

**MINUTES
TOWN OF JUPITER ISLAND
TOWN COMMISSION MEETING
WEDNESDAY, APRIL 10, 2024**

TIME: Wednesday, April 10, 2024 – 9:00 AM
PLACE: Town Hall Island Room – 2 Bridge Rd., Hobe Sound, FL
PRESENT: Present were Mayor Penny Townsend, Vice Mayor Marshall Field VI, and Commissioners Anne Scott, Patricia Warner and Joseph Taddeo. Also present were Town Manager Robert Garlo, Town Clerk Kimberly Kogos, Town Attorney Thomas Baird and IT Director Bill Sutton.

COMMENTS*

1. Mayor/Commissioner Comments

Mayor Townsend stated the purpose of the workshop and explained that the commission will discuss first, followed by the BOA and IRC, and finally the public.

2. Town Attorney's Comments

Town Attorney Baird requested an Attorney Client session on April 17, 2024, at 12:30pm to discuss Dolphin Ste vs. TJI, Feldsine vs. Town of Jupiter Island and ongoing Notice case Testa vs. Town of Jupiter Island. Consensus was gained by the commission.

3. Public Comment (Non-Agenda Related)

Public Comment:

There was no public comment.

Public Comment is an opportunity for the Mayor and Town Commissioners to listen to any issue(s) of importance to you. Public Comment is offered at the beginning of our meetings, in the event attendees cannot stay in chamber for the agenda item or meeting duration. If you elect to address an item on today's agenda during opening Public Comment, we ask that you please refrain from re-addressing the item during Public Comment at the agenda item. Residents also may submit comments, at any time, to the Mayor and Commissioners into the public record: THMail@tji.martin.fl.us. (Please email Public Comment at least one business day prior to the meeting to ensure timely distribution to the Mayor and Commissioners.)

DEVELOPMENT REVIEW PROCESS*

4. BOA and IRC Status

Director Catherine Harding provided background information and noted specific Land Development Regulations pertaining to construction and guidelines for development applications, the Impact Review Committee (IRC) and Board of Adjustment (BOA). She explained the process to gain approval of development applications, stated the criteria for approval, and reviewed her suggestions.

Mayor Townsend summarized, stating that the administrative review is not changing, except for adding ADA requirements. She explained that an area of concern pertains to fill and impact to the character of the neighborhood. She stated that Director Harding has proposed a concept that will benefit residents and the community at large.

Commissioner Taddeo provided an example of the BOA denying a fill request.

Town Manager Garlo noted that Director Harding's comments will be made available. He explained the potential disconnect between the two boards during the application process.

Commissioner Scott expressed concern over the language and interest in discussing the LDR in plain language. Commissioner Warner agreed.

Nancy Auth asked if the two boards are to be combined. Director Harding explained that her suggestion is a concept.

Judy Holden stated that the two boards have different responsibilities. She agreed with having one board who makes major decisions on fill and development. She stated that she had trouble understanding the percentages of how many applications go to the BOA and how many go to the IRC.

Director Harding stated that last year, 7 applications went to the BOA and 20 were heard by the IRC. She explained that some, not all, of the BOA applications went on to the IRC. She explained that her concept defines the BOA as hearing minor construction applications and the IRC hearing major construction applications.

Town Manager Garlo clarified that applications would appear before the BOA or the IRC, not both, to eliminate the gap between the two.

Bonnie Schiralli provided examples of applications where one application was permitted fill while other applications were not permitted by the BOA. She also expressed confusion about the percentages.

Jodi Dines opined that the BOA originally reviewed how a plan will fit into the community and has now grown and changed to meet the requirements of the state. She expressed concern regarding neighbor notification of construction and explained that the criteria can be confusing to the board members also.

Mayor Townsend explained that the IRC is responsible for impacts and the BOA is not responsible for impacts, therefore does not consider impacts. Once an application comes before the IRC and has been approved by the BOA, the IRC does have the authority to overrule the BOA if what the BOA approved has negative impacts on the neighbors.

Commissioner Scott explained that the impression seems to be that the boards feel they have not done a good job, so the job is being taken away from them. She explained that this is not the case. Rather she stated that the boards should be advisory. She explained that in other communities the Town Commission makes the final decision on development applications.

Judy Holden disagreed with Commissioner Scott stating that Martin County and Tequesta Commissioners do not decide on development.

Commissioner Taddeo stated that the IRC and BOA process works well and has for 70 years. He added that he does not want to be like other municipalities.

Mayor Townsend agreed that the Commission does not need to take on more work than necessary and is not in favor of making the boards advisory but is in favor of improving the governance.

Commissioner Warner expressed agreement with Commissioner Taddeo and Mayor Townsend. She stated that a few things need to be redefined and/or reallocated.

Vice Mayor Field expressed agreement with Commissioner Taddeo that there is not a broken system, and that the composition of the boards should be reviewed and consider rotating chairs, but not to tear down the existing governance which is not beneficial.

Bonnie Schiralli expressed agreement with Mayor Townsend and Commissioner Taddeo. She stated that even if the boards are advisory, the Town Commission will still need to go out to the development sites and do research/work to make an informed decision. She expressed interest in strengthening the LDRs and better defining the standards. She expressed agreement with Director Harding's concept and her attempts to improve the LDRs.

Commissioner Taddeo explained that currently 15 (BOA, IRC and Town Commission) people make development decisions. He noted that if the boards are made advisory, the development decisions are then made by 3 people (Town Commission). Commissioner Scott expressed disagreement.

Judy Holden listed reasons why the boards should not be advisory. She spoke about cost, timing issues (to begin a project by May 1), consistency with other municipalities, one group of three people making all decisions, and appeals going straight to circuit court.

