PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY
Monday, October 3, 2011
Community Center-509 Ocean Avenue
7:00 pm

MINUTES

I. CALL TO ORDER – The meeting was called to order at 7:01 pm.

II. ROLL CALL

Present

Chairman David Campbell
Vice Chairman Susan Dieterle
Member Tom Davis
Member James Flanagan
Member Kurt Belsten
Alternate Member Lisa Farrall

Town Manager Hoskovec
Deputy Clerk Jennifer Howland
Building Official Bob Phoenix
Town Attorney Gougelman
Kathy Jo Pearson

III. APPROVAL OF MINUTES

August 1, 2011
Moved by Member Dieterle; seconded by Member Flanagan to approve the minutes of the August 1, 2011 meeting. Question called; motion carried, 5-0.

IV. PUBLIC HEARINGS

1. Ordinance 2011-05

Chairman Campbell asked that Ordinance 2011-05 be read into the record by title.

Town Attorney Gougelman read the Ordinance 2011-05 into the record.

Vice Chairperson Dieterle asked why this needed to be put into the Charter

Town Attorney Gougelman explained that years ago the Town had an ordinance that stated that the commission could approve rezoning but that all Town members needed to vote on it as a referendum to change the zoning. The State Legislature redid the law and that basically undoes part of the Charter on this subject as the Town needs to be in compliance with State Law.

Vice Chairperson Dieterle asked what happens if this gets turned down during the election.

Town Attorney Gougelman explained that there was a chance that more Town money would be spent in the form of litigation if a business came in and we had to ask for a referendum to be done to allow a rezoning of any type.

Chairman Campbell asked that if the ordinance was not accepted during the vote and the board denied a rezoning would it give credence to the denial.

Town Attorney Gougelman explained that we would still need to have a legitimate reason for the denial not just based on the new ordinance.

Member Belsten asked does the State Law trump Town based on City of Miami v. Rocio.

Town Attorney Gougelman explained that was a condo case. Ultimately the Town Charter must be in compliance with the State Law.

Member Belsten asked why the Board was in place.

Town Attoreny Gougelman explained that many years ago the State gave town and cities Home Rule, which meant they towns and cities could do anything as long as it did not contradict the County Charter or State Law. What the State has changed is minimal to the Home Rule that we have.

Chairman Campbell asked if the Commission approved.

Town Attorney Gougelman thought that this board had approved this already in concept.

Vice Chairperson Dieterle asked if it needed to be advertised.

Town Manager Hoskovec confirmed that it was advertised.

Vice Chairperson Dieterle made a motion to accept Ordinance 2011-05; seconded by Member Flanagan. Chairman Campbell called the question; motion carried, 5-0.

Member Davis asked if funds were available to educate electorate on the ordinance.
Vice Chair Dieterle asked if it was right to use money to do that.

Town Attorney Gougelman confirmed that monies can be used to educate the electorate on the Ordinance but not to suggest a way to vote.

Town Manager Hoskovec stated the Commission has authorized the staff to put together education on the referendum and it should be ready soon. It will be on the Town website and mailed to those who do not have access.

Lisa Farrall 413 Magnolia Ave suggested using a Pro-Con system to educate the electorate.

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Vice Chairperson Dieterle asked if there was a benefit to not provide the education.

Town Attorney. Gougelman said that it would be good to let people know it's on the ballot and explain why it is there.

2. **Land Development Code Updates**

Chairman Campbell stated that everything needs to be done in 18 months.

Town Manger Hoskovec said final approval by the State was November 2010.

Chairman Campbell asked if it could be changed.

Town Attorney Gougelman stated that it is easier to get that changed now.

Chairman Campbell said that he was concerned about pushing the 18 months.

Town Attorney Gougelman stated that we would have to go to the state to extend time but it would be easy to do.

Member Davis asked if it will help financially.

Chairman Campbell said he was wondering if we hold off until the new Planner is in office.

Town Manager Hoskovec said he is hoping to have the new Planner in next month.

Member Davis asked could this run into next budget year.

Town Manager Hoskovec answered it could run into the next budget year. He said the 18 month deadline is May 2012.

Town Attorney Gougelman stated we should continue to move forward showing good faith but then ask the State for an extension.

Vice Chairperson Dieterle asked where we are on this project.

Chairman Campbell answered that we have redone a lot on this but there are still things that need to be tightened up.

Chairman Campbell said he would like to get a copy of what Dennis the former Planner has so far so that we can continue to work on this.

Vice Chairperson Dieterle asked about the Djon appeal.

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Town Manger Hoskovec answered that the appeal needs to be addressed by at the Board of Adjustments. Since the Final Order came from the Board of Adjustment he said the case could be resolved there or in court.

Vice Chairperson Dieterle asked about swales for new construction.

Town Manger Hoskovec answered that it is going to be part of the Storm Water Management Code.

V. NEW BUSINESS

None.

VI. OLD BUSINESS

1. Update on the status of a new Zoning Official

Vice Chairperson Dieterle asked if a Planner has to travel so far will it eat up the funds.

Town Manger Hoskovec answered no it would not. He said he would like to set up a time with Chairman Campbell and Chairman Schaffer from the Board of Adjustment to go over the candidate to get feedback from them before going forward.

VII. ITEMS TO BE ADDED TO THE AGENDA FOR FUTURE MEETINGS

None.

VIII. ADJOURNMENT

Motion made to adjourn by Member Belsten; seconded by Member Davis. Question called; motion carried 5-0.

Meeting adjourned at 7:45 p.m.

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Kathy Jo Pearson

_____
David Campbell
Chairman

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