

M I N U T E S
ORMOND BEACH PLANNING BOARD
Regular Meeting

November 4, 2021

7:00 PM

City Commission Chambers

22 South Beach Street
Ormond Beach, FL 32174

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, SAID PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PERSONS WITH A DISABILITY, SUCH AS A VISION, HEARING OR SPEECH IMPAIRMENT, OR PERSONS NEEDING OTHER TYPES OF ASSISTANCE, AND WHO WISH TO ATTEND CITY COMMISSION MEETINGS OR ANY OTHER BOARD OR COMMITTEE MEETING MAY CONTACT THE CITY CLERK IN WRITING, OR MAY CALL 677-0311 FOR INFORMATION REGARDING AVAILABLE AIDS AND SERVICES.

I. ROLL CALL

Members Present

Harold Briley, Vice Chair
G.G. Galloway (excused)
Al Jorczak
Mike Scudiero
Angeline Shull
Lori Tolland
Doug Thomas, Chair

Staff Present

Steven Spraker, Planning Director
Noel Eaton, Senior Planner
Shannon Ruane, Planning
Randy Hayes, City Attorney
Marcella Miller, Recording Technician

II. INVOCATION

Mr. Briley led the invocation.

III. PLEDGE OF ALLEGIANCE

IV. NOTICE REGARDING ADJOURNMENT

NEW ITEMS WILL NOT BE HEARD BY THE PLANNING BOARD AFTER 10:00 PM UNLESS AUTHORIZED BY A MAJORITY VOTE OF THE BOARD MEMBERS PRESENT. ITEMS WHICH HAVE NOT BEEN HEARD BEFORE 10:00 PM MAY BE CONTINUED TO THE FOLLOWING THURSDAY OR TO THE NEXT REGULAR MEETING, AS DETERMINED BY AFFIRMATIVE VOTE OF THE MAJORITY OF THE BOARD MEMBERS PRESENT (PER PLANNING BOARD RULES OF PROCEDURE, SECTION 2.7).

V. APPROVAL OF MINUTES

October 14, 2021

Mr. Briley moved to approve the October 14, 2021 Minutes. Ms. Tolland seconded the motion. The minutes were unanimously approved.

VI. PLANNING DIRECTOR'S REPORT

Mr. Spraker, Planning Director, delivered an overview of upcoming meetings:

1. OB Life, westward focus - Transportation on November 9, 2021 at Calvary Christian Church. (6:00 p.m.)
2. Utilities and Senate Bill 64 City Commission Workshop on November 16, 2021.
3. Second OB Life, westward focus – Utilities & Quality of Life on December 2, 2021. (6:00 p.m.)
4. Cassen Park City Commission Workshop on December 7, 2021.
5. Park and Recreation Master Plan on December 8, 2021.
6. Planning Board on December 9, 2021.

Mr. Spraker added that the three items that were on last month's Planning Board meeting agenda will go to the City Commission on November 16, 2021. The agenda items will be Interchange Depot, Property Rights, Comprehensive Plan Amendment and the second Amendment to the Interlocal Service Boundary Agreement (ISBA). It was discussed that there will only be the two OB Life meetings which will cover the land area west of Interstate 95 in the cities of Ormond Beach and Daytona Beach. Avalon Park will be included in the discussion and it was determined that Hunters Ridge will not be applicable. Mr. Spraker concluded that the meeting will be available to participate and listen to both in-person and online.

VII. PUBLIC HEARINGS

A. SE 2021-102: Ormond Garage - Special Exception for Outdoor Activity

Ms. Shannon Ruane, Planning, stated that SE 2021-102 is a request submitted by Mr. Kevin Wakefield for a Special Exception to authorize outdoor activity use. The requested outdoor activity is for live outdoor music. The subject property is located at 48 West Granada Boulevard in the B-4 (Central Business) zoning district. Ms. Ruane explained that live outdoor music is classified as an outdoor activity use and is only permitted by the issuance of a Special Exception in the B-4 zoning district. No other construction is proposed and the request is only to allow the live outdoor music under certain conditions. The applicant seeks to allow live outdoor music Sunday through Thursday, 2:00 p.m. to 10:00 p.m., and Friday and Saturday, 2:00 p.m. to 11:00 p.m., with a maximum of only three live performers.

