for the non-profits. He stated that Holly Hill and Flagler Beach were the least restrictive for permanent outside display while Ormond Beach was the least restrictive on temporary outside display at 56 allowed days a year. He stated that everyone else was in between.

Mr. Goss stated that the general standards and common characteristics suggested to the Planning Board by staff were to allow permanent outdoor activity through a business tax receipt (BTR) and PBD, that it could not be in the right-of-way, and that it could not block sidewalks. He stated that it had to be in a delineated marked area. He stated that the display area could not be more than 50% of the building frontage and would have to sit back and not be in the buffer zone. He stated that all of it would have to be moved at the end of the day. He stated that the Planning Board had thought that if you were going to allow it, it should not be left out overnight or locked up outside and that it should be stored indoors overnight. He stated that it needed to be kept in a neat organizational package and that the display could not present health and safety issues.

Mr. Goss stated that Planning Board recommendation basically was to maintain the special exception for outdoor activity. He stated that he thought that the Planning Board felt that the outdoor activity was not the same and could not be regulated because it was different for almost every person that came through as characteristics of the sites were different. He stated that the consensus had been that the special exception was the best way to regulate it on a case-by-case basis. He stated that they also recommended reducing the special exception cost. He stated that the cost for the city to do a special exception was \$850 plus advertising costs. He stated that in the downtown area it was \$400 plus advertising costs. He stated the Planning Board recommendation for outside storage was to keep it the way it was but reduce the special exception fee for small businesses.

Mayor Kelley asked if the special exception for displaying merchandise would apply to flea market type displays; whereby, Mr. Goss stated that he did not know how you could distinguish between a consignment shop's with used or new retail.

Mayor Kelley asked if the pictures Mr. Goss had shown were from businesses in Ormond Beach; whereby, Mr. Goss stated that he could not find any such examples in the city. He stated that those were the types of problems that could be run into.

Mayor Kelley stated that he did not mind items being displayed at a garden center or the golf carts.

Mr. Thomas stated that he wanted to get a feel for the Commission and where the boundaries would be.

Commissioner Kent stated that he could not stand any of it. He stated that he did not like any of those displays. He stated that all of the examples looked like they would be misplaced in Ormond Beach.

Mr. Thomas stated that the Planning Board had spirited discussions on the issue and they did not need to have them if the Commission was not interested.

Mayor Kelley stated that he still felt that if a person was 75 feet off of the road and wanted to display furniture outside their patio store than it should be allowed.

Mr. Goss stated that the Planning Board's recommendation was that would be allowed under a special exception.

Commissioner Partington stated that he liked their recommendation.

Mr. Doug Wigley, Planning Board member, stated that all of the outdoor displays were currently allowed for 56 days a year in four 14-day periods.

Mr. Thomas stated that it was broken down in periods for seasonal purposes.

Ms. Press stated that the Planning Board got it right. She stated that now merchants were allowed four times a year to be able to put out a display for 14 days, which was quite a bit of time. She stated that the general consensus was that they did not want it to look like the pictures shown. She stated that there were, however, those that came to the Planning Board and then to the Commission that really had a special case and then they could evaluate those cases. She stated that since the applicant may be a merchant who was struggling in the economy, the suggestion had been made to lower the amount of money for the special exception so that it was more reasonable.

Commissioner Stowers stated that he agreed, but the part that gave him pause was related to the notice requirement. He stated that it was not the city taking permit fees and putting it in their pockets for administrative costs but that the costs were being applied for the notice. He stated that a reduction in the cost would be paid for by the city. He stated that it would be the business asking for something for their business and then the city taking tax dollars to supplement it. He stated that was a policy decision. He stated that if the city wanted to take tax dollars and pay for the legal notice for a specific property owner, he thought it could get dicey. He stated that he felt good that the city was not charging a business owner anything but for the legal notice costs involved.

Commissioner Boehm stated that he believed there had been a discussion about making this item a conditional use and letting staff implement the standards and save the money for advertising costs.

Mr. Goss stated that the Commission had the discussion back in April and suggested sending it to the Planning Board, after they had discussed the conditional use option, to find out what the Planning Board thought about it. He stated that the Planning Board's recommendation was to retain the special exception.

Commissioner Boehm asked if the 14-day temporary use for any purpose would be done away with; whereby, Mr. Thomas stated that the Planning Board recommended it stay in as is.

Mr. Goss stated that it should stay in if they were not going to do permanent outside displays. He stated that they were recommending keeping the 14 days.

