

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119,
Port Charlotte, Florida
Minutes of Regular Meeting
August 11, 2014 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:30 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Michael Gravesen

Stephen Vieira
Paul Bigness

ABSENT

Ken Chandler

ATTENDING

Joshua Moye, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

None.

ANNOUNCEMENTS

Chair Hess raised a question about whether item 4 on the agenda had been postponed or withdrawn; **Planning and Zoning Manager Shaun Cullinan** indicated it would be heard after it had gone before the Charlotte Harbor CRA, and some further discussion ensued.

Chair Hess then spoke to the issue of this month's agenda and also September's, mentioning the roundtables which had been held for stakeholders and the public, and which she had attended, and her praise for the staff and public input.

Assistant County Attorney Joshua Moye spoke briefly regarding his new role vis-à-vis today's agenda item, where previously he had been advising staff on the matter, and would now be advising the Board.

PETITIONS:

Earthmoving Code

Legislative

Countywide

An Ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Part III Land Development and Growth Management, Chapter 3-5 of the Code of Laws and Ordinances of Charlotte County, Florida, by deleting Article XXI Excavations

and Article XXIII Excavation and Earthmoving in their entirety, and creating new Article XXIII Earthmoving; providing for applicability and definitions; providing for nonconformities; providing for exemptions; providing for general location and operation standards; providing for standard earthmoving and construction permits; providing for specific earthmoving permits; providing for specific earthmoving permit application requirements; providing for conflict with other ordinances; providing for severability; and providing an effective date. Applicant: Charlotte County Board of County Commissioners.

Staff Presentation

Elizabeth Nocheck, Planner II, presented the amendments to the earthmoving code with a recommendation of Approval, based on the reasons stated in the staff report dated July 28, 2014; Ms. Nocheck gave a brief history of the matter under review, noting that five major changes made during the roundtables which were enumerated in executive summary style, including whether consensus had been reached on the matters, to assist the deliberations. These changes were:

1. Eliminating the Hearing Examiner for approval of permits in favor of having the Earthmoving Administrator fill this function;
2. Amending of hours of operation for excavation activities, tailoring the hours to different types of excavations and different locations (no consensus was reached);
3. Amending the requirement for retention of excavated material on site for agriculture ponds in favor of removal off-site upon payment of the roadway surface life reduction fees are paid;
4. Amending notification requirements to the County concerning exempt small farm ponds allowing in varying degrees based on size that farm ponds be exempt from application requirements, notification to the County and related fees (no consensus); and
5. Amending the commercial excavation permit renewal process; this change would allow for renewal without first amending the FLUM to Mineral Resource Extraction and also rezoning the property. This change will require a Comp Plan policy amendment which is anticipated, but the change would not take effect until after that Plan change (no consensus reached.)

Questions for Staff

Chair Hess asked that questions be posed in the same order as the items were discussed in the foregoing executive summary; her own question regarded the role of the hearing examiner, and the identity of the Administrator. **Joanne Vernon, County Engineer**, identified herself as the Excavation Administrator, and said that the hearing examiner would be an outside hire (e.g., Kevin Russell, who has filled this role in the past). **Chair Hess** then solicited comments from the Board about the other executive summary items; **Mr. Bigness** asked for items a, b and c in item 2 to be distinguished, as it was not immediately apparent what the differences were. **Ms. Vernon** addressed this question, noting that consensus was achieved in the roundtable as to hours of operation, but not with regard to the idea of AG having no "hours of operation" restriction. In that case, it was truck hauling that would be limited but not the other activities. **Mr. Bigness** questions A and B, asking if flexibility was the main difference; she agreed and also called

out the two-mile residence limitation (outside two miles to the nearest residence, no hours of operation limitations).

It was noted that there was a typo to be corrected (a reference to hearing examiner should be changed to the excavation administrator.) **Chair Hess** next called for public input.

Public Input

Mr. Andy Dodd, Chair, Agriculture and Natural Resources Committee (ANRAC), said the process had been really productive and very collaborative, noting that there were just a few non-consensus items for the Commissioners to decide. On behalf of the ANRAC membership, he recommends approval of the changes. **Chair Hess** thanked him and his membership for tackling the technical aspects which were beyond the scope of the Board's expertise.

Mr. Todd Helt of Weiler Eng., reiterated Mr. Dodd's comments on being pleased with the process.

