

# **October 23, 2014 - Planning and Zoning Board Meeting**

The Planning and Zoning Board for the City of Riviera Beach met in regular session on Thursday, October 23, 2014, in the City Council Chambers, Municipal Complex, 600 West Blue Heron Blvd, Riviera Beach, FL 33404. The meeting was called to order at 6:30 PM. A moment of silence was followed by the Pledge of Allegiance and roll call.

## **ROLL CALL**

Tradrick McCoy, Chairperson	Present
Edward Kunuty, Vice-Chair	Present
S. Lashea Brooks, Board Member	Present
Rena James, Board Member	Absent
Marie Davis, Board Member	Present
Julius Whigham, Board Member	Present
Brian Coulton, Board Member	Present
Kimberly Jackson, 1 <sup>st</sup> Alternate	Present*
Arthur Hamilton, 2 <sup>nd</sup> Alternative	Absent

\* Alternate given voting rights.

Also present; Assistant City Attorney Valencia Stubbs, Planning and Zoning Administrator Jeff Gagnon, Principal Planner DeAndrae Spradley, Senior Planner Mario Velasquez, Consulting Attorney, Keith Davis, project applicants, and three members of the public.

## **ADDITIONS AND DELETIONS TO THE AGENDA – None**

Voting rights for Ms. Jackson granted by the board.

## **DISCLOSURE BY BOARD MEMBERS TO THE AGENDA – None**

Motion to approve the agenda by Ms. Davis, 2<sup>nd</sup> by Mr. Kunuty. Unanimous approval.

## **APPROVAL OF MINUTES**

Motion to approve the minutes from 9.11.2014 by Mr. Kunuty, 2<sup>nd</sup> by Ms. Jackson. Unanimous approval.

## **UNFINISHED BUSINESS – None**

## **NEW BUSINESS**

**A. REVIEW OF AN ORDINANCE AMENDING CHAPTER 10, “LICENSES AND BUSINESS REGULATIONS”, ARTICLE VI, “TELECOMMUNICATIONS REGULATIONS” OF THE CITY’S CODE OF ORDINANCES BY RENAMING ARTICLE VI, “PLACEMENT AND MAINTENANCE OF FACILITIES FOR COMMUNICATIONS SERVICES IN RIGHTS-OFWAY”; UPDATING DEFINITIONS IN CONFORMANCE WITH STATE LAW; PROVIDING FOR WIRELESS COMMUNICATIONS FACILITIES; UPDATING AND REVISING THE REGISTRATION AND PERMITTING PROCESS; REQUIRING DESIGN FEATURES FOR CERTAIN ABOVE GROUND FACILITIES; PROVIDING PLACEMENT PARAMETERS FOR WIRELESS TELECOMMUNICATIONS FACILITIES IN RESIDENTIAL RIGHTS OF WAY; REVISING ADMINISTRATION AND ENFORCEMENT PROCEDURES; PROVIDING REGULATIONS FOR “PASS THROUGH PROVIDERS” IN ACCORDANCE WITH STATE LAW; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

## **1. Presentation.**

Mr. Gagnon – Presented the item proposing to amend chapter 10 from the code of ordinances and introduced consulting city attorney Mr. Keith Davis.

Mr. Keith Davis – Presented and explained to the board members the proposed changes to the telecommunication regulations. Mr. Davis started by providing history of telecommunication equipment and the way the City regulated them; continuing with the proposed code amendments.

Mr. Davis and Ms. Davis discussed the notification regulations specifically for properties directly impacted by equipment and how the code prohibits equipment to block the view or be in front of a house.

Mr. Davis and Mr. McCoy discussed the regulation and cost of the waiver of the location, and who is in charge of issuing these waivers.

Mr. Davis and Ms. Davis discussed the emergency notification regulations and how it should be changed to provide more notification to the property owner.