Ms. Ruane explained that the surrounding properties are additionally all part of the B-4 zoning district. The Ormond Garage is located within the Downtown Overlay District. The Downtown Master Plan envisions an active downtown area with restaurants and outdoor activity such as live music. Ms. Ruane noted that outdoor activity, which includes live outdoor music, requires a public hearing review as part of the Special Exception request. She explained the application steps including the application submittal, neighborhood meeting (held October 13th), Planning Board review as the advisory board to the City Commission, the City Commission

tentatively on December 7, 2021 for a final decision and finally, conformance with the development order. Ms. Ruane furthermore explained the neighborhood meeting and sound test that were conducted on Wednesday, October 13, as required by the Land Development Code (LDC) with a notice provided to all property owners within a 600' radius. Decibel readings were taken by Code Enforcement both with and without music playing. Ms. Ruane displayed a picture of the performers orientation as they faced the interior of the property and restaurant. The average recorded decibel readings from the sound test were also displayed overhead showing the readings both with and without music playing. Ms. Ruane noted that the Code of Ordinances establishes a decibel limit of 65 for commercial areas from 7:00 a.m. until 10:00 p.m., and 60 from 10:00 p.m. to 7:00 a.m. The property management will be responsible for managing the sound decibel limits at the time of all performances to remain in compliance.

Ms. Ruane stated that the conditions for live music include a limit to the number of performers, a restriction on karaoke, and the hours allowed. For this application, additional conditions have been applied regarding the location of the performers so that they are facing towards the restaurant and away from surrounding properties as aforementioned, and the RiverGrille condition that provides a method of code enforcement for the live outdoor music. She added that the provision ensures that if two demonstrated code violations happen in any one calendar year, that the Special Exception will be revoked.

Ms. Ruane commented that staff takes public input for all Special Exceptions and received a call from Ms. Skipper, 20 Tomoka Avenue, Riverbridge Condominiums. She expressed concern about the residential impact to the condominiums. She has the desire to protect the quality of life by ensuring that the music is not heard at their complex. The distance of the Riverbridge Condominiums from the Ormond Garage is 546' away. Ms. Ruane stated that the sound test provided a reading from the center of the City Hall parking lot of 56 decibels with music, and 55 decibels without music which are both acceptable ranges required by the Code of Ordinances. Additionally, the orientation of the performers and the RiverGrille Provision provides additional measures to protect the quality of life for the residential area.

In conclusion, Ms. Ruane explained that each application for Special Exception requests are reviewed individually with the opportunity for any public comments. The required neighborhood meeting and sound test allows for the applicant to demonstrate the request and to give notice to property owners within 600' as well. She continued that staff adds conditions to these requests to ensure there are boundaries for the music so that surrounding property owners are not negatively impacted. The RiverGrille provision adds an additional mechanism to enforce the required decibel standards and revoke the approval if not in compliance. Past business owners have demonstrated compliance with these conditions. Restaurants have an incentive to keep the music lower for their patron's enjoyment. Ms. Ruane stated that staff recommends that the Planning Board approve the application for the outdoor activity of live music at the Ormond Garage located at 48 West Granada Boulevard. The tentative City Commission date is December 7, 2021 where the City Commission will issue a final decision.

Mr. Kevin Wakefield, Applicant, Ormond Garage, stated that he also owns the Grind Gastropub/Kona and 31 Supper Club. He added that the Ormond Garage is the most

family-oriented out of the three venues. Out of alcohol, beer is primarily served with only 10 percent of the sales from liquor and the remainder is from beer brewed onsite. Just last week a Halloween pet and costume contest was held. Mr. Wakefield expressed that this is not in an attempt to have rock concerts or crazy activity outside. Sporting events are oftentimes held inside throughout the year inside of the restaurant including NFL and college football on the tv screens. Mr. Wakefield explained that the music entertainment is planned to be held out back and is not intended to interfere with the inside area sports. The inside and outside entertainment are oftentimes held at the same time which can create a conflict of interest. He added that the back door area stays open and how it is not in the restaurants best interest to have music so loud on the outside patio that it interferes with the inside space. He continued that he wants to add to the downtown amenities and does not wish to interrupt anyone's way of life and detailed that there have been no complaints over the last ten years from his prior Special Exception for Kona's music across the street, which is known as a livelier venue.

