

JEFFREY R. SMITH
Clerk to the Board



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BOARD OF COUNTY COMMISSIONERS

JULY 10, 2012

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SPECIAL CALL MEETING OF THE INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS

FINAL HEARING: CONSIDERATION OF PROPOSED
LDR (LAND DEVELOPMENT REGULATION) AMENDMENTS

The Board of County Commissioners of Indian River County, Florida, met in a Special Session at the County Commission Chambers, 1801 27th Street, Vero Beach, Florida, on Tuesday, July 10, 2012, to consider proposed Land Development Regulation (LDR) amendments. Present were Chairman Gary C. Wheeler, Vice Chairman Peter D. O'Bryan, and Commissioners Wesley S. Davis, Joseph E. Flescher, and Bob Solari. Also present were County Administrator Joseph A. Baird, County Attorney Alan S. Polackwich, Sr., and Deputy Clerk Leona Adair Allen.

1. CALL TO ORDER

Chairman Wheeler called the meeting to order at 5:01 p.m.

2. INVOCATION

Commissioner Davis delivered the Invocation.

3. PLEDGE OF ALLEGIANCE

Commissioner Flescher led the Pledge of Allegiance to the Flag.

4. PUBLIC ITEMS

4.A. PUBLIC HEARINGS

4.A.1. FINAL HEARING: CONSIDERATION OF PROPOSED LDR (LAND DEVELOPMENT REGULATION) AMENDMENTS (LEGISLATIVE)

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE
OFFICE OF THE CLERK TO THE BOARD

Community Planning Director Stan Boling, using a PowerPoint presentation (on file), reported that this is the second and final hearing to consider amendments to various Land Development Regulations (LDRs). He stated that several of the proposed regulations include LDR amendments that implement the adopted Evaluation and Appraisal Report (EAR) Comprehensive Plan policies; however, the LDR amendments under consideration do not include the Urban Service Boundary buffer initiative or the West Gifford initiative. He reviewed the proposed LDR amendments and pointed out that the proposed revisions would: (1) revise the previously proposed changes to the definition of hotel/motel and add a provision specifically allowing residential dwelling units to be rented out for short-term vacation stays; and (2) delete the previously proposed changes that would implement density transition area Future Land Use Element (FLUE) Policy 1.48. He also noted that the County's LDRs need to be amended to be consistent with the EAR amendments to the Comprehensive Plan, and the other proposed amendments that were initiated by staff, and the Commissioners at the Board of County Commission meeting of June 19, 2012. He thereafter summarized the points from an e-mail he received from David Risinger (on file) regarding his objections to short-term stay issues, and the responses from the County Attorney.

The Chairman opened the Public Hearing.

THE FOLLOWING INDIVIDUALS SUPPORTED SHORT-TERM RENTAL UNITS:

Glenn Powell, 12845 Bay Street, Roseland, said he was the “poster child” for short-term vacation rentals; therefore, he provided background and reiterated concerns from when he spoke at the Board of County Commission meeting of June 19, 2012, regarding issues of short-term vacation rentals, individual property rights, the County Code being silent on short-term rental times and limitations, and the role of the government controlling private ownership rights.

John Conway, owner of Sebastian Riverfront Resort, and Sebastian Vacation Rentals

Bill Waterman, 460 10th Place SW, Oakridge, licensed vacation manager

THE FOLLOWING INDIVIDUALS OPPOSED SHORT-TERM RENTAL UNITS:

David Hunter, resident of Central Beach, Indian River County

Jim Gregg, landlord, lives in gated community

Terry Potts, Board Member of Amelia Plantation Property Owners’ Association

Beth Casano, 1610 3rd Court, Rockridge Property Owners’ Association President

Randy Fryar, owner of four properties in Indian River County

Susan Aiken, Floralton Beach Subdivision

Commissioner Davis sought and received details on how to differentiate between legitimate and non-legitimate rental businesses.

Commissioner Flescher clarified that legitimate short-term rental businesses are licensed, inspected by the County Health Department, and lodging taxes are collected when the dwellings are rented (7% for State, 4% for County).

Community Development Director Bob Keating affirmed for Vice Chairman O'Bryan that Code Enforcement could/would address complaints regarding bad behavior at short-term rentals.

Chairman Wheeler expressed that those living in gated communities should address concerns and issues through their Property Owners' Association. He did not want to pass an ordinance that would prevent short-term vacation rentals Countywide.

