

**SPECIAL PLANNING AND ZONING BOARD MEETING
100 NORTH ANDREWS AVENUE, 1ST FLOOR CHAMBERS
FORT LAUDERDALE, FLORIDA
THURSDAY, MAY 27, 2010 – 6:30 P.M.**

Cumulative

Board Members	Attendance	June 2009-May 2010	
		Present	Absent
Tom Welch, Chair	A	8	3
Patrick McTigue, Vice Chair	P	11	0
Maria Freeman	P	9	2
Rochelle Golub	P	9	2
Catherine Maus	P	9	2
Mike Moskowitz	A	9	2
Michelle Tuggle	P	10	1
Peter Witschen	P	10	1

Staff

Greg Brewton, Director of Planning and Zoning
 Sharon Miller, Assistant City Attorney
 Terry Burgess, Assistant Director of Planning and Zoning
 Mohammed Malik, Code Inspector
 Cheryl Felder, Service Clerk
 Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Mr. Witschen, seconded by Ms. Freeman, to request the City Commission appoint a member to the Planning and Zoning Board to be available and ready for the June 16, 2010 Planning and Zoning Board meeting. By roll call vote, the Motion carried 5-1 (Ms. Golub dissenting).

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	<u>Case Number</u>	<u>Applicant</u>
1.	4-ZPUD-08** *	First Presbyterian Church of Fort Lauderdale
2.	Communications to the City Commission	
3.	For the Good of the City	

Special Notes:

Local Planning Agency (LPA) items (*) – In these cases, the Planning and Zoning Board will act as the Local Planning Agency (LPA). Recommendation of approval will include a finding of consistency with the City’s Comprehensive Plan and the criteria for rezoning (in the case of rezoning requests).

Quasi-Judicial items ()** – Board members disclose any communication or site visit they have had pursuant to Section 47-1.13 of the ULDR. All persons speaking on quasi-judicial matters will be sworn in and will be subject to cross-examination.

Call to Order

Vice Chair McTigue called the meeting to order at 6:41 p.m. and all stood for the Pledge of Allegiance. He introduced the Board members, and Planning and Zoning Director Brewton introduced Staff. Vice Chair McTigue also recognized Mayor Jack Seiler, who was present.

1. First Presbyterian Church of Fort Lauderdale Randall Robinson 4ZPUD08

Request: ** * Rezone from Boulevard Business District (B1), Residential Single Family/Low Medium Density District (RS-8), Limited Residential Office District (ROA) and Community Facility-House of Worship District (CF-HS) to Planned Unit Development District (PUD) with Site Plan Review

Legal Description: All of Lots 6,7,8,9,10,11,12,13,14,15,16,17,18,19 and 20, Block 34, less the north 10 feet of said Lot 7, Block 34; all of lots 1,2,3,4,5,6,7 and 8, Block 38, together with that certain 10 foot alley in Block 38, COLEE HAMMOCK, according to the Plat thereof as recorded in P.B. 1, P. 17 of the Public Records of Broward County, Florida

TOGETHER WITH:

All of Blocks 24 and 35, RESUBDIVISION OF BLOCKS 24 & 35 OF COLEE HAMMOCK, according to the Plat thereof as recorded in P.B. 56, P. 48 of the Public Records of Broward County, Florida

Address: 1224 East Las Olas Boulevard
General Location South side of Las Olas Boulevard between Tarpon Drive and 15 Avenue
District: 4

Director Brewton recalled that at the regular Board meeting on May 19, 2010, the Board had voted to hold a special meeting to discuss this Item. However, a quorum was not present, and he advised that the Board could schedule another special meeting or hear the Item on the regular Agenda of the June 16, 2010 meeting. He noted that placing the Item on the regular meeting Agenda would be Staff's recommendation.

Ms. Golub asked why a quorum was not considered present. Director Brewton noted that at least two Board members are unable to hear this Item due to voting conflict in addition to the absence of two Board members.

Ms. Golub stated that the May 27, 2010 date was selected because all five members of the Board with no conflict on the Item had said they could be present, despite the pending holiday weekend. She declared it is an inconvenience to the public and the parties involved, as well as an insult to "everyone sitting here," and did not feel it was acceptable behavior for individuals who have taken on the responsibility of serving on the Board.

She added that she also felt manipulated that of the eight sitting Board members, some have recused themselves from hearing the issue although they had "heard and voted this identical issue" when it was previously heard by the Board in 2007. She asked Director Brewton if there is a particular reason for this inconsistency, such as a change "in the ethics or... in the rules."

