



**CITY OF DELTONA, FLORIDA
PLANNING & ZONING BOARD
WEDNESDAY, MAY 18, 2011**

REGULAR MEETING MINUTES

A Regular Meeting of the City of Deltona Planning and Zoning Board was held on Wednesday, May 18, 2011, in the City of Deltona Commission Chambers, located at 2345 Providence Boulevard, Deltona, Florida.

1. CALL TO ORDER:

Chairman Tom Burbank called the meeting to order at 6:55 p.m.

2. ROLL CALL:

Chairman	Tom Burbank	Present
Vice-Chair	Adam Walosik	Present
Secretary	Noble Olasimbo	Present
Board Member	Victor Ramos	Present
Board Member	Eileen Gallagher	Present
Board Member	Heather Mulder	Present
Board Member	David McKnight	Present

Staff Present:

Chris Bowley, Director, Planning & Development Services
Ron A. Paradise, Assistant Director, Planning & Development Services
Tom Pauls, Current Planner, Planning & Development Services
Gary Cooney, City Attorney
Pauline Shattuck, Board Secretary

Also present was Mayor John Masiarczyk.

3. APPROVAL OF MINUTES:

A. Regular Meeting Minutes:

Regular meeting minutes of the Planning and Zoning Board – April 20, 2011.

**Member Ramos made a motion to approve the April 20, 2011, meeting minutes.
Member Olasimbo seconded the motion. The motion carried 7:0.**

4. **ANNOUNCEMENTS:**

None

5. **OLD BUSINESS:**

None

6. **NEW BUSINESS:**

None

7. **OTHER BUSINESS:**

None

8. **TRAINING:**

None

9. **DISCUSSION:**

A. By the Board

2011 Changes to 163 and 380 (HB 7207) Florida Statutes.

Mr. Paradise said staff wanted to provide an update regarding recent legislation stating that changes to current Growth Management law are substantial. Mr. Paradise said most of the concurrency requirements, including traffic, school, parks, etc., are now options of the local government. Water availability is the one exception that is articulated in the context of the City of Deltona by its Water Supply Work Plan. The growth management legislation also makes school concurrency optional. However, in Volusia County there is a charter requirement to maintain school concurrency.

Mr. Paradise said the amendment process is much revised. Small scale map amendments and large scale map amendments are maintained in title. Small scale map amendments now have no density limitation; currently there is a density limitation of 10 units per acre and 10 acres. Acreage is still 10 acres. Also, it is possible for land owners to incrementally amend the future land use utilizing the small scale amendment process. The bill also deletes the twice a year limitation on large scale comprehensive plan amendments. The DCA's amount of time to review an expedited map amendment is 30 days. The Objections, Recommendations, Comments (ORC) report has been deleted. The DCA can now either challenge, or sign off by granting the Notice of Intent to find an amendment in compliance. With regard to challenges to comp plan amendments, the public can still challenge

compliance, but it is now harder to challenge and the burden of proof has shifted onto the challenger to prove that something is wrong with the amendment.

Mr. Paradise continued that there are other changes to the growth management law that do not impact the City of Deltona: Rural Land Stewardship, a sector plan which involves 15,000 acres of land or more, and changes that involve certain special areas of the State.

Member McKnight said his biggest question is how this will affect the City of Deltona and if this for example will open up the Rt. 415 corridor. Mr. Paradise said potentially, yes; however he could not say that definitely the City would have more flexibility because of County involvement in Osteen. The Osteen Local Plan has been extensively vetted by the City, the County, and other involved stakeholders. Member McKnight asked if the JPA will still be in effect. Mr. Paradise stated, yes, but with the new legislation the DCA has no interpretive abilities of a JPA.