Commissioner Boehm asked if the temporary displays had to be taken in at night; whereby, Mr. Goss stated that he would think some of the stuff was taken in but was not sure that the pottery-type items were taken in.

Mr. Thomas stated that Lowe's took their plants and items in at night that could be easily moved and then their mowers and grills were chained up. He stated that they also had people stocking the store all night.

Commissioner Boehm stated that he agreed with Commissioner Kent that some of the examples could be terribly unsightly. He stated that he would rather not have

them sitting out for 14 days and nights. He proposed a standard where things would get put away and taken down. He stated that he understood that was not currently the standard.

Mr. Wigley stated that he believed they were required to take it in at night but did not know whether or not they were doing so. He stated that was a code enforcement problem.

Mr. Goss stated that he thought that it was required to be brought in.

Mayor Kelley stated that Lowe's was not; whereby, Mr. Wigley stated that they had a special exception so they were not bound by the 14-day rule either.

Mr. Briley asked if the seasonal displays for 14 days were required to be brought in at night; whereby, Mr. Goss stated that he did not think so.

Mr. Spraker stated that language was something they had seen in other jurisdictions and proposed if they wished to allow permanent outdoor activity. He stated that staff did not regulate that they took them in or out. He stated that most businesses brought them in on their own to reduce theft.

Commissioner Boehm asked if the sample regulations were new or codification of existing regulations or Planning Board recommendations.

Mr. Goss stated that the sample regulations were what staff presented to the Planning Board based on all the regulations they reviewed from other cities and counties. He stated that the Planning Board made no other recommendation except to say that they wanted to maintain the process as is, on a case-by-case basis, but cut a break to smaller businesses on the fee.

Mr. Wigley asked what the current standards were.

Mr. Goss stated that the current standards were for temporary outdoor displays for 14 days a year, four times a year, which amounted to 56 days. He stated that was pretty liberal given many other communities.

Commissioner Boehm stated that in standards under sample regulations, it read that display areas shall be delineated by 4-inch wide yellow markings, located within 10 feet of the building, and 75 feet from the right-of-way. He asked if all of those standards were currently non-existent; whereby, Mr. Goss stated that was correct, as they were not proposed.

Commissioner Boehm stated that currently you could put your display anywhere if you received your temporary permit.

Ms. Shanahan stated that it could not block the sidewalks.

Mr. Spraker stated that you would submit a site plan of where you proposed your merchandise to be displayed. He stated that it would go through the Site Plan Review Committee. He stated that Lowe's did so with their Christmas trees. He stated that very commonly when there were wide sidewalks, the merchants would set

out a table for display and there would be at least five feet of sidewalk and they would easily obtain a permit.

Commissioner Boehm stated that currently it was discretionarily determined by the Site Plan Review Committee and staff recommendation. He stated that if the city was to adopt the sample regulations, it would put in specific numbers.

Mr. Goss stated that those standards were based on the implementation of permanent outside merchandise displays.

Commissioner Boehm stated that the Planning Board had not made a recommendation.

Mayor Kelley stated that maybe they could look at it. He stated that he did not like the 75 feet and some of the other restrictions.

Mr. Goss stated that the Planning Board reviewed the common characteristics in the sample regulations and chose not to recommend it to the City Commission and to recommend the existing process.

Commissioner Partington asked if staff used some of the common characteristics as a guideline during review; whereby, Mr. Goss stated that they did. He stated that the problem with outdoor display, in his opinion, was that it was a code enforcement issue.

Mayor Kelley asked who would want to spray paint the 4-inch yellow markings.

Mr. Thomas stated that Lowe's had to do so because they had issues with people parking in that area and also set up orange cones. He stated that the ordinance had expressed that there could not be parked cars but people were doing so all of the time and it had been an issue at the Planning Board but Lowe's had been complying.

Ms. Behnke stated that also made it easy for code enforcement to go by and ensure that everything was within those yellow lines.

Ms. Press stated that the reason that Lowe's was complying was because if they did not then the special exception could be taken away from them.

Mr. Goss stated that they would get two strikes.

Commissioner Partington stated that he felt that the direction was to follow the Planning Board's recommendation.

Water Survival Instruction

Mr. Goss stated that what staff was suggesting were three amendments and a definition to the code. He stated that the definition would be added to every residential district that allowed residential dwelling units that were attached. He stated that it did not apply to multi-family or HOA swimming pools. He stated that they suggested some criteria such as making sure the lot was no smaller than 20,000 square feet, having a certified instructor, insurance, limiting the number of students to one at a time, taking 15-minute breaks between sessions, having no more than two vehicles associated with the session or parking on the curb, allowing

for alternative standards, that the instructor must be the resident, and must obtain a BTR. He stated that those criteria were reviewed by the Legal Department. He stated that the Planning Board had not discussed them yet.