Mr. Davis, Mr. Kunuty, and Mr. Gagnon discussed the enforcement of these regulations and how the responsibility should be clarified in case department's responsibilities or structure changes in the future. The linear mile calculations were also discussed and how they are still connected underground even if above ground are wireless.

Mr. Davis and Ms. Brooks discussed the height and the type of pole that would be used.

Mr. Davis and Mr. Coulton discussed the size of the boxes that would be used, the line of view from the residential properties, and the departments representing the City.

Mr. Davis, Mr. McCoy, Mr. Gagnon, and Ms. Brooks discussed the building permit requirements and the process used to review and issues the permits, and the notification of an application to the residents to be aware of the proposed location that could possibly affect their location.

Mr. Davis and Ms. Davis discussed the separation requirement between towers and how the coded is written to avoid multiple towers on one block, and also the possibility of having these applications be at the level of special exception.

Mr. Davis and Ms. Jackson discussed private communities and how these regulations would not be affected because they have their own private roads.

Mr. Kunuty asked staff if the item would have to be reviewed again by the board on a later date or if staff would make the changes as discussed.

Mr. Gagnon stated that it is up to the board if they decide to bring it back or move forward.

Mr. Kunuty summarized the changes as follows: At some time there should be notification of the home owners within the area affected, and who would be responsible for the implementation and enforcement of the ordinance.

Ms. Brooks added that she would like to know the distance between the antennas.

Mr. McCoy stated that having these changes and the application reviewed by the different departments, it sounded like a special exception.

Ms. Brooks and Mr. Gagnon discussed the details of the notification to the home owners and the responsibility of such task.

Ms. Hope Calhoun – Introduced herself as the attorney representing Crown Castle, a telecommunication equipment provider. Ms. Calhoun informed the board that the intent of the new regulations is to treat all utilities providers equally meaning that a special exception would have to be required for all other providers. She also informed the board about her understanding of the federal regulation.

Ms. Lisa Maxwell – Introduced herself as a consultant for Crown Castle and tried to address some of the technical questions that came from discussing the proposed code. Ms. Maxwell stated that the industry is in a crisis due to cell phones advancements. Ms. Maxwell also stated that the situation it is getting worse to the point where some people cannot call 911. Ms. Maxwell continued to provide her explanation on why these antennas are needed.

Ms. Maxwell, Mr. McCoy, Mr. Kunuty, and Ms. Davis discussed the antenna boxes and how only two accommodations of carries in these boxes are allowed, and the amount of poles planned to be located in the City at 8 different locations.

Ms. Maxwell and Ms. Davis discussed the locations and how they would be provided in detail when they provide the applications.

Ms. Jackson asked staff if the application would be presented before the Planning and Zoning Board.

Mr. Gagnon stated that the application is for building permit and would not come before the board.

Ms. Jackson recommended approval with the necessary additions and corrections rather than bringing it back with corrected language.

Mr. McCoy asked about the 30 days regulation for notification.

Ms. Maxwell tried to explain based on her understanding of the federal regulation.

Ms. Calhoun explained that when the applications were submitted two years ago, Crown Castle took the position that the 30 days had started but the City took the position that the 30 day shut-clock does not apply, and Crown Castle decided not to litigate but to work with staff.

Mr. McCoy stated that local governments have a pretty hefty responsibility and that FCC regulation is really unreasonable to expect any municipality to process a building permit application in 30 days.

Mr. Davis stated that he has not reviewed the resent ruling and that shut-clock has been a guideline and that 30 days to process an application is impossible. Mr. Davis also stated that it would not be his recommendation to require a special exception because it would apply to all service providers.

Mr. Davis and Mr. McCoy discussed the situation of an application being denied by a City and the different scenarios that could result from that determination.

**Motion to accept the ordinance with the discussed corrections and additions by Ms. Jackson, 2<sup>nd</sup> by Mr. Kunuty.**

Mr. Gagnon stated that a more precise motion needs to be made detailing any additions or edits desired.