Member Walosik asked if it was correct that the transportation concurrency will go away. Mr. Paradise the City has the option for it to go away. With regard to transportation concurrency the City has articulated level of service expectations in the comp plan. He said he does not expect the City to eliminate the level of service expectations because of its impact fee ordinance. With regard to transportation, impact fees are linked to those levels of service standards; it serves as a nexus. The City has looked at eliminating, or holding in abeyance, those impact fees for transportation. The City is bound by bond covenants to maintain that revenue stream. The changes to legislation states if a City wants to maintain impact fees there needs to be an option offered known as proportionate fair share. It gives the developer the ability to make a payment for a certain road improvement; a pay as you go deal to which there are strings attached. If a government accepts proportionate fair share, they are obligated within a certain limit of time to effectuate that improvement. The proportionate fair share never amounts to the entire cost of that improvement. So that implies that the local government is financed strong enough to take that proportionate fair share from developers and whatever other funding sources they can muster, and make that improvement on the ground. If not, the local government is obligated to repay proportionate fair share money with interest. Mr. Paradise said another element of proportionate fair share is that a developer who does pay for proportionate fair share is eligible for impact fee credits. Therefore, in lieu of collecting impact fees the proportionate fair share is paid.

Mr. Paradise said the legislation facilitates an extension of two years for some development proposals and related building permits. In 2009 a two year extension was granted under Senate Bill 360. This legislation mandates granting another two years extension, upon the developer's request, for a total of four years. There are changes to the DRI elements of Chapter 163; Deltona has one DRI--the Activity Center. At this juncture changes to the DRI are not critical, but may be in the future. Mr. Bowley said he wanted to make everyone aware that the City's projects are subject to these extra elements as part of this House Bill. Potentially it could affect

Phase 3 of the Deltona Village project if the developer comes forward to request an extension.

Mr. Paradise said the financial feasibility standard of the Capital Improvement Element has been eliminated. However, Mr. Paradise said he would recommend that the City continue the yearly update of the Capital Improvement Element because it is a useful planning tool to ascertain if the City is maintaining some of its policy-type of decisions. He said he is not certain whether it is still a mandate or not to do that.

Member Walosik asked how this legislation will be implemented. Mr. Paradise said he thought it would take place more from a process standpoint in the interaction between the local governments and the State, FDOT, and SJRWMD.

Mr. Paradise spoke about the creation of Dense Urban Land Areas (DULA) in Senate Bill 360. The definition of DULA is a population density of 1,000 people per square mile. SB 360 was ultimately challenged and struck down. Some months ago there was a bill filed that clarified SB 360 and addressed all the legal implications that arose based on that challenge. This bill has now passed. They still maintain a dense urban land area but the mobility plan element of SB 360, the 2009 version, did not survive to any great extent in this update to Chapter 163. Mr. Paradise said he is uncertain as to what the DULA status means. The definition of Urban Service Areas is vague. Mr. Bowley said he thinks this would be tied to regionalism as that would be the only way it could work.

Member Olasimbo spoke about transportation concurrency and whether the City would implement what is in the comp plan. Mr. Paradise said it is adopted policy until it is changed. Chairman Burbank said the City could deal with the concurrency issue in several ways; one is to do nothing, the City Commission could loosen the requirements a bit, or throw it out entirely. Chairman Burbank stated that there is wording in the Code that refer to Chapter 163 and this issue that needs to be changed in the Land Development Code. Mr. Paradise agreed that the LDC will need to be revised.

Chairman Burbank said evidently the whole intent of this legislation is to become more business friendly. Sometimes traffic impact analysis (TIA) can be a major impediment to development costing thousands of dollars. Those are tied to concurrency. He asked if this is another extraordinary expense that the City could consider eliminating. Mr. Paradise said the City has the option to request a TIA from a developer, especially if it generates over 1,000 trip-ends per day. From an administrative standpoint the City has very few projects that trip that threshold. We have been relying on staff resources and that saves the developer a lot of money from having to do a TIA. The City will continue to review for traffic, but it would be done in-house in lieu of requiring a developer to hire an engineer.

Mr. Bowley said in view of TIAs, a lot of the roads in the City are not City roads. Chairman Burbank asked if any discussion has been initiated with Volusia County

because much of the roads are county maintained. Mr. Paradise said he attended the County road improvement discussion in DeBary. Due to lack of funds, Volusia County is trying to divest itself of City roads. Member Olasimbo said that discussion is going around Florida.