Director Boling, in response to Commissioner Davis, disclosed that the existing definition is unclear, and staff's interpretation of the County Ordinance is that to rent for less than 30 days constitutes a hotel/motel usage.

Director Keating confirmed that the current code is enforceable, but believed it would be best to clarify, not change it.

Attorney Polackwich explained why the ordinance is unclear, and why staff reached its conclusion by implication, rather than by a direct sentence in the definition stating that any structure offering a combination of rooms for rent or lease for longer than one month at a time, shall not be considered a hotel or motel. He made it clear that the definition does not expressly address the question of what happens if a property is rented for less than a month; therefore, staff interpreted the provision to mean that if a house is rented for less than one month, it is regarded as a hotel/motel.

Chairman Wheeler believed that most of the complaints would have occurred whether the ordinance addressed the situation or not, since those individuals are probably operating illegal rentals. He also emphasized that anytime a citizen suspects that someone is renting without a license, they need to call Code Enforcement.

There being no additional speakers, the Chairman closed the Public Hearing.

Commissioner Davis favored weekly rentals, observed that the individuals not doing the right thing are causing the problems, and felt that passing a regulation that would not permit short-term rentals would put the law abiding landlords out of business.

Commissioner Flescher shared Commissioner Davis's sentiments. He believed that approving the amendments would make things better. He said he would rather see rental houses registered and well maintained, as opposed to those that cannot be rented and left to fall into foreclosure. He concluded that adopting the proposed ordinances would be the best option for all County citizens.

Vice Chairman O'Bryan determined that most issues with short-term rentals were due to a lack of communication. He believed issues/situations could be resolved if people would be good neighbors, and more proactive. He thanked the speakers for expressing their opinions, and said that if they have any issues, to contact staff or the Commissioners to ensure the property is being rented legally.

Commissioner Solari understood the perspectives of both the landlords and the residents of the neighboring properties. He believed the existing mechanisms could deal with the issues, and if the Board prevented people from renting short-term rentals, and made them annual rentals, it might be just as bad. He wanted the County to continue making people aware of the County Code, local laws, and State mechanisms; therefore he suggested staff research the State mechanisms and develop something in terms of local mechanisms that could be used and readily available to those with complaints.

MOTION WAS MADE by Vice Chairman O'Bryan, SECONDED by Commissioner Solari, to adopt the 18 ordinances as proposed by staff.

Chairman Wheeler concurred with the other Commissioners' comments and added that many problems in the neighborhoods have not "just been brought to light," but believed they have been going on for years, either illegally or through Code Enforcement violations.

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board adopted the following ordinances:

Ordinance 2012-013 concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 901, Definitions, by amending definitions in alphabetical order in Section 901.03, and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-014, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 902, Administrative Mechanisms, by amending appeals from decisions of the Community Development Director or his designee Section 902.07; and by amending Technical Review Committee Section 902.10; and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-015, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 904, Nonconformities, by amending Expansion, Increase, or Change of Nonconformities Section 904.05, by amending Reconstruction of Nonconformities Section 904.07, by amending Cessation of Nonconformities Section 904.08, and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-016, concerning an amendment to its Land Development Regulations (LDRs); providing for amendments to Chapter 911, Zoning; and Chapter 912, Single Family Development by Revising Establishment of Districts Section 911.03; by amending Application of District Regulations Minimum Yard and Setback Requirements Section 911.04, by revising Conservation District Boundaries Section 911.05(3); by revising Uses Sections 911.06(4), 911.07(4), 911.08(4), 911.09(4), 911.10(4), 911.11(4), 911.12(4), 911.13(2), 911.13(3), and 911.13(4); by revising Size and Dimension Criteria Sections 911.06(6), 911.07(7), 911.08(7), 911.09(8), 911.10(7), 911.11(8), 911.12(6), 911.13(1)(F), 911.13(2)(E), 911.13(3)(H), and 911.13(4)(G); by amending Single-Family District Required Buffer Yards Section 911.07(8), by revising Multi-Family District Required Buffer Yards Section 911.08(9); by revising Commercial Required Buffer Yards Section 911.10(8); by revising Special District Requirements Section 911.10(9); by revising Planned Development Density Bonus Section