Mr. McCoy, Mr. Gagnon, and Mr. Davis discussed the guidelines and regulations from FCC and the City's position regarding the 30 day rule and the 45 day proposed regulation.

**Motion amended to include the language of community notification and designation of a specific department to manage and enforce the ordinance as presented by Ms. Jackson, 2<sup>nd</sup> by Mr. Kunuty.**

Ms. Brooks stated that the distance between antennas was not addressed.

Ms. Davis stated that the emergency notification to the antenna owner was not addressed.

Mr. Coulton expressed his concern about the company notification requirement if the pole needs to be moved in an emergency situation.

Ms. Davis stated that she wants the antenna owner to be notified if the pole needs to be moved or was moved during an emergency.

Mr. Gagnon – Point of order – There is a motion on the floor that has been seconded.

**Motion withdrawn by Ms. Jackson.**

**Motion that the “telecommunications regulations” of the city’s code of ordinances by renaming article vi, “placement and maintenance of facilities for communications services in rights-of-way”; updating definitions in conformance with state law; providing for wireless communications facilities; updating and revising the registration and permitting process; requiring design features for certain above ground facilities; providing placement parameters for wireless telecommunications facilities in residential rights of way; revising administration and enforcement procedures; providing regulations for “pass through providers” in accordance with state law; providing for conflicts, severability and codification; and providing an effective date, to also include the language of community notification and designation of a specific department to manage and enforce the ordinance in addition to include notification of emergency situations to the owner immediately by Ms. Jackson, 2<sup>nd</sup> by Mr. Kunuty. Unanimous approval.**

**2. Public Comments – Provided during presentation.**

**3. Board Comments – Provided during presentation.**

**B. REVIEW OF SE-14-02; A SPECIAL EXCEPTION APPLICATION FROM RAY A. RANSOM, TO OPERATE AN ASSISTED LIVING FACILITY, LOCATED AT 1029 W. 28TH STREET.**

**1. Presentation.**

Mr. Gagnon – Introduced item title and Mr. Velasquez as the presenter.

Mr. Velasquez – Explained to the board the Special Exception, provided location map, site photos, staff analysis and special exception analysis with a staff recommendation.

Ms. Jackson and Mr. Velasquez discussed the approval order for the applicant to get a State and City License.

Ms. Davis and Mr. Velasquez discussed the size of the facility after remodeling which would be 2,400 Sq. Ft., the vehicle accommodations, and the clearance from police and the other department’s comments.

Dr. Ray Ransom (applicant) and Ms. Davis discussed the safety of the area, facility, and residents.

Dr. Ransom and Ms. Jackson discussed the residency restrictions, age and background checks.

Mr. Whigham thanked the applicant for the proposed use which is really needed in Riviera Beach.

Dr. Ransom and Mr. Coulton discussed Dr. Ransom’s background and expertise with areas of high crime and their rehabilitation.

Dr. Ransom and Mr. Kunuty discussed that this is the first attempt to work with this facility and the qualifications of the applicant. They also discussed the ownership and location of the corporations involved in this project.

**2. Public Comments – None.**

**3. Board Comments – Provided during presentation.**

**Motion approve special exception as presented by Ms. Jackson, 2<sup>nd</sup> by Mr. Kunuty. Unanimous Approval 7-0.**

**C. REVIEW OF SE-14-03, SP-14-12, PA-14-01; A SITE PLAN, SPECIAL EXCEPTION AND PLAT APPLICATION FROM MR. NATHAN LANDERS FOR THREE BUILDINGS, A 7,453 SQUARE FOOT RETAIL BUILDING, A 2,100 SQUARE FOOT RESTAURANT WITH DRIVE THRU, AND A 4,400 SQUARE FOOT RETAIL BUILDING, FOR THE PARCEL CURRENTLY IDENTIFIED BY PCN 56-43-42-30-**