Richard Rutledge of Innocenti and Webel stated that submittals take much time and cost, and would appreciate streamlining. However, the current process has worked efficiently thus far pertaining to timing. He explained that if the boards do minor and major, then both boards are basically doing the same review. He referred to fill and stated that from a design perspective, there are many challenges with the physical properties. He explained that there are requirements set in place by the DEP. If fill is not permitted, there would be homes on stilts which are not as visually appealing as landscaped and buffered land that has received fill.

Attorney Jesse Panuccio, representing Mr. and Mrs. Testa, stated that he agrees on improvements including:

IRC/BOA decision authority – one stop shop would be beneficial, but questioned if there is a disagreement and appeal needed. If so, the Town Commission should be able to hear the appeal de novo. He stated that the Town Commission is made up of elected officials who should have the final say de novo, if necessary. The LDR should clarify process, with evidence due dates and time that each party is allowed to review the evidence. He also recommended explaining the purpose of Development Review Committee (DRC) and process for affected parties. The DRC should be defined in the LDR with rules.

Director Harding explained the DRC, stating that it is a staff review of an application, not a committee. She clarified that each individual provides comments and recommendations.

Mayor Townsend expressed that it seems to be the majority agreement not to make the boards advisory, although a vote cannot be taken. There was consensus to look at the LDRs, make sure there are no gaps/interruptions between the IRC/BOA work, and all areas of major importance are weighed before decisions are made on a development project.

5. Appeal Process

Mayor Townsend referenced a draft ordinance that was included in last month's commission meeting that was not discussed at that time. She explained that the ordinance speaks to making the appeal process de novo.

Town Attorney Baird explained that the change being considered means that instead of the commission being confined or limited, they essentially have a new hearing where old and any new evidence/information may be considered to make a decision.

Commissioner Scott provided her perception of the history of the island development and noted that she agrees with making the process de novo.

Commissioners Taddeo and Warner agreed to make the process de novo.

Bonnie Schiralli stated that most people adhere to the IRC decisions (except for the 300 block). She stated that the LDRs should be strengthened, rather than rebuilding the boards.

Commissioner Scott mentioned the shift of opinion is not concerning denials, rather, too much being allowed.

Vice Mayor Field noted that if the applicant/representative does a good job with the application, the application should go through the board process smoothly.

Attorney Jared Gaylord noted that new evidence can be remanded back to the board/committee.

Mayor Townsend stated that the situation did occur previously. At that time, the Commission was advised by counsel that remanding back to the lower board would not allow new information to be presented.

Attorney Panuccio stated one issue is "where the record is built." He reiterated establishing a clear process, including timeline for objectors. He noted that the standard of review is a little different. He spoke about deference and suggested the Town Commission exercise plenary power. He said "how the record is built" is one question and "standard of review" another.

Laurie Gaylord stated that the BOA and IRC need to be at the table to dissect/change the LDRs. She expressed concern regarding the lack of advance materials.

Kristina Kazilionis stated that she went through an appeal process and agrees with a de novo appeal process.

There are shades of gray and there may be a new issue that hasn't come before the board/committee previously. A decision with good intention may be made and can be appealed to the TC de novo since the issue has not been considered before.

The Commission agreed that there has not been a voice opposing de novo appeal process.

Town Attorney Baird stated that the code states that an appeal can be taken up by anyone within 1000'. The ordinance states that anyone residing in the town may take up an appeal. He noted that the Town Commission discussion suggested the 1000' was too limited and town-wide was too expansive.

Commissioner Scott made an argument that residents outside of 1000' of an application could/should have standing to appeal. Discussion ensued regarding who is entitled to appeal.

Mayor Townsend referred to Section 8.01 of the proposed draft ordinance, noting if a resident comes to the commission meeting and puts something into the record, they would have standing.

6. Land Development Regulations

Mayor Townsend commented that changes were heard at the last Town Commission meeting and were approved on 1st reading. She stated that there were questions regarding other areas that had not been addressed in that initial ordinance.

Jay Wilson referred to section 7.03 and 7.04 – Communication and Notification, and stated that for most residents, the most effective communication is not bulletin boards or U.S. mail. This section should be updated to mail or email, and the onus is on the Town to contact the owner to obtain the address. Notice should also provide a summary of the application and a link to materials to review the application.

Laurie Gaylord agreed that communication is key. She explained that materials were not provided, and the agenda was not provided. The public cannot communicate effectively if they don't have materials ahead of time.

Judy Holden stated that this is a broad subject and noted the IRC wants clarity and definitions in the LDR. She referred to massing, landscaping (ie. Australian pines), exfiltration/fill, basements, etc.

Nancy Auth stated that it would be helpful to have advance materials for review.

Mayor Townsend stated that the LDRs in its entirety cannot be discussed in one meeting.

Commissioner Scott noted that it is important to identify the parts that need an overhaul.

Director Harding stated that when the comprehensive plan review is completed next year, the whole LDR will be reviewed as well. Currently, there are elementary matters that need immediate attention in the LDR. This specific topic of the meeting is a time for public comment regarding individual concerns of the LDRs.

Bonnie Schiralli stated the importance of public involvement and advanced materials.

Richard Rutledge referred to the Administrative review guidelines. He provided an example of failed landscape buffers that need to be replaced without going before the board/committee and noted there should be a way to simplify the process. There are many confusing areas in the LDR pertaining to landscaping and buffers.

Laurie Gaylord reiterated her frustration with the notice of the workshop, vague agenda topics, and lack of backup materials.

7. Other Items

Discussion ensued regarding the current copy of the LDR and using the online version of the LDR and Town Code.

Adjourned at 11:25 AM.

Respectfully submitted,

Kimberly Kogos, Town Clerk