

PLANNING AND ZONING COMMISSION

There was a meeting of the Indian River County (IRC) Planning and Zoning Commission (PZC) on Thursday, May 26, 2016 at 7:00 p.m. in the Commission Chambers of the County Administration Building, 1801 27th Street, Vero Beach, Florida. You may hear an audio of the meeting; review the meeting agenda, backup material and the minutes on the Indian River County website www.ircgov.com/Boards/PZC/2015.

Present were members: Chairman Alan Polackwich Sr., District 2 Appointee; Dr. Jonathan Day, District 4 Appointee; Brad Emmons, District 5 Appointee; Jordan Stewart and Todd Brognano, Members-at-Large; and Shawn Frost, non-voting School Board Liaison.

Charles Rednour, District 1 Appointee and Maria Caldarone, District 3 Appointee, were absent.

Also present was IRC staff: Bill DeBaal, Deputy County Attorney; Stan Boling, Community Development Director; Roland DeBlois, Environmental and Code Enforcement Chief; and Lisa Carlson, Recording Secretary.

Call to Order and Pledge of Allegiance

The meeting was called to order at 7:00 p.m. and all stood for the Pledge of Allegiance.

Additions and Deletions to the Agenda

There were none.

Approval of Minutes

ON MOTION BY Mr. Stewart, SECONDED BY Dr. Day, the members voted unanimously (5-0) to approve the minutes of the April 14, 2016 meeting as presented.

Item on Consent

Chairman Polackwich read the following into the record:

- A. Osprey Village: Request for major site plan and preliminary plat approval for a 56-unit multiple-family residential development to be known as Osprey Village, the relocation of an existing golf hole, and the creation of a 2.86-acre future commercial tract. GH Vero Beach**

Development, LLC, Owner. Masteller & Moler, Inc., Agent. Located at the southeast corner of the Indian River Boulevard and 53rd Street intersection. Zonings: RM-6 (Residential Multi-Family up to 6 units/acre) and CG (General Commercial). Land Use Designations: M-1 (Medium-Density Residential 1 up to 8 units/acre) and C/I (Commercial/Industrial). Density: 5.88 units/acre (SP-MA-16-05-09/2003010231-76303) [**Quasi-Judicial**]

Chairman Polackwich asked the Commissioners to reveal any ex-parte communication with the applicant or any conflict that would not allow them to make an unbiased decision. He stated that as this item involves improvements in Grand Harbor where he resides, he consulted Mr. Stan Boling, Community Development Director as well as Mr. Bill DeBraal, Deputy County Attorney and they didn't feel that this would cause a him to make an unbiased decision. He asked if any of the other commissioners felt that this would cause a voting conflict for him and they stated that they did not.

ON MOTION BY Mr. Brognano, SECONDED BY Dr. Day, the members voted unanimously (5-0) to approve staff recommendations on this Quasi-Judicial matter.

Public Hearing

Chairman Polackwich read the following into the record:

**A. Consideration of Proposed Vacation Rental Ordinance Establishing a Local License Requirement and Vacation Rental Regulations
[Legislative]**

Chairman Polackwich summarized his understanding that this case involved three recommendations that the Board is being asked to consider which are 1) the Ordinance; 2) a recommendation to the Board of County Commissioners (BCC) regarding fines for violations of the Ordinance; and 3) recommendation to the BCC with respect to a one-year progress report.

Mr. Stan Boling reviewed information regarding the proposed ordinance and gave a PowerPoint presentation, copies of which are on file in the Commission Office. He explained that the definition of "vacation rental" in this context is a "residential unit rented or leased more than three times a year for less than thirty days or advertised for rent for less than thirty days" and that this definition is already in the County Code and matches the State definition as well.

Mr. Boling reviewed the county's vacation rental history since the 1980's and discussed the two ordinances adopted by the BCC in 2015 regarding commercial events at residences and parking regulations at vacation rentals. He went on to describe the purpose and results of the Short Term Rental Vacation Rental Advisory Committee (STVRAC) that was established in 2015 to draft a proposed ordinance.

Mr. Boling outlined the proposed short term vacation rental ordinance and schedule of fines that he recommended the Board approve. He clarified that the intent of the ordinance is to bring vacation rentals out of the shadows with reasonable regulations, streamlined and efficient processes, appearances similar to neighboring conventional residences rather than commercial establishments, and a plan for enforcement and fines.

