

**FORT LAUDERDALE CITY COMMISSION CONFERENCE MEETING
JULY 10, 2007**

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COMMISSION CONFERENCE MEETING 1:30 P.M. JULY 10, 2007

Present: Mayor Naugle
Commissioners Hutchinson, Rodstrom, and Teel and Vice Mayor Moore

Absent: None.

Also Present: City Manager – George Gretsas
City Auditor - John Herbst
City Clerk - Jonda K. Joseph
City Attorney - Harry A. Stewart
Sergeant At Arms – Sgt. Mitchell Van Sant

Mayor Naugle welcomed former Commissioner Tim Smith to the meeting.

I-A – Changes to Unified Land Development Regulations Recommended by Ad Hoc Code Reform Committee of Council of Fort Lauderdale Civic Associations

Eugenia Ellis, Council of Fort Lauderdale Civic Associations, said that over the last year there have been discussions about the ever-changing character of neighborhoods and that the Unified Land Development Regulations are outdated. There are ways to integrate new construction into existing neighborhoods with more style, architecture and respect to the existing tree canopy. A well attended roundtable discussion was held in November. An ad hoc committee was formed and their recommendations are presented today. They feel if much time goes by, neighborhood character will be gone.

Ms. Ellis thanked Richard Mancuso who chaired the ad hoc committee, Gus Carbonell who guided them through technical issues, Courtney Crush who assisted with legal issues, Jason Crush who put together the pictorial, and Pam Brown who assisted with the documentation.

Ms. Ellis asked for the Commission to act on the short-term six month recommendations and how other recommendations can be integrated over the next twelve months. The Committee is asking the Commission to make this a priority.

Gus Carbonell said the Committee would like the Commission to address the low and medium density residential neighborhoods which have not had a major code revision for many years. They addressed building typology and placement on the site, quality of life, neighborhood character, building and permitting process and growth policy. Concerns about single family are: setbacks and offsets; garages and pervious area – entire front yards are becoming parking lots, too many garage doors facing streets, wiping out of swales and landscaping; building mass; architectural features could be outside the building envelop to diminish the mass; landscaping – larger buildings need larger and more mature trees. By building the maximum F.A.R., the side walls are uninteresting. New homes are crowding out existing homes. On a typical 50'x125' lot, over 9,000 square feet can be built with only scrutiny as to setbacks. Specific requirements should be placed in the code. He showed examples of better design. A copy of these slides is attached to these minutes.

Mr. Carbonell reviewed single family proposed zoning changes within the next six months. A copy of this slide is attached to these minutes. A committee vote was taken on each recommendation.

Mr. Carbonell noted multi-family concerns: garages and driveways dominate front façade; mass; parking – including designated guest only parking, encouraging onstreet guest parking; trash management; architectural features; setbacks; landscaping. He showed examples of better design. A copy of these slides is attached to these minutes.

Mr. Carbonell reviewed multi-family proposed zoning changes within the next six months. A copy of these slides is attached to these minutes.

Mr. Carbonell indicated that the Committee encourages the City retain an outside consultant to work with staff. He noted recommended changes within the next twelve months. A copy of these slides is attached to these minutes.

Ms. Ellis concluded by asking the City to acknowledge what exists today and plan for the future, honor the past, enhance the present, preserve the natural canopy and green space, embrace the future and create a vision. She recognized the Committee members.

Ken Strand, resident of Nurmi Isles, objected to the 35 foot height limit. Mayor Naugle said this height limit has always been the regulation, but not many built to it. The answer might be to have only a small portion allowable at 35 feet height. The floor area ratio should prevent the entire structure from being 35 feet.

Tim Smith, Middle River Terrace, urged the Commission to take action on this today. Citizens from all sides of the development spectrum got together on this. Hundreds of citizens sat together for many hours. He emphasized the recommendations for the first six months.