Mr. Thomas stated that he had a question on the parking. He asked if parking was allowed on the street during the daytime for a limited time; whereby, Mr. Goss stated that he did not believe so.

Mr. Thomas asked why all of the landscaping and lawn maintenance workers parked in the streets all over the city.

Mayor Kelley stated that he thought it was allowed as long as there was room to pass and for no more than 24 hours.

Mr. Thomas stated that his understanding was that you were allowed to.

Mr. Goss stated that he read in the city's *Code of Ordinances* that there was no curbside parking unless there was a sign posted.

Mayor Kelley stated that if that was the case, it had been changed. He stated that it used to be so long as there was clearance for emergency vehicles.

Mr. Thomas stated that he never remembered not being able to park on the street.

Mr. Hayes stated that he would have to check but he leaned toward Mr. Goss' opinion. He stated that it would be a code enforcement issue.

Mayor Kelley stated that code enforcement used to go out and mark where they parked and as long as they were able to pass it was acceptable.

Commissioner Stowers stated that he thought that Mr. Goss and Mr. Hayes were probably right. He cited the Ormond Beach Middle School pep rally a year ago as an example.

Mayor Kelley stated that there was not adequate room for emergency vehicles.

Commissioner Stowers stated that 45 tickets had been issued to those who were parked on the street.

Mr. Thomas stated that he believed there were no parking signs on the right-of-ways.

Commissioner Boehm stated that he did not like having an ordinance or law that could not be enforced. He stated that he would venture a guess that in his neighborhood on any given hour, on any given weekday, there were about 20 landscapers parked on the street. He stated that he had never seen one parked in the driveway and that they were always on the street. He stated that there were literally hundreds of people violating the ordinance at any given time.

Mayor Kelley stated that also applied to Bright House vans and Florida Power and Light (FPL) vehicles.

Mr. Goss stated that he would be glad to look up the ordinance and get back to them the following day regarding his findings.

Mr. Thomas stated that his point was that if the rule was not enforced, then why include it in the water survival instruction section. He stated that a restriction could not be put on this one circumstance, if they still allowed everyone else to park in the street.

Commissioner Stowers stated that he agreed with Commissioner Boehm and Mr. Thomas about regulations that could simply not be enforced and to do so would be cost prohibitive from a code enforcement standpoint. He stated that he thought that the 20,000 square foot threshold was appropriate. He stated that 15-minute breaks between lessons would be difficult to enforce and would encourage people videotaping over fences trying to show the times between. He stated that he felt the same about the street parking, which people did all the time and to him if it rose to a level where there was a complaint then it had to be dealt with. He stated that if something was in the code it had to be dealt with. He stated that the fact was there was still a noise ordinance. He stated that if there was an intermittent noise, someone could complain and file an affidavit and the offender could receive a fine. He stated that regardless of all the regulations being implemented there was still recourse for someone next door who did not want the infant swim.

Commissioner Boehm stated that another example was garage sales. He stated that in his neighborhood when one of his neighbors had a garage sale it looked like they had a wall-to-wall party on the street.

Mayor Kelley asked where those people parked; whereby, Commissioner Boehm stated that the parked right on the street.

Ms. Behnke stated that she knew that it was regulated and that there were noise ordinances. She stated the screaming would be on and off for several minutes during the lessons and you would never get to the ten continuous minute point where a complaint could actually be filed.

Commissioner Stowers stated that there was a section in the noise ordinance which addressed intermittent noises. He stated that at the first reading, he had the same position and was in favor of banning it when he looked at it in more detail and determined that intermittent sounds less than ten minutes could still be complained about then he changed his mind.

Mayor Kelley stated that he felt most of them agreed that the parking limit should not be included.

Commissioner Partington stated that the language about the 15-minute break and about the curbside parking could be removed.

Commissioner Kent stated that he liked the way staff had drafted it and thought it was perfect.

Mayor Kelley stated that if the curbside parking was not legal, it would apply anyway.

Mr. Briley stated that he had a question regarding one of the four conditions under Alternative Standards. He stated that one of the conditions was an indoor swimming pool. He stated that he lived in a subdivision where there was a home with an indoor swimming pool which did not meet the other four conditions. He stated that his only concern was if a variance was granted for that, it would increase parking and traffic.