- 1) Obtain a three-year County license with an inspection by a Code Enforcement officer prior to initial issuance and at the time of renewals;
- 2) State license, business tax receipts and local tourist tax account obtained;
- 3) State fire items to include smoke alarms, fire extinguisher and emergency lighting;
- 4) Carbon monoxide detector if gas is used;
- 5) Maximum sleeping occupancy limits of two persons per bedroom plus two additional persons unless the applicable septic capacity is less. The septic capacity is determined by the Health Department if the unit is on a septic system;
- 6) Manager contact that is kept up to date;
- 7) Posting/displaying safety and "good neighbor" information;
- 8) Occupancy limit must appear on all advertisements and rental offerings;
- 9) Proposed fines and citations include
 - A) Commercial event at residence \$1000 first violation and \$5000 per violation thereafter;

- B) Parking fine of \$50 per vehicle per day and \$100 per vehicle per day for repeat violations;
 - C) \$100 per day after thirty business day window to obtain license;
 - D) \$100 per violation for contact information violation.
- 10) One year after adoption of the ordinance, staff is to prepare and present a progress report to BCC at a BCC meeting.

Chairman Polackwich suggested including a definition of “bedroom”, a tenant disclosure agreement and the fact that general residential regulations apply, to the ordinance. He proceeded to open the public hearing to the public.

Ms. Sharon Kramer described her family’s vacation rental business and the fact that she felt that some neighboring residents seemed to be trying to put her family out of business. She expressed her opinion against the proposed occupancy limits.

Mr. George Lamborn, Vice President of the South Beach Property Homeowner’s Association (SBPHA), voiced his opinion that the STVRAC had failed in their assigned task and spoke of short term vacation rentals that cause discomfort and lack of security to adjacent property owners.

Ms. Carol Lewis, real estate broker in Indian River County since 1976, spoke out against short term vacation rentals in her Angler’s Cove neighborhood as well as public parks being used for overflow parking for these rentals.

Discussion ensued as to the number of current state licenses for short term rentals in the county versus the number of complaints logged and whether the same properties are repeatedly getting the complaints.

Mr. Joseph Paladin, Vice Chairman of the STVRAC, discussed the thought processes around some of the committee’s decisions and clarified that all of the motions made were passed unanimously, despite the fact that members were split on their positions on vacation rentals in general. He stressed that the committee was created to regulate vacation rentals and not infringe on the rights of the proprietors nor the those of their neighbors.

Dr. Miles Conway, President of the SBPOA, reviewed information regarding the proposed ordinance and gave a PowerPoint presentation, copies of which are on file in the Commission Office. He stated that he attended every

STVRAC meeting and argued that the psychological and physiological well-being of the residents neighboring vacation rentals was not addressed. He reviewed the ordinances that this Board passed on August 13, 2015 regarding parking at vacation rentals and commercial events at single family homes and went on to expose several specific violations since then as well as methods vacation rental proprietors have devised to circumvent the ordinances.

Dr. Conway displayed a document showing thirty-one vacation rentals licensed by the state in Indian River County and discussed the more than five hundred that are advertised on the Internet for this county. He produced examples of the villainization of neighbors protecting their properties from vacation rental clients in Indian River County as well as around the world and exhibited several national news articles relating to the Airbnb website regarding lawsuits, misconduct, discrimination and noncompliance.

Dr. Conway discussed the fact that the number of complaints that staff disclosed did not take into account the countywide discord nor the complaints to the state, city, sheriff's office, county commissioners, civic associations or the media, nor petitions or citizens too afraid to come forward for fear of reprisal. He described vacation rentals bringing down the property assessments in the neighboring homes and gave several examples.

Regarding the proposed ordinance for three-year short term vacation rental licenses, Dr. Conway argued that it conflicted with and was of a lesser standard than the state license of one year. He also felt that the proposed fines for noncompliance were too low.

Regarding the proposed noise ordinance, Dr. Conway argued that it is unenforceable as county law enforcement officers do not carry decibel meters. He presented examples of noise ordinances in other counties and suggested a prohibition on outdoor amplified noise at vacation rentals at all times subject to fines of \$250 for the first offense and \$500 for second and subsequent offenses.

Dr. Leigh Hoppe reported that she is an unhappy next door neighbor of a vacation rental where numerous parties and events are held and contended that it interferes with the personal enjoyment of her own property.