Commissioner Hutchinson said a lot of hard work has been put into this. She asked how this could be started now. The City Attorney said the Commission would need to identify what it is they want to do; a lot of the items have to do with making things look pretty. They will need standards and objective criteria. Zoning in progress would not apply to someone who applies for a building permit before the regulations are adopted. It is likely a good number of developers would apply for permits and get in under the wire. The first thing to do is either direct staff or hire a consultant. In particular, there are standards for neighborhood compatibility and although they are not the most objective, they have survived several challenges. One problem would be having a different standard for each neighborhood. The City needs to first establish a citywide standards and then set overlay districts for unique characteristics.

Commissioner Hutchinson felt the biggest complaint is how neighborhoods are changing. As sewers are being installed, things are being torn down. Something needs to be done while the time is right. She encouraged the Commission to move on this. It is not recreating the wheel. The City needs guidelines for multi-family and single family. The public has spoken.

Commissioner Teel felt if the goal is to increase setbacks, green space and impervious space, addressing the percentage of lot coverage would help with the size of the building

and those items. The goal with landscaping is to get larger trees. She felt staging over six months would allow the City to catch at least some of the projects coming in. Some of her district neighborhoods have mixed zoning. People purchased multi-family lots and built single-family homes on those lots. Today builders are buying those homes and building townhouses. She is a believer in having an average in setbacks to change the character and appearance of the side of buildings. She urged the Commission to move forward on this.

Mayor Naugle suggested the Commission direct staff to provide a list of what items could be quickly adopted. They would have to go through the Planning and Zoning Board. The City Attorney could work on a way to establish zoning in progress. In 1996 multi-family zoning was changed city-wide. It increased density in multi-family areas by 50%. There was no give back on lot coverage. He fought the amendments. Value was added to real estate, but they did a lot of damage to neighborhoods. Some things could be done by staff, but the more complex items will require outside help and he did not know how much could be done considering the pending budget situation and the ballot question in January.

Commissioner Rodstrom appreciated the community support. Half of the problem is because the ULDR does not have a sunset, a review criteria after a certain number of years.

Vice Mayor Moore recalled other times when the community got together and made a statement of what they wanted. As to the situation mentioned by Commissioner Teel, he suggested rezoning the multi-family lots to single family. He did not agree with expediting the decision because it prevents a full reform. With the August break approaching, he suggested staff review the proposals and make recommendations that would hold up to a zoning in progress. They need to evaluate the impact. As to sunseting of the ULDR, it can sunset at any meeting it is placed on the agenda. A fluid process is needed. He hoped it would be implemented at a September meeting.

Marc LaFerrier, Planning and Zoning Director, was impressed with the presentation. He agreed the August break would provide staff the opportunity to review it. They could meet with the group in the interim and back to the Commission in September.

Commissioner Hutchinson wanted the first meeting in September.

The City Attorney said staff needs the opportunity to react to the recommendations. It should be brought back on a conference agenda. The Commission can then give direction of what should be done. Then decide on public workshops or however they would like to get stakeholders involved. The Planning and Zoning Board would be involved once the Commission decides upon the regulations.

Commissioner Teel said that the Tree Subcommittee of the Utilities Advisory Committee has recommendations in the minutes as to tree canopy.

Mayor Naugle wanted to include a way to clarify the 35 foot height limitation in single-family.

Action: There was consensus to refer the proposal to the Planning and Zoning department. The matter will be submitted to the Commission at a September

conference. Once the Commission decides what amendments should be made, those amendments would be submitted to the Planning and Zoning Board. Commissioner Teel asked that the Tree Subcommittee should be consulted concerning tree canopy, etc. Mayor Naugle asked staff to provide the Commission with those items that can be quickly addressed. Commissioner Hutchinson wanted it to be scheduled on the September 5, 2007 conference.