Mayor Kelley stated that they would be leaving the limitation on two vehicles and just remove the curbside parking.

Commissioner Kent asked if Mayor Kelley was comfortable with the parking argument because Bright House and FPL vehicles parked on curbs.

Mayor Kelley stated that also they were unsure whether it was already not allowed in the *Code of Ordinances*.

Commissioner Kent stated that your power would go out rarely and that a home with swim lessons could have that curbside parking every day.

Mr. Ted MacLeod, Assistant City Manager and Public Works Director, stated that there was a provision in the ordinance that exempted commercial vehicles making delivery or performing labor or services in connection with such commercial activities.

Mayor Kelley stated that he thought there were other exceptions.

Commissioner Stowers stated that he thought that he and Commissioner Kent were on the same page. He stated that in his mind the ban on curbside parking should be removed because it was duplicative and not because they wished to allow it. He stated that it was currently not permitted.

Mr. Wigley stated that Mr. Briley was saying that if someone lived in a subdivision with an indoor pool that none of those rules would apply to them because they would be exempt.

Mr. Goss stated that was the intention because if it was an indoor pool no one would hear any noise.

Mr. Briley stated that he would care if it increased traffic to his neighborhood.

Commissioner Boehm stated that as far as he knew there was only one person who did these lessons out of a home and from what he had recently read in the *News-Journal*, she had created her own alternative existence that she was pleased with and would begin working with the YMCA. He stated that all of the discussion was about hypothetically in the event that this might possibly happen one day.

Mr. Briley stated that you had to look at the worst case scenario.

Mr. Thomas stated that all it took was one person in the community to complain and it became a major problem.

Commissioner Kent stated that his concern was that there were rules where you could not operate certain businesses out of your home because it was a *home*. He stated that whenever those certain businesses were allowed that was when they had

issues like this. He stated that was something that should be done at a community pool and not in your backyard where everyone had to deal with the situation every day.

Mayor Kelley stated that he thought they had even suggested a partnership with the YMCA at the meeting.

Commissioner Partington suggested an alternative standard that someone with an indoor pool also had to meet one of the other three conditions.

Mr. Goss stated that they could make that amendment.

Ms. Behnke asked if they would still have to have the insurance; whereby, Mr. Goss stated that they would and none of that was waived.

Ms. Behnke asked what they were waiving exactly.

Mayor Kelley stated that they were waving the 20,000 square foot lot size and the vehicle restrictions.

Mr. Goss stated that none of this applied if the instructor came to their home and did not operate out of his own.

Mr. Thomas stated that the person giving the lessons was associated; and therefore, their vehicle would count towards the *"no more than two vehicles associated with the person giving the lesson shall be permitted to be parked at the home."*

Mayor Kelley stated that he thought that Mr. Thomas was right.

Mr. Goss stated that if they desired it could be made three or four cars.

Ms. Shanahan suggested no more than two plus the occupant's vehicle.

Commissioner Kent asked what was wrong with the two. He stated that it was the person giving the lesson and the person receiving it.

Mr. Thomas stated that his 95-year old mother lived with him and if he was giving the lesson, then his mother's car would count.

Commissioner Kent stated that it would not because it was not associated with the session. He stated that if they just did not allow the survival swim instruction to happen in homes, then they would not have the problem.

Mr. Thomas stated that if you did that for this, then you would have to do it for any person who had a business out of their home.

Commissioner Kent stated that it would depend on the type of business. He stated that if he was selling watches out of his home, it was different. He asked Mr. Goss what types of businesses were allowed.

Mr. Thomas stated that Commissioner Kent's statement had been that a home was a home and should not have a business in it.

Commissioner Kent stated that what he had said was that a certain type of business such as retail or one where people came over and utilized the pool was not appropriate for a home business.

Ms. Press stated that she knew that they were talking about the water survival instruction, but she felt that there really needed to be a discussion about home-based businesses. She stated that when the item came to the Planning Board they had discussed all types of home-based businesses. She stated that there were many people that were in home-based businesses and doing things that did not disturb their neighbors. She stated that a dietician could have patients who came to her home. She stated that in 1983 she started a business in a home. She stated that she had a lot to say about home-based businesses and felt it was a topic that should be discussed.

Mayor Kelley stated that the changes to home-based occupations had been brought to them at the same time that the swim instruction was.

Mr. Goss stated that there were major changes that had been made.

