

**PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
WEDNESDAY, MAY 18, 2011 – 6:30 P.M.**

Cumulative

Board Members	Attendance	June 2010-May 2011	
		Present	Absent
Patrick McTigue, Chair	P	11	1
Leo Hansen, Vice Chair	A	10	1
Michael Ferber	P	4	0
Maria Freeman	P	9	3
Catherine Maus	P	11	1
Michelle Tuggle	P	12	0
Tom Welch	A	10	2
Peter Witschen	P	10	2

Staff

Greg Brewton, Director of Planning and Zoning
 Sharon Miller, Assistant City Attorney
 Anthony Fajardo, Planner III
 Terry Burgess, Chief Zoning Administrator
 Mohammed Malik, Chief Zoning Examiner
 Al Battle, CRA Director
 Detective Paul Maniates, Fort Lauderdale Police Department
 Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

Index

	<u>Case Number</u>	<u>Applicant</u>
1.	1-T-11*	Pain Clinic Ordinance
2.	2-T-11*	Moratorium for Liquor Stores and Convenience Stores in the NWPCRA
3.	Communication to City Commission	
4.	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.

Chair Welch called the meeting to order at 6:33 p.m. and all stood for the Pledge of Allegiance. He introduced the Board members, and Director Brewton introduced the City Staff members. Attorney Miller advised there were no quasi-judicial items before the Board tonight.

Chair Welch stated that individuals addressing the meeting may speak for three minutes, and individuals representing groups may speak for five minutes.

Ms. Tuggle requested that attendance be checked on previous minutes.

Motion made by Ms. Tuggle, seconded by Ms. Maus, to approve the minutes of the April 19, 2011 minutes. In a voice vote, the **motion** passed unanimously.

1. **Pain Clinic Ordinance**

**Anthony
Fajardo**

Greg 1T11

Request: *	Recommend Adoption of Draft Ordinance Addressing Pain Management Clinics
Project Description:	An ordinance defining pain management clinics and criteria for use within the City of Fort Lauderdale
Address:	N/A
General Location:	City Wide
District:	All

Anthony Fajardo, Planner, explained that on March 2, 2010, the City Commission approved a moratorium on the issuance of business tax receipts for pain management clinics. During this time, City Staff has explored methods by which to address pain clinics through a proposed ordinance revision. On April 5, 2011, the City Commission agreed with a proposed ordinance presented by Staff, and made the following three recommendations:

- Operating hours on Sundays would be prohibited;
- Separation from schools, churches, parks, libraries, and day care centers would be increased from 500 ft. to 1000 ft.;
- The proposed square footage of a pain management clinic's waiting room would be increased from 150 gross sq. ft.

Mr. Fajardo said the Board is responsible for looking only at those issues related to Planning and Zoning for the proposed ordinance.

He advised that he had distributed packets given to him by Dr. William Goetz, and noted that Staff has not reviewed the information included in these packets.

Ms. Maus said she had noted some minor grammatical changes to the ordinance, which she would give Mr. Fajardo after the meeting.

There being no questions from the Board at this time, Chair McTigue opened the public hearing.

Dr. William Goetz stated he was not speaking in defense of “pill mills” and was supportive of an ordinance addressing them; however, if such an ordinance was enacted, he would like to see it done in a way that also limits detrimental effects to those patients with legitimate pain disorders. He read the definition of a pain management clinic as stated in the proposed ordinance, and advised that this be amended so it would not include all physicians practicing any type of pain management or advertising.

Dr. Goetz continued that the proposed ordinance states a facility’s medical director must be “Board-certified in pain management.” He pointed out that roughly 200 people in Florida are appropriately certified, while there are “several million” people in the state who suffer from chronic pain disorders. He added that pain management is not a specialty but a subspecialty.

Director Brewton said Staff would like to review the comments provided to them by Dr. Goetz at tonight’s meeting, and then work with him in the interim between tonight and the City Commission meeting to seek common ground.

Chair Welch asked if Dr. Goetz could provide any feedback related to the zoning portion of the proposed ordinance. Dr. Goetz said the separation specifications would prohibit legal pain clinics from being close to certain facilities, which he felt was an unusual specification to attach to a legitimate facility.

As there were no other members of the public wishing to speak on this Item, Chair McTigue closed the public hearing and brought the discussion back to the Board.

Mr. Ferber commented that if there is a motion to recommend the adoption of the draft ordinance, he would vote in its favor, as he found its provisions to be consistent with the ULDR; however, he stated this was not because he felt the draft ordinance to be proper public policy.

Motion made by Ms. Maus, seconded by Ms. Freeman, to approve with Staff recommendations. In a roll call vote, the **motion** passed 6-0.

