

# APPROVED

Planning Advisory Board Minutes  
Regular Meeting  
July 14, 2011  
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## I. Call to Order

Chair Beal called the meeting to order at 5:06 pm.

## II. Roll Call/Determination of Quorum

### Board Members Present

David Beal, Chair

Richard Bradford

Mark Bennett

Ted Kostich (alternate)

Eric Bartelt, Vice-Chair

Len Kreger

Paul Condit

Judith Lane (alternate)

### Board Members Absent

Michael Harrison

### Others Present

Tammi Bach, City Attorney

Marshall McCrary, Community Development Department Director

Kelly Gibson, City Planner

Adrienne Dessy, City Planner

Member Kostich was seated as a voting member for this meeting due to the absence of Member Harrison.

## III. Approval of Minutes

3.1 **HDC/ PAB Joint Workshop on 5/4/2011**

3.2 **Community Workshops on 5/23/2011-5/26/2011**

3.3 **Special Meeting on 5/31/2011**

3.4 **Regular Meeting on 6/8/2011**

3.5 **Special Meeting on 6/15/2011**

3.6 **Special Meeting on 6/22/2011**

**A motion was made by Member Condit, seconded by Member Bradford, to accept the Minutes presented on the agenda subject to any changes in the future.** Member Bradford referred to the June 22<sup>nd</sup> Minutes and read into the record a request by Ms. Borns to correct her address to reflect 314 New Street as well as to clarify her comment about dry storage. He also read that Ms. Borns requested to be added as an attendee under "Others Present". Ms. Gibson noted these changes. **Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

## IV. New Business

4.1 **EXECUTIVE SUMMARIES FOR EACH ELEMENT-** *Discuss for inclusion as part of the EAR Based Comprehensive Plan Amendments* – Ms. Gibson explained that this meeting was to finalize the EAR based Comprehensive Plan revisions as a full package for a recommendation to move forward to the City Commission. She pointed out that the Comprehensive Plan involves other

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regulations (Land Development Code (LDC), Capital Improvement Program) and is the starting point from where decisions are made. She clarify that the Comprehensive Plan is the basis for the regulations. She explained that there are eleven elements within the Comprehensive Plan and nine had changes to them. She briefly explained the process that included element champions, coordination with department directors, internal review of the drafts, community outreach workshops, and the draft release in April 2011. She stated that there would be a City Commission Workshop July 19<sup>th</sup> to provide the City Commission with these documents and where to find them on the website prior to the first reading and transmittal hearing August 2<sup>nd</sup>. She pointed out that the State has a 60 day review timeframe so it would be back mid-October. She stated that final adoption of the amendments was anticipated for November 1<sup>st</sup>. She explained that the executive summaries are a brief summary of what is contained in each element. She pointed out that there was a revision to the special needs population definition to include pets and a definition was included for historic structures. She stated that there was also a definition for transition areas. She referred to the Future Land Use Element re: high density residential land use category and stated that staff included limited neighborhood commercial uses in subsection C. There was a brief clarification of this.

Member Lane referred to the use of the word “limited” and requested clarification. Ms. Gibson explained that limited is defined within the LDC and is tied to the uses that are made permissible subject to supplemental standards. After a brief discussion about clarifying limited, Ms. Gibson stated that staff discussed having an executive summary for the Comprehensive Plan as a whole to strengthen how this document acts. The board had some discussion about the Comprehensive Plan acting as the guide for the specifics in the LDC. The public hearing was opened at this time.

Ms. Patricia Borns, 314 New Street, explained that she lives in a high density residential (HDR) area. She stated that her understanding was that this change came about partly because the Comprehensive Plan said that limited neighborhood commercial would be allowed in HDR with a PUD and a 5% limit on the area for commercial. She pointed out that Old Town is limited in two ways and expressed her opinion that the Comprehensive Plan should be more specific in its meaning. She stated that she thought “limited” meant 5%. Mr. McCrary pointed out that the allowance in OT2 for commercial is in conflict with the language in the Comprehensive Plan today. He provided further clarification of this and that HDR should support certain limited commercial activities that might be helpful to a larger population base (i.e. day care center). There was some discussion about this and maintaining the character of a neighborhood.

Ms. Julie Ferreira, 501 Date Street, commented that back in 2003 when Ms. Gail Easley did the rewrite she brought in a model from mid-state and placed it on Fernandina. She pointed out that Ms. Easley was requested to make sure there were no inconsistencies between the LDC and the Comprehensive Plan, but then there was a huge rewrite. She explained that very slowly with each rewrite protections and the intent gets changed. She encouraged the board to question the 5%. Mr. McCrary explained that from all the effort in this process the City has a document that is highly reflective of Fernandina Beach and it is not a boiler plate. He pointed out that there have been no changes to the City’s base densities anywhere in the document.

Ms. Borns suggested making OT2 an exception and define it in the definitions just like media peonia.