Audience Comments

Ms. Linda Skipper, 20 Tomoka Avenue, Riverbridge Condominiums, delivered her and her husband's objections to the Special Exception, commenting that their condominiums are across from the Ormond Garage parking lot. She added that their balcony is directly across from the Ormond Garage. Ms. Skipper commented that she loves music and has been involved with music throughout her life in junior high school, high school, piano, church, and played in a band, even up to now where she plays music at Riviera Nursing Home. She stated that she does not want it to interfere with the peace and enjoyment of their life. Ms. Skipper stated that she pays property taxes in Ormond Beach and has the right to speak and continued that the City of Ormond Beach has a responsibility to protect the health and welfare of its citizens and the control, prevention and abatement of noise. She added that the definition of noise is *unwanted* and how it can lead to physiological and psychological damage and interferes with work, rest, sleep and communication. Ms. Skipper continued that most of Riverbridge Condominium residents are retired and enjoy a quiet, uneventful, relatively quiet existence. She added that she is deaf and wears high-amplified hearing aids and speaks for the hearing impaired. Some decibel levels are painful. Ms. Skipper spoke with the Mayor and heard that the Ormond Garage and the City monitored only one band. She gave examples of different sounds and decibels beginning with a jet engine emitting 115 to 140 decibel levels whereas bands can emit 115, and a police siren can emit 115. She continued that noise can cause anxiety, aggressive behavior and anger, and feels that no one can promise that this outside noise will not affect the right to a peaceful existence of their home. She commented that when alcohol is involved that bands and crowds can get louder as well as with bike and race weeks. Ms. Skipper asked the Board to imagine if someone put a band in their backyards and interfered with their family and children with no choice in that matter. She asked that the Planning Board deny the Special Exception and remarked that Riverbridge Condominium residents will lose property value.

Mr. Richard Montgomery, 96 Grove Street, stated that he is opposed to the Special Exception. He continued that it is his understanding that zoning districts are utilized to promote land use compatibility as a means of protecting the health, safety and general welfare of the city and its citizens. He added that it is the Planning Department's responsibility to develop plans to ensure the protection and

preservation of the quality of life of the residents and the visitors to the City of Ormond Beach. Mr. Montgomery asked if live outdoor music is compatible now, when in the past it was not in the zoning district. He asked if outdoor live music and its accompanying impacts suddenly improve the quality of life of nearby residents. He commented that a report recommendation was completed and in favor of the Special Exception. He elaborated that reports and its facts can be written to favor which ever direction the person responsible for providing the information wants. Mr. Montgomery explained that the Ormond Garage does not compare to other venues with outdoor live music such as The RiverGrille, Kona, Riptides and the Beach Bucket, as they are far from residential areas. He remarked that that the sound test was not done at a time that would give an accurate measurement. The time the music is proposed for is a peaceful time of the day at only a 600' distance. He added that he can hear music when they are playing, underneath of the Granada Bridge on the east side of the river. Mr. Montgomery expressed his uncertainty with some of the decibel readings and commented that a vocalist would be singing above the music. He remarked that 60 to 65 decibels is the decibel level for a normal conversation. The additional impact the noise will have is impact to traffic. He asked what the people in the nearby communities gain from it. Mr. Montgomery remarked that this will set a precedence and negatively impact evening hours and explained that he did his own petition with 31 residents within two blocks with only three residents that did not sign due to business interactions with the city and needing more information.

Ms. Dorian Burt, 203 Pine Cone Trail, commented that the applicant followed the notice requirements in sending notices out to the surrounding properties and believes that anyone who did not receive notification is outside of the 600' scope. She advised the Board that she hopes they will grant the Special Exception request. She added that there were no complaints from the decibel testing.

Mr. Jim Gilbert, 92 Grove Street, inquired if the testing was done appropriately following the regulations. He noted that former Mayor Carl Persis made a comment that at the school that he principled, there was not going to be any noise from the playground. He claimed that they were only going to be using the play ground for three physical education classes. Mr. Gilbert claims that the comment was a misrepresentation. He inquired about the owner of establishment policing it. He remarked that the City of Ormond Beach owes the residents more thought and research on the matter. He asked the Board to think about if they lived 600' from the establishment if they would be happy.