911.14(4); by modifying Planned Development District 911.14(5) and adding 911.14(6); by revising General Provisions Yard Encroachment Section 911.15(2); by revising Accessory Uses and Structures Section 912.05(3); by revising Home Occupations Section 912.05(6); by revising Setbacks for Certain Types of Structures Section 912.07(1)(b)(6); by revising Accessory Uses and Structures Section 912.15(1); providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-017, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 911, Accessory Uses and Structures, by amending portions of Section 911.22, other Corridors Special Development; and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-018, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 913, Subdivisions and Plats; and Chapter 914 Site Plan Review and Approval Procedures, by amending Procedures and Requirements for Submitting and Processing Subdivision Applications Section 913.07, by amending Design Standards and Requirements Section 913.09, and by amending Time Limitations on Site Plan

Approvals Section 914.08, by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-019, concerning an amendment to its Land Development Regulations (LDRs); providing for amendments to Chapter 910, Concurrency Management System and Chapter 952, Traffic; by amending Determination of Concurrency, Components Section 910.09; by amending Traffic Impact Study Regulations Section 952.07, and by amending Access Control Regulations Section 952.12, by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-020, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 971, Regulations for Specific Land Uses, by amending Agricultural Uses Section 971.08; by amending Community Service Uses Section 971.14; by amending Industrial Uses Section 971.26; by amending Industrial Uses, Very Heavy Section 971.27; by amending Institutional Uses Section 971.28; by amending Recreational Uses Section 971.40; and by amending Residential Uses Section 971.41; and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-021 concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 915, Planned Development (P.D.) Process and Standards for Development, by adding sections on Mixed Use Standards and Traditional Neighborhood Design Standards, and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-022, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 972, Temporary Uses, by amending 972.08 Specific Uses, Standards and Requirements, and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-023, concerning amendments to its Land Development Regulations (LDRs); amending Chapter 901, Definitions, by defining Compensatory Storage and North American Vertical Datum; amending Chapters 901, 913, 914, and 930 by revising elevation references from National Geodetic Vertical Datum to North American Vertical Datum; and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-024, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 912, Single-Family Development, and Chapter 917, Accessory Uses and Structures, by amending Fences and Walls Section 912.14, and specific Accessory Uses and Structures Section 917.06(12); and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-025, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 918, Sanitary Sewer and Potable Water Regulations, and Chapter 926 Landscape and Buffering Regulations, by amending the Chapter 918 Title, by amending Sanitary Sewer and Potable Water Regulations Section 918.04, by amending Water and Wastewater Requirements for New Development Section 918.05, by adding Effluent Re-Use Water Connection Requirements for New Development Section 918.06, by adding Use of Water from Retention Ponds Section 918.07, by amending Irrigation Standards Section 926.11(2)(F); by amending Replacement of Required Landscaping Section 926.12(3); and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-026, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 927, Tree Protection and Land Clearing, by amending Section 927.06, Exemptions, by exempting single-family residential lots one acre or less in area from tree removal permitting; by amending Section 927.17, Penalties and Enforcement, by changing the penalty for unpermitted removal of protected cabbage palms and modifying after-the-fact permitting allowances; and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-027, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 928, Wetlands and Deepwater Habitat Protection, by amending Determination of Wetlands and Deepwater Habitats Delineation and Functional Value Section 928.304; and by amending Activities Subject to Regulations and Restrictions Section 928.05, and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-028, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 929, Upland Habitat Protection, by amending St. Sebastian River and Indian River Lagoon Aquatic Preserve Shoreline Protection Buffer Zone Section 929.07, and by providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-029, concerning an amendment to its Land Development Regulations (LDRs); providing for amendments to Chapter 954, Off-Street Parking, by Revising Parking Standards; Automotive Vehicles Section 954.05; by revising Non-Concurrent Parking Study Section 954.08(2); by revising No Similar Use Study Section 954.08(3); by revising Unpaved Vehicle Storage Lots Section 954.08(6); and by revising Off-Street Loading Regulations Section 954.09; providing for repeal of conflicting provisions; codification; severability; and effective date.

Ordinance 2012-030, concerning amendments to its Land Development Regulations (LDRs); providing for amendments to Chapter 956, Sign Regulations, by amending Administration of Sign Permit Application Fees, by amending exemptions to permitting procedures to include carried signs and free expression signs, by amending provisions for certain prohibited signs, by amending temporary sign permit provisions, by adding a time limitation for display of active subdivision or real estate development signs, by creating Section 956.19 to reference addition sign regulations in designated corridors, and by providing for repeal of conflicting provisions; codification; severability; and effective date.

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

5. ADJOURNMENT

There being no further business, the Chairman declared the meeting adjourned at 6:35 p.m.

ATTEST:

Jeffrey R. Smith,
Clerk of Circuit Court and Comptroller

Gary C. Wheeler, Chairman

Minutes Approved: _____