I-B – Proposed Ordinance - Newsracks

Cate McCaffrey, Business Enterprises Director, showed various photographs of existing newsracks. The proposal is made in the interest of public safety, aesthetics and effective administration and enforcement of the ordinances. There is no uniformity as to their size and shape. With high winds, they are unsafe. The current ordinance on newsracks would remain in tact as to placement of newsracks. Publishing entities do not understand the ordinance as to placement. A certificate of compliance is proposed where one would go through an application process. Staff is proposing uniformity with a modular style of newsrack where additional units could be added. There would be uniformity in shape, color and size. The ordinance would provide guidelines regarding the location and securing to the ground.

Mayor Naugle noted that newsracks are crowding pedestrian areas. He wanted to ensure ADA requirements are being met and there is enough space to walk.

Mayor Naugle asked if the other publications for cars and real estate, for example, are treated the same as newspapers. The City Attorney indicated they would be subject to the same ordinance. It is commercial speech.

Ms. McCaffrey said the biggest change is the process to obtain a certificate of compliance. There are also changes as to insurance coverage and a decrease in the number of days the City would be required to restore an abandoned newsrack it has to take.

In response to Commissioner Rodstrom, Ms. McCaffrey indicated that the newspaper companies would pay for the new newsracks.

Commissioner Rodstrom asked if there has been discussions with the newspaper companies. The City Manager said if the Commission agrees with this proposal, then discussions would begin with the stakeholders prior to adoption of the ordinance.

Commissioner Hutchinson asked how to keep them off the sidewalks. Ms. McCaffrey said there is no change in that respect. The City Attorney said they must allow for safe and adequate pedestrian travel and not interfere with the sidewalks meeting ADA compliance.

Vice Mayor Moore did not understand why something could not be done about a private business operating in a public right-of-way.

Commissioner Teel asked how the number of units in one area would be regulated. Ms. McCaffrey said staff would have to make sure no one's rights to place the newsrack is violated. This question remains unanswered. Commissioner Teel asked who would own the boxes. Ms. McCaffrey said if one company buys more than one unit, they could

place whatever they want in those units. The City would require them to have proper identification on the boxes, keep them free of graffiti and properly maintained. A section of the ordinance speaks to abandonment. Commissioner Teel thought it would be problematic if one box is a year old and the one next to it is five years old. Ms. McCaffrey referred to the design, shape and color of the racks and the ordinance requires upkeep, therefore the age differential should not make a difference. Commissioner Teel questioned whether that would be the case. She felt newsracks along the beach should be painted every year. She felt it will be difficult to maintain them and keep them free of trash.

In response to Vice Mayor Moore, the City Attorney said that sidewalks are public forum. The courts have held that they cannot be regulated or speech be regulated. The City could regulate reasonable time, place and manner. In response to Vice Mayor Moore, the City Attorney said one could hold a sign and stand still on a sidewalk as long as you are not blocking traffic.

Commissioner Teel asked if the City could limit the number of newsracks. The City Attorney said they could be limited only if they are interfering with the public's right to travel. Mayor Naugle suggested that the City limit the number of boxes and see what would happen in a challenge.

Vice Mayor Moore suggested there should be a request for a type of material for certain locations such as the beach where weather plays a factor. The City Manager said models could be shown to the Commission for their consideration. The City Attorney said the City could set criteria for what they should look like, but a model cannot be designated.

Commissioner Teel commented that black and uniform newsracks were established when the Galt made improvements.

In response to Commissioner Hutchinson, the City Attorney said the City could set criteria as to size, color and type of material, but not say from whom they must be purchased. Companies could be provided with specifications.

Mayor Naugle said it is important that they be bolted to the ground.

Ms. McCaffrey said the amended ordinance include specifications, with a design in mind, but not to limit to a certain brand.

Dana McElroy, representing the Sun Sentinel, said they received the proposed ordinance yesterday afternoon. They have not been able to sufficiently review it. Over the years they have worked successfully with several cities on this. They do not have issues with modular newsracks. Free publications operate differently. They have several concerns with the proposed ordinance both from the legal and practical aspects. They would like to have the opportunity to work with staff to create an ordinance acceptable to the Commission and the Sun Sentinel.