Ms. Krista Robinson, 66 Central Avenue, Beach House Graphics, stated that her and her husband are the third people that Mr. Gilbert visited with their petition. She explained that they were interested in additional information prior to signing the petition. The Robinson's went to the city website and researched what the petition could be for. Ms. Robinson was interested in knowing more about the *certain conditions*. She noted that now she understands what the conditions were for with the three live performers from 2:00 p.m. to 10:00 p.m. (and until 11:00 pm on Friday and Saturday nights). Ms. Robinson continued that she is not opposed to live music but also is not 100 percent interested in giving all rights to live music. She expressed that she would like more information. Tonight their family went to the Ormond Garage and commented that she is a huge football fan and when she watches the game, she watches it and does not want to be interrupted with music and the game at the same time. As a business owner for the last 10 years, she explained that she tries

to be involved and participate in as much as she can. The audio-noise demonstration is of concern being that it was done at 5:30 p.m. with two performers with guitars. She elaborated that today during their visit they noticed a bongo player and a saxophone player and she would be interested to know what three live performers at 9:30 p.m. decibel ratings are. Ms. Robinson added that she would also like to know what decibel ratings different instruments are like that of a saxophone, and if it can impact the hearing-impaired differently than an acoustic guitar. She commented that she does encourage live music in town but also lives locally with children and would like more information. Ms. Robinson asked for a different test with a different subject, during a different time frame, with different musical instruments.

Mr. Briley asked Mr. Spraker if the Ormond Garage would be required to have a Special Exception if the music was indoors. Mr. Spraker replied no and explained that the Ormond Garage does currently play music indoors and that pre-recorded music can be played outside. The decibel levels were discussed and it was explained that the sound test came from the RiverGrille Restaurant, to provide an example. It was explained that sound is changeable and that a simple turn of the dial can change the sound. The sound test gives an example of what it could be and does not give the Special Exception applicant the right to exceed the decibel limits at any time. At the Ormond Garage it allows 65 decibels until 10:00 p.m. and 60 decibels at 11:00 p.m. Mr. Spraker reiterated that the decibel limits cannot be exceeded. The reason for the RiverGrille provision was that if the applicant was acting in bad faith or he sells the business and someone else acts in bad faith, there is a code enforcement mechanism for a police officer or code enforcement officer to go out and read the decibel. If the decibel level is exceeded twice in one year, the restaurant will lose their ability to do all music. Mr. Spraker commented on the other referenced sites, one of them being RiverGrille Restaurant. RiverGrille has residential properties closer than the current application and across the railroad tracks there are a number of properties that objected to it. Mr. Spraker stated that the music is a very sensitive issue for good reasons as nobody wants to diminish quality of life. He explained that as part of the Special Exception, the applicant is taking a responsibility with managing the sound and ensuring that the decibel limits are not exceeded. If the property management fails to do so, there is a penalty provision through Code Enforcement. Mr. Spraker concluded that the City has multiple sound meters and can do a sound test.

Mr. Briley commented that in the examples of the RiverGrille Restaurant and Kona Tiki Bar and at the time Tomoka Oaks subdivision, residents objected to the music being piped inside and outside of the RiverGrille Restaurant. Mr. Spraker replied that most applications for sound have concerned residents. The Beach Bucket Restaurant has a condominium next door and they too expressed concerns. He remarked that it goes back to the operation of the application of the Special Exception and how there is an incentive to not create very loud music. The patrons will not enjoy being able to talk to their party. The restaurants can lose the Special Exception if they are not faithful in their application.

Mr. Briley referenced the Kona application, where there were objections from residents that lived on New Britain Avenue and Lincoln Avenue. He added that there were also concerns with Kona and Riptides as well as Dimitris with their residents that live to the west. He asked if there were complaints with those restaurants' music. Mr. Spraker replied not that he was aware of and that Woodstock was another application and they were denied based on the complaints from abutting property

owners. He explained that the reason that this is not an allowed use and is a Special Exception is so that it can go through this process and a sound test can be performed. There is an opportunity to hear an example. The advertisements are neighborhood meetings within a 600' radius notice. The Planning Board meetings are advertised through a 300' notice, as well as newspaper ads, bright yellow signs on both sides of the property, and a posting on the City of Ormond Beach website. The Planning Board agenda was also posted on the website 10 days prior to the meeting and all advertising seeks to get public input. Mr. Spraker stated that conditions were added which were designed to orient the music towards the restaurant, away from the residential area and to add the Code Enforcement provision.