Robert H. Berntsson, Esq., also offered his praise for the process, noting that what seemed like a great divide in the beginning was revealed to be consensus when the various interests sat down together to work things out.

Chair Hess had a question for Mr. Berntsson regarding nonconformities and the renewal of existing permits for commercial mines without their being forced to change their land use designation, and asked his opinion; **Mr. Berntsson** indicated he supports that change completely, due to difficulties that might be encountered by a firm seeking a renewal, despite the project having been approved at an earlier time.

Chair Hess noted there was disagreement on this point at the discussions, but that there is no one at the hearing today to speak to that disagreement; she asked Ms. Nocheck to comment on what those points of disagreement were. **Ms. Vernon** spoke to the issue, noting that these projects could be in areas where such a comp plan or zoning change would be prohibited.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Bigness** with a unanimous vote.

Discussion

Chair Hess then suggested a format for discussion. She asked if the document should designate the Administrator or whether there should be a paragraph describing the authority, which the old Code had but the new does not. **The Chair** noted that in the prior version, there were powers enumerated such as the Administrator's ability to halt a project, but that similar language is not included here, and she said she felt it would be appropriate. **Ms. Vernon** said they would take it under advisement.

Chair Hess then called for Board comments. **Mr. Bigness** stated that he had a question concerning a residence being built within two miles *after* a mine is in operation. **Chair**

Hess noted this is in Babcock and they have the final say on where buildings are constructed; **Ms. Vernon** also noted that the restriction applies just to "within two miles of a dwelling unit in existence at the time of permitting."

Mr. Vieira asked if Sundays exempt in all cases; Ms. Vernon answered that the exceptions were for operations outside the two-mile limit of a residence, or if they are agriculture, then truck hauling is the only thing limited.

Chair Hess noted that the traffic hours of operation were not discussed, so it seems people are in agreement with this language.

With regard to points 3 and 4 (retaining all material on site for AG ponds), **Chair Hess** asked if there were any questions on this one? None were forthcoming. She inquired about the required fee; **Ms. Vernon** responded that the fee was set for three tiers, and described those and what rules apply to each.

The final point concerned the nonconformities, and **Chair Hess** reminded the group that after adoption, there will be a requirement to amend the FLUM to delete the indicated language. She said she has no issue with this section, nor did anyone else raise any issues.

Recommendation

Mr. Gravesen moved that revisions to Chapter 3-5, Articles 21 and 23 be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated July 28, 2014, along with the evidence presented at today's meeting, with the five areas of concern noted in the executive summary are to be included, second by **Mr. Vieira** and carried by a unanimous vote.

Landscaping and Buffers Code

Legislative

Countywide

An ordinance of the Charlotte County Board of County Commissioners, Florida, amending Part III Land Development and Growth Management, Chapter 3-5, Article XVIII Landscaping and Buffers, of the Code of Laws and Ordinances of Charlotte County, Florida, by revising Section 3-5-397 Planting Standards; providing for conflict with other ordinances; providing for severability; and providing an effective date. Applicant: Charlotte County Board of County Commissioners.

Staff Presentation

Elizabeth Nocheck, Planner II, presented the findings and analysis of the petition with a recommendation of Approval, based on the reasons stated in the staff report dated July 28, 2014, giving a short statement of the change proposed which is to remove the terms "clearing, grading" from the Planting Standards language.

Questions for Staff

None.

Public Input

None.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Bigness** with a unanimous vote.

Discussion

Chair Hess determined that the Board was in agreement in supporting the change.

Recommendation

Mr. Gravesen moved that the proposed language change be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated July 28, 2014, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

Chair Hess then commented on the "oddity" of having a Special Exception matter come before the Board, and discussed why that type of hearing was originally proposed – to make it possible to place conditions on this kind of zoning change, to avoid PDs on a small business; she asked Mr. Cullinan to comment. **Mr. Cullinan** commented on how this expanded use special exception seems to have predated the Comp Plan and Future Land Use; now that these have come into play, having this other option doesn't really work as it used to. It has been discussed to eliminate it as a process, but that is as yet undecided. Further discussion ensued between the Chair and Mr. Cullinan, with clarifications regarding whether there is any other way to extend a legal existing use back into a rear lot without a rezoning (there's not.)

There being no further business to come before the Board, the meeting was adjourned at 2:03 PM.