Mayor Kelley stated that everything else related to home-based occupations had been approved but that the water survival instruction had been left off so that it could be discussed separately with the Planning Board.

Ms. Press stated that she listened to the discussion that happened at the City Commission meeting regarding this item. She asked if any swimming lessons were allowed in the city.

Mr. Goss stated that swimming lessons were allowed but not this type of lesson.

Ms. Press stated that if she was the woman in question, whom she did not know, she would be suing the city because they were making a ruling specifically not allowing her to have that type of swim lesson. She stated that she was not saying that the woman should or should not be allowed to conduct them. She stated that it was almost like spot zoning.

Mayor Kelley stated that manufacturing and engine repair were also not allowed.

Ms. Press stated that other swimming lessons were being allowed though.

Commissioner Stowers stated that there was misinformation out there. He stated that his understanding was that it was not *ever* allowed so that the woman in question did not lose anything but was actually violating the code because there was no provision allowing it.

Commissioner Kent stated that some might say she was breaking the law.

Commissioner Stowers stated that people had said that the Commission took something away, but the fact was that it was never allowed. He stated that when code enforcement went to her home they told her that there were related amendments coming before the Commission so they would not issue her a fine because the activity *may* be allowed in the near future. He stated that after that everything spun out of control. He stated that also the woman in question was a

tenant and when the property owner found out they got involved. He stated that the Home Owner's Association (HOA) in that area was also making revisions to their HOA documents to prohibit the activity. He stated that it had been addressed but continued to fester.

Ms. Press thanked Commissioner Stowers for clarifying. She asked if an HOA could make a provision on their own and if they could say that they did not want any home-based businesses or just swimming lessons.

Ms. Shanahan stated that it would have to be voted on at their HOA.

Mr. Thomas stated that there were laws saying what you could not do but you could not do something unless the law said you could do it.

Mayor Kelley stated that was correct.

Mr. Thomas stated that if there was not a law allowing her to do this, she was breaking the law.

Ms. Behnke stated that there was a law prohibiting it; whereby, Mr. Thomas asked if there was.

Mr. Goss stated that it was a use not permitted.

Mr. Thomas stated that then home businesses were not permitted.

Mr. Goss stated that he did not say that as a "home occupation use" it was not permitted.

Mr. Thomas asked why all the non-infant survival swimming lessons were not shut down before then.

Commissioner Kent stated that someone had to call in a complaint, otherwise they would not be aware of them.

Mr. Thomas stated that you had to have a law in order to do something.

Mayor Kelley asked if they wanted to put the regulations in or not.

Ms. Behnke stated that she felt they needed to be included because it would surface again and would not have to be revisited.

Mayor Kelley stated that he believed there was a reasonable consensus on the Commission for including most of it.

Commissioner Boehm stated that he felt that it should be included as they had specifically instructed staff to draft the standards for their approval with the Planning Board. He stated that he agreed with Commissioner Partington's proposed amendment.

Mayor Kelley stated that they still needed to establish the parking.

Mr. Goss stated that he had heard that they wanted to take out the curbside parking provision.

Mayor Kelley asked about the two vehicle limitation and stated that it would be difficult to enforce.

Mr. Goss stated that the two vehicles were supposed to be associated with the lesson.

Ms. Shanahan stated that they were requesting one student at a time so they really should not have presumably more than two vehicles, the teacher and the student. She stated that sometimes there might be an aunt or another relative and another person living at the home.

Mr. Goss stated that he could clarify that it had to do with the students.

Commissioner Kent stated that maybe they should not allow swim lessons at homes.

Commissioner Boehm asked if it could just be changed to read "parking associated with the person receiving lessons shall only be allowed on the driveway of the residential home" without any numbers. He stated that they could argue all night whether two, three, or four vehicles were fair.

Commissioner Kent stated that they should just keep the law that says there cannot be swim lessons at the home.

Ms. Behnke stated that they already approved swimming lessons, it was just the water survival that was not approved.

Commissioner Boehm stated that he thought that they needed to adopt the staff proposal.

Mr. Goss stated that he would make the amendments requested and bring them back for approval.

III. Close the Meeting

Ms. Shanahan thanked the Commission and the Planning Board for their time. She stated that it was very good for staff to get some clear direction.

Mayor Kelley stated that he knew there were several members of the public present. He stated that workshops were for the Commission to have discussion. He stated that anyone wishing to speak could do so when the item was up for approval at the Planning Board meeting or City Commission meeting.

The meeting was adjourned at 8:51 p.m.

Transcribed by: Colby Cilento