Mr. Briley remarked on the fact that they can play loud music inside as long as it does not exceed the decibel limits outside, but they are interested in moving the music from inside to outside. He continued that the Ormond Garage is in a commercial business district and when he served on the Downtown Revitalization Task Force, they looked at how the simple business district could be revitalized twenty-seven years ago and how to have activities like this but keep them controlled. Tomoka Avenue and New Britain Avenue are in the central business district which is a residential commercial transition area which is mixed with commercial properties and uses. Mr. Briley commented that he does not think that the music should increase traffic any as the music is just an added amenity and patrons will visit the Ormond Garage either way. He added that Code Enforcement and the Police Department are active in investigating noise complaints. Mr. Briley asked how many residents attended the music test at the Ormond Garage on October 13th. Mr. Spraker answered that he is not aware of any and advised he did not hear of any complaints until this week when Ms. Skipper called. He commented that residents can e-mail the Planning Department and staff can place the information in the City Commission packet as one of the multiple ways to provide input for the public hearing process.

Mr. Jorczak asked how the 600' was established. Mr. Spraker explained that it came from the neighborhood meeting process. Most jurisdictions do not require neighborhood meetings, especially for a sound test. The City of Ormond Beach provides a format in the neighborhood meetings for residents and developers to talk before the Planning Board meetings to work out concerns. Mr. Jorczak reiterated his question, adding in with regards to the test range of 600' at a certain decibel level. Mr. Spraker replied that a decibel reading is not tied to 600' distance. Beyond their property line they cannot be higher than 65 decibel level. He continued that at the first row of parking the decibel level was below that at 56 decibels. They cannot exceed the 65 decibel level beyond their property.

Attorney Hayes stated that the 600' is tied to the notice requirement in the Land Development Code (LDC) for the neighborhood meeting.

Mr. Scudiero commented that the Board would not be here if it were not for the live music. He added that he noticed two speakers with two performers, and how spending time in radio, he himself knows that the speakers are what generates the volume. It is not the people and their musical equipment that is affecting the decibel, it is the speakers. Mr. Scudiero reiterated that as part of the condition they are to be turned in as opposed to facing the neighborhood which will make a difference. He asked Mr. Spraker what complaints have derived from approvals for the RiverGrille with homes just across the railroad tracks in Tomoka Oaks, and the brewery with a

neighborhood on the other side of the railroad tracks. Mr. Spraker answered that he is not aware of any Code Enforcement action on either of those properties. Mr. Scudiero remarked that he understands that it is easy to be concerned but once it starts people will find it is negligible and will hear more noise from a car stereo on Beach Street. He continued that Mr. Wakefield has additional businesses in the downtown and has already gone through the process once and it is self-correcting. He can lose the Special Exception if he is reported twice in one year. Mr. Scudiero concluded that he is going to support it under the belief that Mr. Wakefield is going to continue to appreciate the public and be a good citizen.

Ms. Tolland inquired if anyone was home on Tomoka Avenue during the sound test and if they heard music or if it was just fear of live music.

Mr. Montgomery commented on the advertising of the two-inch notice, the City of Ormond Beach website advertised notice, and the other aforementioned notices. He remarked that it took him five minutes when he had the address to look for the report issued. He continued that a lot of the residents are retired and do not get the notices and may not know how to look for them. Mr. Montgomery inquired if they did not see the advertising how they would know to be home at that specific time of the sound test. He claims that residents will hear it from their front porch regardless of the decibels. Mr. Montgomery concluded that he hopes that people will not be naïve enough to think that they are not going to hear the music.

Chairman Thomas explained that there is typically a three-minute audience comment time limit.

Ms. Tolland stated that she does believe in Code Enforcement in the city and is not concerned. If there is an infraction on noise, it will be taken care of. She added that she trusts Mr. Wakefield as a business owner will not want to lose the opportunity to play music. In the downtown area, the City has worked hard on Main Street 20+ years ago as well as more recently to make it a lively area that people would want to come to and enjoy. She spoke on the decibel measuring and commented that there has to be objective numbers. Ms. Tolland added that the City does a good job looking at all directions and does care about the quality of life. She mentioned that there are trees around the RiverGrille Restaurant that muffle the sound there more for the neighbors. With the Ormond Garage being exposed it may carry the music farther. Ms. Tolland suggested a shrub behind where the musicians play to block the noise, and concluded that she is in support of the Special Exception.