Dr. Oscar Santi testified that he is a neighbor of Dr. Hoppe and that his home has been burglarized two times in the past year which he felt was due to the neighboring vacation rental. He stated that his family no longer feels safe in their own home and stressed that vacation rental proprietors should not have the ability to so negatively affect the lives of the neighboring homeowners.

Dr. Walter Forman testified that as a neighbor of a vacation rental property, the noise made by the renters often shakes his windows. In addition, the parking is out of control to the point that there are times he cannot even get into his own driveway. Renters trespassing across his property have forced him to add a gate and fence that he doesn't want. He concluded that he's very discouraged that he no longer lives in a quiet neighborhood.

Dr. Conway spoke regarding occupancy limits at vacation rentals and presented examples of ordinances in other Florida counties. The SBPOA recommends that the overnight maximum sleeping occupancy of a vacation rental unit not exceed a) for a unit served by public sewer, the lesser of two persons per bedroom or ten persons; and b) for a unit served by an on-site sewage treatment and disposal system (septic system), the lesser of 10 persons or two persons per bedroom or the number of persons accommodated by the system as determined by the health department.

Dr. Conway remarked that vacation rentals are considered a business in the eyes of insurance companies and as such are not covered under a homeowner's policy in the way of personal liability coverage; a commercial liability policy is required. He proceeded to field questions from the Commissioners as well as members of the public regarding occupancy limits, noise standards and morals in regard to short term vacation rentals.

Mr. Glen Powell, chairman of the STVRAC and owner of four vacation rentals in Roseland, asserted that vacation renters do not have the monopoly on bad behavior and questioned the motivation of people that want to put a stop to vacation rentals rather than letting good landlords continue to do what they do while eliminating the few that behave badly. He continued that he was offended by earlier comments implying that the residents of high-value homes on the barrier island should have more of a say on this topic than those with more modest homes on the mainland. He said that this elitist attitude is offensive and detracts from what the county commissioners asked the STVRAC to do. He stated that we have to be very careful about putting out the message to the world that "we hate tourists" and that if the rules become too restrictive, there will be black market rentals operating without safety standards that do not collect lodging taxes. He explained the logistics of his rental properties in regard to leases as well as how Airbnb works and the fact that he's observed them distributing taxes incorrectly.

Chairman Polackwich suggested that they close the public hearing and tackle the issues at a subsequent meeting. He advised that perhaps adequate time to digest all of the information as well as sufficient rest would better allow the commissioners to decide the matters properly.

ON MOTION BY Dr. Day, SECONDED BY Mr. Brognano, the members voted unanimously (5-0) to extend the self-imposed meeting adjournment deadline to include the remainder of the public hearing.

Ms. Bronia Jenkins informed the Board that the wedding photos taken on the beach that Dr. Conway displayed were for an event that was in fact booked over a year ago and grandfathered under the August 2015 ordinance. She went on to say that in regard to the vehicles parked at the nearby public park, she had contacted the sheriff's office in advance and was given permission to do so. She pointed out that short term vacation rentals are a part of the Florida economy and perhaps the Board could go after the more than four hundred unlicensed rentals in the county rather than those that are licensed and doing the right thing.

Dr. Conway clarified that the position of the SBHOA is that vacation rentals belong in commercial and not residential areas.

Chairman Polackwich closed the public hearing and opened a discussion regarding the possibility of continuing the meeting at a later date due to the late hour. A "special" meeting was called for June 2, 2016 in lieu of waiting for the next scheduled meeting so that the recommendations could be presented to the Board of County Commissioners in June before they go on vacation for the summer. The two board members not in attendance tonight will be able to watch the recording of the meeting beforehand and receive copies of Dr. Conway's PowerPoint presentation.

ON MOTION BY Mr. Emmons, SECONDED BY Mr. Brognano, the members voted unanimously (5-0) to continue the agenda item to a special meeting held on June 2, 2016 at 7:00 p.m.

Commissioner's Matters

There were none.

Planning Matters

Mr. Boling advised that there would be no need for a June 9, 2016 meeting.

Attorney's Matters

There were none.

Adjournment

There being no further business, the meeting adjourned at 11:32 p.m.

Chairman Alan Polackwich

Date

Lisa Carlson, Recording Secretary

Date