Mayor Naugle asked why the Sun Sentinel has failed to maintain their newsracks in the beach area. Fernando Alonso, representing the Sun Sentinel, explained when several newspaper companies are using the same modular unit and it is time to paint it, everyone needs to contribute. Therefore Sun Sentinel is now installing their own units.

Ms. McElroy said if notified regarding maintenance of a unit, it would be addressed. The City Manager questioned why the Sun Sentinel should have to be notified because they are there every day filling them with newspapers. Ms. McElroy said that the maintenance issues are not the reason for their presence today. If the City wants the Sun Sentinel to get involved, they should let them know. The Sun Sentinel management wants to be a good citizen.

Vice Mayor Moore asked if a deposit could be required for every location and then if a newsrack is not maintained, the deposit would be forfeited and that location not allowed for a twelve month period. The City Attorney said that consideration could be given to that idea. There is a process in the ordinance where they are notified and a certain amount of time is allowed for maintenance and repairs.

Vice Mayor Moore said at this time there is nothing to require their respect and attention to standards desired by the City. There needs to be a level playing field for anyone wanting to place a newsrack. The City has to gain some control. He asked that staff look at what has been done in Plantation.

Commissioner Teel asked if the Sun Sentinel has a policy for maintenance of their newsracks on a regular basis. Mr. Alonso replied no.

Commissioner Teel asked once the multi-unit modular is placed, what happens with the extra spaces. Mr. Alonso said he has dealt with 32 municipalities in South Florida. He believed that once the ordinance is implemented, nine out of ten publications would disappear. The units are expensive, about \$400 to \$500 each. They place the Sun-Sentinel and the New York Times in their units.

In response to Mayor Naugle, Mr. Alonso indicated that City Link is owned by the Sun Sentinel.

Dennis Ulmer, Fort Lauderdale resident, asked if the newsracks shown in the photograph violate the current ordinance. Debra Hernandez, Code Enforcement Division, indicated they are in violation and believed they have only recently been cited. Some have been posted as abandoned and the publishing entities have been notified by certified mail of the violations for the others shown in the photograph. They will be removed.

Genia Ellis, Fort Lauderdale resident, said that along 17th Street, attention is paid how close a newsrack is to the street, but not a driveway. Many are blocking the view of traffic. She hoped staff would consider the distance from curb cuts. Ms. Hernandez indicated that is addressed in the current ordinance. Ms. Ellis felt if the unit exceeds 30 inches, she did not think the current requirement would be adequate.

Ken Strand, resident of Nurmi Isles, said the street vendor ordinance is not being enforced. He questioned if the newspapers would obey any ordinance.

The City Manager noted what has been done to regulate street vendors. The larger question for the newspaper companies is why are they allowing such behavior to exist since these individuals have all kinds of issues. They are being exploited. It is an abusive relationship and a bad neighbor practice. Ms. Elroy said this is not an agenda item for today. She is not prepared to address this today. The Sun-Sentinel is present in

good faith to work with the City regarding the proposed ordinance. She believed remarks regarding exploitation are inappropriate for today's discussion. They would be happy to discuss those matters. The Sun Sentinel tries to be a good neighbor and she is surprised at the hostility being shown. The City Manager said if the tone appears sharp, it is because the Police Department reports that roughly 80% of the street vendors are mentally ill or have substance abuse problems. They are on roadways with cars traveling up to 60 MPH. Human life is at stake. Ms. McElroy said they try to employ people who might otherwise be unemployable. This is not the issue today.

Ms. McElroy said if the City has issues and concerns about the hawkers, there should be discussion at another time. There is a new publisher, who is reasonable, responsive and very involved in the community.

Mayor Naugle thought the term, hawker, is disparaging.

Vice Mayor Moore asked if Sun Sentinel would find it appropriate to require a deposit for every location. Ms. McElroy thought it would be objectionable, but she would be willing to consider all of the items. For example, they do not have a problem with the insurance requirement. Dimensions are not in line with present newsracks. She recalled another city trying to implement a deposit. She would need to verify the Sun Sentinel's response at the time.