2. **Moratorium for Liquor Stores and Convenience Stores in the NWPCRA** Greg Brewton 2T11

Request: * Recommend Adoption of Draft Ordinance Addressing a Moratorium within the Northwest-Progresso-Flagler Heights Community Redevelopment Area (NWPCRA) for Liquor Stores and Convenience Stores

Project Description: An ordinance establishing a moratorium on Liquor Stores and Convenience Stores within the boundaries Northwest-Progresso-Flagler Heights Community Redevelopment Area (NWPCRA)

Address: N/A

General Location: South of Sunrise Boulevard, east of the western City limits, north of Broward Boulevard and west of North Federal Highway

District: 3

Director Brewton explained that this Item had originally been sent to the City Commission as a communication from the Planning and Zoning Board. After meetings with the City Attorney's Office, the Northwest Progresso-Flagler Heights Community Redevelopment Agency (CRA) Director, and other community leaders in the area, the request has been made for a moratorium of one year. In that time, an ordinance will be drafted to address this issue as it relates to the CRA Master Plan, which was accepted by the City Commission some time ago. The intent is that when the ordinance has been created, the moratorium would no longer be necessary, as the ordinance would address uses as well as zoning districts within the CRA.

There being no questions from the Board at this time, Chair McTigue opened the public hearing.

Sonya Burrows, business owner and resident of the CRA area, stated she supported the moratorium. She was pleased to see development in the area and would like to see a greater variety of business uses. In addition, she felt the moratorium would allow Planning and Zoning to deal with existing parking issues that could help bring this variety of enterprises to the area.

George Burrows, business owner and President of the Negro Chamber of Commerce, said years ago a variety of businesses existed in the area,

particularly on 6 Street. He added that planning for adequate parking will be very important in bringing businesses back to 6 Street.

Al Battle, Director of the Northwest Progresso-Flagler Heights CRA, thanked the Board for promoting the issue of the moratorium. He said the opportunity to study this issue and improve the area for redevelopment is appreciated.

Sheryl Dickey, business owner within the CRA, provided copies of letters in opposition to convenience stores. She advised that these letters had also been given to the Mayor.

As there were no other members of the public wishing to speak on this Item, Chair McTigue closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Witschen, seconded by Ms. Tuggle, to recommend favorably to the City Commission imposition of the one-year moratorium.

Mr. Ferber noted that the current draft of the proposed moratorium encompasses the entirety of the CRA, including the portion on Federal Highway. He expressed concern that while businesspeople in the Midtown area may wish to proceed with the moratorium, there could be unintended consequences of stifling businesses that may want to locate on the Federal Highway part of the CRA. He asked if the moratorium could be amended to make its geographic area smaller.

Director Brewton said while the entire CRA is included in the moratorium, the Board could opt to exclude the Federal Highway area if they wished. He reiterated for purposes of clarification that the moratorium only applied to convenience and liquor stores.

Mr. Ferber asked Attorney Miller if there was a legal advantage to including the entire CRA, or if the area could apply to a smaller area. Attorney Miller said if there is a reasonable justification for excluding Federal Highway – for example, showing that this area is in some way different from the rest of the CRA – this area could be excluded from the proposed moratorium.

Mr. Ferber said while he understood the concerns regarding the businesses cited in the moratorium, these concerns had never existed in the Flagler Heights portion of the CRA. He suggested that the Board consider amending the language of the **motion** to exclude the portion of the CRA from Federal Highway to the FEC railroad tracks.

Mr. Witschen said while he understood Mr. Ferber's concern, he would be more comfortable including the entire CRA as the area to be studied. He felt better

retail development was as important on the Federal Highway corridor as it was on 6 Street.

Ms. Freeman said she agreed with Mr. Witschen, but would like to hear Mr. Battle's thoughts on the proposed exclusion.

Director Brewton advised that from a pure planning perspective, he would prefer the opportunity to study the entire area in order to analyze what areas are greatly affected by the uses, as well as the areas that are less affected.

Mr. Battle said while he also understood Mr. Ferber's concern, and agreed that the CRA is a very diverse area, the reason the moratorium was drafted to include the entire CRA was from a redevelopment and planning perspective: the areas are not seen as separate parts of the CRA, but as one total area. He felt it would be more appropriate for the study to be inclusive.

Ms. Maus asked what zoning is in the proposed area. Director Brewton said "everything is in the RAC land use," with RAC, CC, CB and other zoning districts included in the CRA. Ms. Maus asked if convenience and liquor stores were permitted in RAC. Director Brewton said they were. Ms. Maus concluded that she agreed with Mr. Witschen and felt it was better to keep the entire CRA together.

In a roll call vote, the **motion** passed unanimously.

3. Communications to City Commission

None.

4. For the Good of the City

Mr. Fajardo stated that some sections of the draft ordinance from Item 1 are reflective of state statutes; currently this language is being changed by the state. He clarified that the zoning issues on which the Board voted would not be subject to change.

There being no further business to come before the Board at this time, the meeting was adjourned at 7:00 p.m.

Chair