Ms. Shull asked Mr. Spraker what the distance is for sending the notification letters. Mr. Spraker replied that the Neighborhood Meeting (sound test) notice, done by the applicant, is 600' to all of the residents listed on the Volusia County Property Appraisers site, and the Planning Board Meeting advertisement, done by planning staff, is 300', and added that there is also advertising in the Daytona Beach News Journal, on the Ormond Beach website, as well as site postings. Ms. Shull commented that she concurs with the Board and that the sound test at 50+ decibels is not 150 decibels of a jet engine, and how it is more minimal. She remarked that she understood the desire for quality of life and a quiet neighborhood and how the residents are going to have that. The music is not going all night long at only 10:00 p.m. during the week and 11:00 p.m. on the weekends. She added that if inside the house with the television on they may not know of the music and if sitting on the

porch, the music will sound low. Ms. Shull stated that she has been to some of the sound tests and understands that two to three musicians are not going to be a rock band blasting music with a million people. It will be ambiance and background noise for families. She continued that nothing can be done about the parking on the back side of the property. She added drums will be more loud than other instruments but has to be under the decibel limit. Ms. Shull is in favor and remarked that the owner is going to take care of the things that need to be taken care of and homeowners can call the city and make a complaint if need be.

Chairman Thomas asked Attorney Hayes if the City can oppose a standard of less than 65 decibels. Attorney Hayes replied that it is by code.

Mr. Briley stated that the test was performed by Mr. Wakefield providing the musicians, and the City providing the decibel meters. The applicant did not take the measurements, the City did - and he urged everyone to trust in them.

Mr. Briley motioned to approve SE 2021-102 Ormond Garage: Special Exception for Outdoor Activity. Ms. Shull seconded it. Vote was called, and the motion was approved (6-0).

Chairman Thomas thanked those that made comments and explained that they will have time to go before the City Commission December 7, 2021 to plead their case. He reminded everyone that the Planning Board is an advisory board and do not have say other than what they think.

VIII. OTHER BUSINESS

Chairman Thomas inquired about the proposed 6:00 p.m. time change for future Planning Board meetings. Mr. Spraker explained that it was mentioned for Board input and that it would be fine either way. The proposed calendar will be brought before the Board again in December 2021 after some thought and would take effect in January 2022. He commented that the Board of Adjustment and Appeals (BOAA) meetings are held at 6:00 p.m. as well. Chairman Thomas remarked that the change would be easier on staff and would support more public participation.

Mr. Scudiero commented that he noticed that Planning Board meetings often run longer than City Commission meetings. For the sake of the residents it should be consistent whatever is decided. He concluded that he is good with whatever is decided.

Mr. Jorczak agreed with the 6:00 p.m. time change.

Mr. Briley agreed with the 6:00 p.m. time change and remarked that if there are any issues with it the Board will look into changing it back.

Chairman Thomas agreed that it would not be a problem to change the meeting time 6:00 p.m.

Board discussion ensued regarding the time change.

Mr. Jorczak continued with additional comments under Other Business and mentioned that Commissioner Selby advocated in the past on the handling of the investigation of the pollution in the river. He remarked that he believes that the last testing and test results data was from back approximately in 2010. The Daytona Beach News Journal article on it by Lane displayed a great picture of goliath groupers caught in the Halifax River and it featured that the problem in the Indian River is not just in the Indian River. Mr. Jorczak stated that the geologist claimed the entire intracoastal area is part of a lagoon with everything being interconnected. He commented that five years ago the interconnection of the waterways was being handled by a bureaucratic tie between Brevard up to High Bridge Road, and inquired where Daytona Beach fits and where the bureaucratically connected thing is with respect to the entire waterway. Mr. Jorczak asked where the City of Ormond Beach fits in and asked if it is county-to-county. He remarked that the Governor recently approved a significant amount of money to look at the waterway matter and inquired if the City has the ability to tap in to the grants that were just issued by the State to provide the City with the funds to get what it needs to get a better handle of what is going on in the Halifax River. Mr. Briley replied that Mr. Jorczak should reach out to Mr. Tom Leek. Every year the Board of Realtors goes to Tallahassee to lobby. Clean water is one of the issues and a priority that they lobby on and it has been discovered that there has been a lot of attention on the Indian River Lagoon and Lake Okeechobee because of the pollution that flows north. Mr. Briley agrees in talking to people in Tallahassee and getting money for the Halifax River as well as the Tomoka River. He commented that the City has reduced how much effluent is put in the river. In the past there was no place to dump sewage, therefore it went into the Halifax River, but the Legislature asked cities to reduce their amount of dumping of sewage in the rivers have been at a low percentage for 20 years. There is a lot of stormwater that gets dumped out into the river but is currently being worked on.