Mr. John Glenn, 214 North 17<sup>th</sup> Street, explained that he was involved with the Comprehensive Plan in 1991. He expressed his concern about the public hearing when the final documents that the board was considering didn’t go to the public until today on the City’s website. He suggested that if the Comprehensive Plan says limited then say what those limitations are, because it is very hard for an

ordinary citizen to look and find things. Mr. McCrary pointed out that staff went to great lengths to advertise this and the working drafts were published on April 9<sup>th</sup>. He explained that during the process any changes that were made were posted to the web. He stated that there has been no change to the Future Land Use Map. He clarified that the maps that were published were the ones that the City is obligated to transmit to the Department of Community Affairs (DCA). There was some discussion about the maps that are required to be sent to the DCA with the proposed amendments.

Mr. Robert Weintraub, 97117 Woodstork Lane, stated that he only became aware of this a couple of months ago. He expressed his concern that it appeared that the City has aggregated the safety of people living in flood prone areas to somebody else. He questioned if the City has no say in the safety of its people with regard to the Coastal High Hazard Area (CHHA). He pointed out that in 2006 Ms. Nancy Freeman, head of Nassau County Emergency Management, attempted to change all of Amelia Island to a category 1 because she was concerned about evacuation times, but that didn't happen. He explained that the State changed the definition of the CHHA, but it was within the purview of the PAB and the City Commission to make its own definition of what is of danger to its people. Chair Beal pointed out that this was off topic. Mr. Weintraub referred to Objective 1.01.12 and pointed out that it states that no PUD shall be allowed within the CHHA, but his understanding was that language was being eliminated. He referred to Objective 5.03 and commented that the CHHA virtually doesn't exist in the City. He stated that in order to make Objective 5.03 meaningful with the Future Land Use element something has to be done to prevent PUDs being developed in flood prone areas. Mr. McCrary pointed out that the City is obligated to define a CHHA. He stated that the CHHA used to be tied to evacuation zones, but it is no longer tied to evacuation zones. He explained that it is important to recognize the difference between a storm surge and flooding potential. He provided further clarification about this to address the concerns that Mr. Weintraub expressed and there was some discussion about this.

Ms. Julie Ferreira briefly expressed her concern with PUDs with specific concerns about how Cape Sound was developed (tree removal, no buffers, erected a wall). There was a brief discussion about this and it was noted that the City has no regulatory authority over Crane Island except for the access road that was within the jurisdiction of the City limits. A brief comment was made about the process and that changes had been made based on input from the public during the process. The public hearing was closed at this time. **A motion was made by Member Kreger, seconded by Member Kostich, to accept the executive summaries as published and presented. Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

**4.1.1 DATA & ANALYSIS-** *Discuss for inclusion as supporting documents to be transmitted as part of the EAR-Based Comprehensive Plan Amendment package*

This item was not considered during the meeting.

## **V. Old Business**

**5.1 EAR-BASED COMPREHENSIVE PLAN AMENDMENTS-** *Discuss any inconsistency issues which overlap within the elements and finalize the draft Comprehensive Plan Amendments as a full package for recommendation to the City Commission including the following items:*

- Goal 1: Future Land Use Element
- Goal 2: Multi-modal Transportation Element
- Goal 3: Housing Element
- Goal 4: Public Facilities and Services Element

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- Goal 5: Conservation & Coastal Management Element
- Goal 6: Recreation & Open Space Element
- Goal 7: Intergovernmental Coordination Element
- Goal 8: Capital Improvements Element
- Goal 9: Port Element (*No Changes*)
- Goal 10: Public Schools Element (*No Changes*)
- Goal 11: Historic Preservation Element (New!)
- Definitions & Acronyms

Member Bennett commented that over the last couple of weeks there were quite a few emails from the public regarding the Historic Preservation Element (archeological and paleontological issues). The consensus of the board was to look at the issues. Member Bennett referred to 11.02 and stated that what seemed to be objectionable is the word “all” from the statement “the City shall make all efforts”. He suggested removing the word “all”. He referred to 11.02.02 and pointed out that there were objections to the word “shall”. He noted that the suggestion was to substitute “may” for “shall”. Member Kostich commented that it also says within Fernandina Beach and that is a wide stroke. Member Bradford inquired if there was a State Statute with regard to archeological potential if it is potential or discovered. He stated that the island is full of archeological potential. Ms. Dessy stated that there are State Statutes that address archeology, but they primarily get involved when human remains are discovered. She pointed out that on private property there are no State Statutes that regulate archeological finds in general. Member Kreger noted that you cannot declare a site without approval of the private property owner. He commented that he didn’t know why this would apply to just the Historic District, and expressed his opinion that it should apply across the board. Ms. Dessy stated that it is not limited to the Historic District in the language. She briefly explained that this was just laying the groundwork to explore an Ordinance to address this. It was noted that staff had no concerns with the two simple changes suggested by Member Bennett. City Attorney Bach suggested deleting the second sentence so that it says “the City shall develop regulations, and shall seek input from the archeological network”. There was further discussion about the language in the Historic Preservation Element and the concern of the City making people do additional surveys to make sure that there are not any archeological artifacts in the ground prior to development. Included in the discussion was that this element was to lay the groundwork for the City to consider an Ordinance to protect archeological and paleontological resources.