Vice Mayor Moore said if it is legal to require a deposit, he strongly recommended it. He believed it would assist major distributors of periodicals. If the give-aways are not willing to post a deposit, they would not meet the ordinance and that may solve a problem for the major distributors as well. He suggested that there also be a deposit for individuals who are distributing newspapers on the corners. Everyone pays for use of the easement and he believed there should be some sort of assessment for use of the sidewalk.

The City Manager indicated since the City's street vendor action plan was implemented in October of 2006, 700 warnings, 300 citations and 75 arrests have been made. A lot of burden is on the organizations that permit this. If they chose, they could solve the problem overnight.

In response to Vice Mayor Moore's idea of requiring a deposit, Mayor Naugle said the newspaper has no system of checking the condition of the newsracks; they rely on cities to do that work for them. Clearly the evidence presented today justifies an expense.

The City Attorney said a deposit can be explored, but he did not want to give a lot of hope in regard to the street vendors. It would become a license and the City does not want them there in the first place.

Mayor Naugle and Commissioner Hutchinson stated they are interested in looking at a deposit for the newsrack.

Commissioner Teel felt the Sun Sentinel needs to pay more attention to the maintenance of their newsracks. Mr. Alonso said the Sun-Sentinel has a continuous maintenance program through a contractor.

Ms. McElroy said there have been cases where fees were decided to be unconstitutional. She mentioned the City of Hallandale Beach.

Action: There was consensus for staff to meet with the publication companies and return with their input at a conference meeting. At Vice Mayor Moore's suggestion, there was consensus to look into the feasibility of posting a deposit for each newsrack. Vice Mayor Moore asked staff look at how the City of Plantation addresses newsracks.

I-C – City Newsletter

Vice Mayor Moore felt if the City is going to publish a newsletter, it should be the Commission's newsletter. The Mayor has a position in every newsletter and perhaps it should be a Commission statement.

Mayor Naugle said he does not respond to requests from neighborhood newsletters because he knows that commissioners do. He suggests a citywide topic, such as hurricanes, and he adds comments to articles written by the Public Information Office. If that is the case Vice Mayor Moore thought it should state that it is a Commission statement.

Commissioner Teel felt commissioners write enough articles for homeowner associations. She suggested a picture of the entire Commission could be included with the Mayor's article.

In response to Commissioner Rodstrom and Vice Mayor Hutchinson, the City Manager offered to provide the Commission the cost to publish the newsletter. Commissioner Rodstrom thought this may be something that could be dropped, if even for a year or two.

Vice Mayor Moore felt it is important to have a City newsletter. If something needs to be cut, it should be the radio station. He asked for the cost of the radio station to be provided to the Commission also.

In response to Mayor Naugle question about each commissioner providing an article in the newsletter, there was no interest.

Elizabeth Hayes, Fort Lauderdale resident, said the newsletter is not substantive and most of the information is redundant. There is information on the water bills. She felt the cost should be considered.

Commissioner Hutchinson was not impressed with the newsletter lately. The information is redundant. Mayor Naugle said that some areas do not publish neighborhood newsletters or they may only be once a year.

Action: There was consensus to include the Commission's group photograph with the Mayor's message. Commissioners Hutchinson and Rodstrom asked the annual cost. Vice Mayor Moore asked the cost for the radio station.

I-D – Proposed Lien Settlements – Special Magistrate and Code Enforcement Board Cases

No discussion.

II-A – May 2007 Monthly Financial Report

No discussion.

III-B – Advisory Board/Committee Vacancies

Audit Advisory Board

Action: Deferred.

Aviation Advisory Board

Action: Deferred.

Beach Redevelopment Advisory Board

Action: Deferred.

Cemeteries Board of Trustees

Action: Deferred.

Community Appearance Advisory Board

Action: Deferred.

Community Services Advisory Board

Action: Deferred.

Education Advisory Board

Action: Deferred.