Mayor Masiarczyk spoke of the history of the road situation with the County when Deltona became incorporated. He said when Deltona incorporated in 1995, one of the things that happened in charter by state legislature is that Deltona received all the assets and liabilities of the current area and Deltona could negotiate out a gas tax revenue that comes to the city. The Mayor said Deltona will never accept agreeing to anything other than originally negotiated; he originally negotiated with Terry Henry at Volusia County. Mr. Henry tried to give him paperwork stating this is the tax revenue breakdown, the formula they use for dividing up gas tax revenue in the cities. It didn't seem fair to the Mayor based on the number of road miles. The State is very clear on that. Deltona had two choices--push this and make Volusia County give Deltona a portion based on the 421 incorporated miles of road at the time, or accept some sort of negotiation agreement. The 421 miles would have hurt many other cities because it was an enormous amount of money to maintain. As a city we had the right to either take a large amount of money, or for the County to take over the roadways. These are the roads that need expansion, major improvements, etc. The County has an agreement with Deltona negotiated on these roadways. Deltona does not have to accept the roads from Volusia County. Roadways and levels of service are the County's forevermore. During that turbulent time we negotiated an outstanding deal because the major roadways are the County's responsibility regarding levels of service and all that. Volusia County would have to comply with concurrency. The cost involved is beyond anything Deltona could afford. If Deltona were to take the roads we probably should go back to day one, 16 years ago, and get that amount of money and see the amount of money the County spent on the roads and see if it was a fair deal. The Mayor said he has completed preliminary figures and it works out to millions and Deltona would never benefit. Deltona benefited by letting Volusia County have control of those roads.

Jokingly, Mayor Masiarczyk presented a used tee-shirt that belonged to the Mayor, to Chairman Burbank with the engraved words Tommy B = P&Z, which rhymes.

Chairman Burbank addressed Mr. Paradise saying that at a minimum there are some housekeeping issues such as references to State laws that have been amended, or no longer exist. He said hopefully those changes will come before the P&Z Board as an ordinance prior to taking any radical action regarding Deltona's concurrency requirements. Mr. Paradise said that is the intent.

Chairman Burbank said he and all the Board Members received the draft revisions to the Land Development Code and he provided his comments to staff. He asked the Board Members to turn in their comments to Mr. Pauls. The LDC revisions will come to a City Commission workshop June 13.

Member Ramos thanked the Mayor for attending. Chairman Burbank asked the Mayor and Commissioners to possibly take the opportunity to loosen Deltona's restrictions. Mayor Masiarczyk said he and the Commissioners want to hear the Board's comments, to hold applicants to recommendations and conditions by staff and make sure restrictions are followed. Even if concurrency is gone, Deltona has to be protected. The County is out of money and has pushed back Deltona's road repair projects. The Mayor said he wants projects in Deltona but there is a need to weigh the amount of leeway given to developers, especially on traffic analysis. Many times the standards that developers go by and the traffic study standards do not reflect what we all know because we drive these roads every day. There are enormous impacts on the roads early in the morning and late at night. The City Commission welcomes and reads the Board's comments with great interest. Chairman Burbank said there should be discretionary provisions in the Land Development Code when developers cannot meet all the requirements of the Code. The Mayor agreed there needs to be common sense for staff to be able to make discretionary decisions.

Member McKnight asked about scheduling a joint meeting with the City Commission. Chairman Burbank said that was a good idea and staff could explain thoroughly what these changes could mean to Deltona, or where the landmines may be. Mr. Bowley agreed that it was a great idea to have a joint workshop with the P&Z Board and the City Commission in order to expand on how the changes apply to the City of Deltona.

- B. By the City Attorney**
- C. By the Director of Planning & Development Services**

10. ADJOURNMENT:

Member Olasimbo moved to adjourn the meeting. Member McKnight seconded the motion. The motion was unanimously approved.

MEETING ADJOURNED AT 7:55 P.M.

Approved this 15th day of June, 2011.

ATTEST:

Pauline Shattuck, Recording Secretary

Tom Burbank, Chairman