The public hearing was opened at this time. City Attorney Bach briefly commented about the language in the Historic Preservation Element 11.02. Ms. Dessy agreed with the suggestion to eliminate the second sentence. City Attorney Bach explained that this element makes the statement in the Comprehensive Plan that archeological resources are important and should be protected.

Ms. Patricia Borns read into the record a prepared statement that included that the Comprehensive Plan regulates our property rights and as you look across the many elements of the Comprehensive Plan you are trying to make sure each element is in balance with the other. She referred to some of the elements and expressed her concern of the lessening of property rights. Included in her prepared statement were specific references in the elements that limit the use of property rights. Ms. Borns requested there be a balance of the Comprehensive Plan with private property rights.

Mr. George Strain, 3729 South Fletcher Avenue, commented that every time something new is implemented there are unintended consequences. He stated that the Historic Preservation Element is very aggressive. He pointed out that he agreed with protecting resources, but the board should think hard about the element to provide a balance program (i.e. protect resources and allow development).

Ms. Debbie Arnold, 3752 First Avenue, noted that this is very broad language that could be very powerful especially when it is undetermined how it is going to affect the property owner. She commented that this seemed so far reaching without a go to person.

Mr. Ron Machado, 314 New Street, expressed his concern about the element and stated that the community doesn't know what the LDC would be. He commented that this was putting the cart before the horse. He referred to the GIS predictive survey and explained that in order to be a true archeological preservation conservation district you need a certified archeological survey. He pointed out that to the private property owner this is an incredible broad reaching imposition without any restrictions at all. He provided further comments to clarify his concern with the new element.

The public hearing was closed at this time. City Attorney Bach explained that from this element the City cannot do anything, because there has to be enabling legislation (the Land Development Code regulations). She stated that the Historic Preservation Element is not required by the State and even if it was not added the City still could develop regulations that would require certain things to protect archeological resources. She provided further comments to clarify this to the board that the elements are to provide a framework for regulations. After a brief discussion, **a motion was made by Member Bennett, seconded by Member Bradford, to delete the entire second sentence of 11.02.02 and to delete the word "all" in 11.02 of the Historic Preservation Element.** Member Kreger commented that this is a difficult element, but it is important to have it in the Comprehensive Plan. Member Kostich stated that as a landowner the comments from the public are just and their concerns are valid. **Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

Chair Beal questioned if there were any other comments on the other elements. He commented that the board and planning staff have done a fantastic job. **A motion was made by Member Condit, seconded by Member Bradford, to pass the whole document given the changes made tonight on to the City Commission for their perusal with the board's blessing.** After a brief discussion, **vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.**

## **VI. Board Business**

### **6.1 DISCUSS GROWTH MANAGEMENT LEGISLATIVE CHANGES – HB 720: *The Community Planning Act- Chapter 2011-139, Florida Statutes***

Ms. Gibson reported that she attended a half day conference on June 28<sup>th</sup> and a couple things she learned she sent in an email to the board. She stated that overall her understanding was that the new legislation has taken away the State oversight and level of requirement for the City to respond directly to the State. She pointed out that there has been a shift for local municipalities to work on things they find to be of importance on their own. She explained that this allows the City to be more creative and create policies that are meaningful for this community. She commented that the review and the way that general Comprehensive Plan amendments are reviewed by the State and other State agencies would now fall under an expedited review process, and the scope of what State agencies can comment on has decreased. She stated that the process is the same for the EAR based amendments. She explained that several definitions from 9J5 were incorporated into the new Statute (compatibility, density, intensity, goal, objective, policy, level of service, capital improvement, suitability, and seasonal population). She commented that the State also incorporated other passages of 9J5 considering the general format of data and analysis. She pointed out that the new legislation outlined

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the required elements for a Comprehensive Plan (Future Land Use, Transportation, Conservation, Utilities, Coastal Management, and Intergovernmental Coordination). She explained that the former DCA would be housed under a new agency called the Department of Economic Opportunity. She briefly explained that the City's reviewer was brought up to speed with what to expect as this document moves forward. She pointed out that with the new legislation the City was no longer limited to twice per year for Comprehensive Plan amendments. There was a brief discussion about the division of the regions in the State. It was noted that determination of concurrency was now up to individual communities.

Member Bartelt noted that with Transportation that the City must have proportionate share and the developer shall not be required to contribute to deficient facilities. Ms. Gibson replied existing deficient facilities and explained that this would be an over capacity roadway that it not working properly. She stated that this was saying that a new development coming in should not be forced to pay for improvements to that existing deficiency even though their development would have an additional impact on it. There was some discussion to clarify concurrency and proportionate fair share (equalize the burden of development to come up with a per trip dollar amount).

### VII. Comments by the public

There were no comments by the public.

### VIII. Adjournment

There being no further business to come before the Planning Advisory Board, the meeting was adjourned 7:13 p.m.

  
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David Beal, Chairman

  
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Eric Bartelt, Vice Chair