Mr. Jorczak asked how the Board interfaces with the respect to Ormond Beach and input, and where to go for the coordination effort to clean up the waterway. Mr. Briley replied that it would go to the State. Ms. Tolland replied that she worked with Commissioner Selby when pursuing septic-to-sewer, where they spoke with local politicians and the County and gathered support from others, including that of Mr. Tom Leek. The DeLand water authority at Stetson coordinates County and State and did research. Ms. Tolland expressed her disappointment stating that the City was not successful in it because they did not want to put the money in it to do the research to prove to the people on the northern peninsula how important the water quality was. Ms. Tolland concurred it would be best to reach out to Mr. Leek again and commented that the City needs to be more proactive.

Mr. Jorczak remarked that the City applies for a lot of grants.

Ms. Tolland commented that it was a missed opportunity as well as Tomoka Oaks. She added that she knows that the City has limited staff and abilities but needs to be more proactive than we are in the community.

Mr. Briley elaborated more on the septic-to-sewer adding that there is no sense to apply for the dollars if the people that are being helped do not want it and are objective to it.

Ms. Tolland expressed that the City was bamboozled where truths are not told and the State testing is not believed. She reiterated her statement and urged that the Planning Board be more proactive as a city.

Mr. Jorczak suggested putting City grant employees on it and getting it from a staff level elevated to the City Commission to take another look since money is currently being allocated with the Governor's support because there is a major problem in the Indian River and locally. The longer time period waited to do something, the higher the City is on the radar for getting the funds needed to provide the data to make informed decisions with respect to the citizens. Mr. Jorczak commented on the report where 1,000 manatees died in the last year because the lack of a food source due to the pollution in the water. He continued, "we tried it did not work, nobody was interested – we did not assemble enough of an advocacy for what we were doing to raise to top of the pile." He remarked that his opinion is that the effort needs to continued with a little more effort behind it.

Mr. Briley commented that he recollected when it was done approximately four years, and how there was advocacy and a campaign, and if a certain group did not object so loudly, that the funding would have come through. Ms. Tolland concurred and added that the City shied away when the group got vocal. Mr. Briley remarked that one of the biggest environmentalists was someone who ended up winning a County position and was sphere heading the anti-septic-to-sewer. Ms. Tolland asked how objective data is disputed if the numbers are there. She further explained that when a core sample is taken out of the ground and it reads the amount of pollutants that it cannot be manipulated.

Chairman Thomas stated that the people do not realize that there is no law that says that if they play music that people should not be able to hear something over 600' away, as long as it is within the decibels. He added that 600' is two football fields of open space. There is no guarantee that people are not going to hear 'a sound', it is that those sounds have to be under 65 decibels.

Mr. Jorczak asked the Planning Board members if there was anything that they can do as a Board in making a recommendation and getting it to the Legislative representatives in Tallahassee. Ms. Tolland replied that a recommendation can be made for our City Commissioners to evaluate what the City can do and not miss the opportunity.

Chairman Thomas asked Attorney Hayes if it is within the Planning Board's purview to make recommendations to the City Commission on items that are not brought to the Planning Board or are items that the Planning Board is not involved in. Attorney Hayes answered that as long as it is within the purview of the duties that are generally prescribed to the Planning Board, then recommendations can be made. Ordinarily the Planning Director is the messenger or the Planning Board can discuss and assign the Chairperson to address the information to the Commission at the podium or call them. There is no Sunshine Law violation to call the Mayor or a Commissioner.

Mr. Briley asked if recommendations can be made to the City Commission to move it forward. Ms. Tolland commented "*they are in the minutes*" and it just needs to be highlighted for them to read.