Director Brewton explained that the Planning and Zoning Staff had no input into whether or not a Board member recuses him- or herself from the issue. He pointed out that Staff had contacted "all of the Board members" to learn who would be available for the special meeting and, prior to the May 19, 2010 meeting, had spoken specifically to the five Board members who would be participating in the process. Staff had been "assured that [the members] would be available for the meeting."

With regard to whether or not an individual member had or had not recused him- or herself from hearing the Item, Director Brewton stated he could not respond to specifically why any individual may have changed his or her position on hearing the Item at present as opposed to hearing it in 2007. He asked Attorney Miller if she could provide further insight.

Ms. Golub asserted that on an eight-member Board, five members were necessary for a quorum, and "everyone else who could sit" to constitute a quorum has been recused from hearing the issue. She asked why, if there were "no changed facts" regarding the individuals' land ownership or other relation to the Item from 2007 to 2010, they must now recuse themselves when they had not done so before.

Attorney Miller advised that each Board member decides individually whether or not s/he must be recused from an issue. This decision is never made by the City Attorney's Office. She explained that when she is contacted by a Board member, they review the voting conflict statute together, along with the statute requiring Board members to vote in absence of any conflict. The decision is made by

individual members, who file a voting conflict of interest, which is attached to the minutes of a meeting in accordance with State statutes.

Mr. Witschen stated he is also frustrated by the Board's inability to hear the Item at tonight's special meeting. He made a **motion** that the Item be continued until the next scheduled Board meeting on June 16, 2010.

Ms. Golub recalled that Mr. Moskowitz had provided the Board with two prospective special meeting dates, and asked why they would not "take the second date now," as the room had been reserved for that date.

Ms. Freeman commented that she did not wish to see another special meeting, and noted that all Board members are aware of the regularly scheduled meeting dates. She asked if Mr. Moskowitz had declared a voting conflict. Director Brewton replied no such issue had been expressed to his knowledge.

Ms. Freeman continued that another issue is the absence of a ninth Board member due to a previous member's resignation. She stated that the City Commission should appoint a new member to the Board.

Director Brewton recalled that the Staff had recommended the date of June 16, 2010, as they are "never sure" that sufficient notice is given to the public to allow them to participate in special meetings. He pointed out that Staff had received feedback that there were conflicts with tonight's special meeting date, particularly due to the holiday weekend.

He continued that "the normal process" with regard to requesting that a new member be seated would be to send a communication to the City Commission.

Attorney Miller advised that a majority is required to rule on a quasi-judicial Item: if the vote is split between an even number of Board members, approval or denial is not issued.

Ms. Freeman **seconded** Mr. Witschen's **motion**.

Ms. Maus spoke to the issue of recusal at the present hearing, explaining that she had not declared a voting conflict in 2007 because the site plan was different at that time and was further away from property owned by members of her family. At this time, however, the site plan is one block closer to this property. In addition, she had been contacted by Ms. Miller because "church members had suggested" that she had a conflict. She felt the best course of action was to declare a conflict, as there could be "a possible appearance of an impropriety."

Ms. Tuggle also stated there should not be another special meeting, and asked if alternate dates had been discussed with Mr. Moskowitz. Director Brewton replied he had personally contacted Mr. Moskowitz to confirm his presence at tonight's meeting, and Mr. Moskowitz had stated he had had to work "at a moment's notice." He had also advised this could happen "on any date," including that of a regularly scheduled meeting.

In a roll call vote, the **motion** carried 5-1 (Ms. Golub dissenting).

2. Communications to the City Commission

Vice Chair McTigue asked if the Board wished to communicate to the City Commission their wish to expedite the appointment of a ninth member to the Board "for the meeting for [June] 16th."

Motion made by Mr. Witschen that the Board communicate to the City Commission the urgency of making this appointment prior to the 16th.

Ms. Golub noted that there is "no guarantee" that a new Board member would not also have a voting conflict. Attorney Miller advised this could be investigated prior to a new member's appointment.

Ms. Maus asked if a Board member would be allowed to vote on an Item if they had not participated in its public hearing phase. Attorney Miller responded that if they became knowledgeable about the Item, it would become a question of due process. She noted that there is video available from the public hearing.

Ms. Freeman **seconded** the **motion**.

In a roll call vote, the **motion** carried 5-1 (Ms. Golub dissenting).

3. For the Good of the City

Nothing at this time.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:03 p.m.

Chairman

Prototype