Fire-Rescue Facilities Bond Issue Blue Ribbon Committee

Action: Deferred.

Historic Preservation Advisory Board

Action: Deferred.

Insurance Advisory Board

Action: Deferred

Nuisance Abatement Advisory Board

Action: Deferred.

Parks, Recreation and Beaches Advisory Board

Action: Deferred.

Utility Advisory Committee

Action: Deferred.

IV – Commission Reports

Ordinance – Prevent Members of City Commission from Soliciting Donations for Third Parties from Persons or Entities that do Business with the City

Commissioner Hutchinson referred to her letter to the Attorney General regarding the ordinance in connection with solicitation, and indicated the Attorney General will not respond to her as an individual; it is requested the letter come from the Commission. She asking that the City Attorney be authorized to direct the letter from the Commission.

The City Attorney said he is prepared to do so.

Action: There was consensus for the City Attorney to direct a letter to the Attorney General on behalf of the Commission concerning this subject.

Property Tax Reform

Commissioner Hutchinson said the League of Cities' Board of Directors met yesterday concerning the special election and the ballot wording. The Mayor of Weston, in his personal capacity, is entering into a lawsuit. The League wants to vote on whether to join this lawsuit. They are claiming that the ballot wording is not constitutionally clear. The second issue is the special election. Since more than one amendment is involved, there is a requirement that it go to a general election. She felt this Commission needs to provide direction to her and Vice Mayor Moore who sit on the Board of Directors. She asked this be scheduled for the July 17, 2007 conference. She provided an analysis, dated June 22, 2007, from Jamie A. Cole of Weiss Serota Helfman Pastoriza Cole & Boniske.

Mayor Naugle suggested a resolution be prepared for the July 17 meeting.

Vice Mayor Moore felt when the League of Cities takes a position on an issue, they are safeguarding the cities individually. The questions are whether the language is clear; whether it is legal for this to be on the ballot due to the number of measures; and whether the Legislature has the right to tell cities who have a ten mil law, that they must reduce it. It would be better for the League of Cities to raise these issues than individual cities who might be thought of opposing property tax reduction. If the Commission is going to consider this in a resolution, each issue should be considered separately.

Commissioner Hutchinson did not feel anyone is arguing true property tax reform, but the Legislature is putting something before the voters that even they do not understand.

Commissioner Teel said at the Council of Civic Associations, Representative Jack Seiler discussed this matter. He said he voted for the special election because he felt it would fail at the ballot box and then it would create a momentum for the committee to work

hard to get the proper ballot language for the November election. Vice Mayor Moore said the irony is the cost for an election.

Action: At Commissioner Hutchinson's suggestion, there was consensus for the City Attorney to present a resolution concerning property tax reform enacted by the Florida Legislature for consideration on July 17, 2007. (Also see Broward League of Cities' action)

AT&T and BellSouth Utility Cabinets

Commissioner Teel noted today's newspapers announced that AT&T will offer cable. She felt there is even more need to act quickly and efficiently. Mayor Naugle wanted to enact an ordinance requiring underground installation for these cabinets. Commissioner Hutchinson agreed. Commissioner Teel indicated the Manager's Office is determining how many cabinets already installed have permits. She distributed copies of a newspaper article regarding AT&T. Vice Mayor Moore wanted the cabinets to be free of publications and for proper maintenance. Mayor Naugle felt there should be a way to cite them for graffiti.

Commissioner Teel pointed out that other companies could install cabinets as well. Vice Mayor Moore supported bundling them and requiring they be underground.

Expressions of Sympathy; Carl Mayhue and Jack Lamarr

Mayor Naugle said that Carl Mayhue and Jack Lamarr had passed away. He asked the City Clerk to prepare expressions of sympathy.

V – Manager's Report

None.

Education Advisory Board

Elizabeth Hays, member of the Education Advisory Board, said that the Education Advisory Board has membership vacancies. They are having difficulty obtaining a quorum.

There being no further business to come before the Commission, the meeting was adjourned at approximately 3:19 p.m.