Mr. Jorczak added that he thought the matter was important enough to raise it to a level where the Board does what they can voice-wise because the problem is not going to go away, but get worse, and with the number of people moving to town, it will accelerate it. *"We want to keep our waters as clean as we can."* He continued that he thought it was interesting how the river was named the Halifax River. It came from the aforementioned article and the 'Earl of Halifax', a patron of the Spanish gentleman who drew the maps. The Halifax River was previously known as the Mosquito River, like the Mosquito Lagoon, but was not good for tourism.

X. MEMBER COMMENTS

Mr. Briley asked about the speed tables around town and expressed his disinterest in them. He's witnessed that people feel if they lose time that they speed between the stop signs and speed humps to make up the time. He's noticed worn marks in front lawns where people drive around the speed humps. Volusia County has a policy against them, one of the reasons is for emergency vehicles. Daytona Beach took them out because they were a maintenance nightmare loosening bolts, tires and suspension systems. Mr. Spraker replied that attention was brought to residential calming from citizens through the Engineering and Public Works Departments whom developed the traffic calming program which requires residents to get together and from there requires traffic and speed studies which will do counts to see if it is really warranted. He commented that there are residential streets that are having impacts, like when making a left hand turn into Highland it follows all of the trips down there. The program is only 18 months old and is a process, with a goal to protect the residential areas.

Ms. Shull stated that she has heard comments from people that live on Riverside Drive where they have seen multiple accidents, one including where a car plowed into the front concrete block wall of her friend's home. She added that the same thing is happening on Beach Street due to the speed tables. Ms. Shull asked what the homeowners need to do. Mr. Spraker replied that if someone feels it is an enforcement problem that the Ormond Beach Police Department can be contacted to look at it. He continued that if they are on a city street then it would go to the Engineering Department.

Mr. Briley commented that as soon as drivers see the speed trailer they slow down. The County does speed studies with road tubes for 24-48 hours to determine when the most speeding is occurring. From there they let law enforcement know.

Ms. Tolland congratulated the Leisure Services Department for a nice ceremony recognizing Mr. Rick Boehm. She commended the City and Mr. Robert Carolin and Sonya who put the events together.

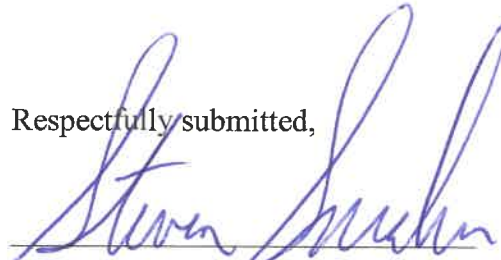
Mr. Scudiero inquired about the proposed Tymber Creek Apartments. Mr. Spraker replied that all site plans have to be resubmitted within 6 months and from there can ask for two 90-day extensions. There was one 90-day extension that was sought with no additional communication thereafter, therefore it expired because they did not respond to Site Plan Review Committee (SPRC) comments. Mr. Spraker replied that they are able to come back with the same application, pay new fees, and begin the process again.

Chairman Thomas asked Mr. Spraker what the City Commission did about the narrow streets and large truck situation at Highland Avenue and Dix Avenue in the townhouse project off of U.S. Highway 1 by the Dollar Store. Mr. Spraker expressed that the City has had conversations with the Dollar Store about their delivery trucks not using the residential streets. There has been no Commission action as that project has not had a neighborhood meeting and has had other issues, therefore they need to resubmit and come back to the Planning Board.

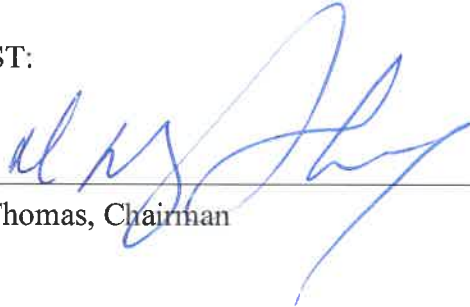
Chairman Thomas commended the City on the Mr. Rick Boehm dedication softball field. He commented on how nice the softball field is, urging those that have not seen it for themselves to go see.

XI. ADJOURNMENT

The meeting was adjourned at 8:34 p.m.

Respectfully submitted,

Steven Spraker, Planning Director

ATTEST:



Doug Thomas, Chairman

Minutes transcribed by Marcella Miller.