



City of Venice

401 West Venice Avenue
Venice, FL 34285
www.venicegov.com

Meeting Minutes City Council

Wednesday, August 28, 2019

8:30 AM

Council Chambers

Special Meeting

CALL TO ORDER

Mayor Holic called the meeting to order at 8:30 a.m.

ROLL CALL

Ms. Stelzer noted Ms. Fiedler requested her absence be excused.

Present: 6 - Mayor John Holic, Council Member Jeanette Gates, Council Member Bob Daniels, Vice Mayor Richard Cautero, Council Member Charles Newsom and Council Member Helen Moore

Excused: 1 - Council Member Margaret Fiedler

ALSO PRESENT

City Attorney Kelly Fernandez, City Clerk Lori Stelzer, City Manager Ed Lavallee, Recording Secretary Mercedes Barcia, and for certain items on the agenda: Finance Director Linda Senne, Director of Public Works and Asset Management James Clinch, Assistant Director of Public Works and Asset Management Ricky Simpson, Development Services Director Jeff Shrum, and Planning Manager Roger Clark.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice Mayor Cautero.

A motion was made by Vice Mayor Cautero, seconded by Council Member Daniels, to excuse Ms. Fiedler's absence. The motion carried unanimously by voice vote.

I. AUDIENCE PARTICIPATION will be limited to one hour.

There was none.

II. PRESENTATIONS

[19-4120](#)

Linda Senne, Finance Director: Quarterly Financial Update and Changes to the FY20 Proposed Budget Since the Budget Workshops

Ms. Senne reviewed the quarterly financial report to include general fund revenues, insurance tax premiums, utility services taxes, franchise and

mitigation fees, intergovernmental revenues, Federal Emergency Management Agency (FEMA) reimbursement, and responded to council questions on percentage of claims anticipated.

Ms. Senne spoke to state revenue sharing, miscellaneous revenues, general fund expenditures, and responded to council questions regarding extraordinary mitigation fees (EMFs) to include total amount collected and paid in litigation.

Ms. Senne continued to review general fund expenses.

Discussion followed on including productivity in the budget report for the public safety facility and status on hiring a consultant to study revenue sources for general government, stormwater, Emergency Medical Services (EMS) and solid waste and recycling impact fees.

Ms. Senne reviewed the one-cent sales tax fund.

Discussion followed on building reserves for fire station no. 1, short term loan, profits from the sale of the Hamilton building, and the city's credit rating.

Ms. Senne spoke on changes in the general fund budget for EMS equipment lease payments.

Discussion followed regarding EMS startup costs, impact on the general fund, and adding a footnote stating total net EMS costs remains at 1.2 million dollars.

Ms. Senne spoke regarding the debt service and one-cent sales tax fund, sale proceeds of the Hamilton building, updated capital improvement project (CIP) sheets, and budget for decorative street lights.

[19-4121](#)

James Clinch, Director of Public Works & Asset Management: City Adoption Program Update - Adopt-A-Beach/Adopt-A-Road (10 min.)

Mr. Clinch spoke to proposed Adopt-A-Beach program, Keep Sarasota County Beautiful (KSCB), beach park cleanups, Adopt-A-Road program, and adding city roads into the county's program.

Discussion took place regarding adoption cycle.

There was consensus for staff to develop an Adopt-a Beach resolution, to include city owned beach parks, and to coordinate with Keep Sarasota County Beautiful for the Adopt-a Road program.

[19-4122](#)

James Clinch, Director of Public Works & Asset Management and Rick Simpson, Assistant Director of Public Works & Asset Management:

Recommended Locations for Public Parking Signage (10 min.)

Mr. Simpson spoke regarding downtown parking signs.

Mr. Clinch spoke on the centralized parking sign located at Centennial Park and responded to council questions on identifying the Venice Community Center (VCC) as an alternate public parking facility.

Discussion followed on parking at the VCC during special events, increasing the font size on the centralized parking sign, sign consistency, directional signs, making the public aware of available parking at Our Mother's House, city hall and the VCC, and no U-turn sign on Harbor Drive and Venice Avenue.

Mr. Clinch spoke to directional parking sign color styles and recommended locations.

There was consensus for staff to choose directional parking sign styles and color, and install signs at recommended locations throughout the Venice downtown district.

Discussion continued on staff reviewing parking signs at city hall to ensure there is no confusion.

III. PUBLIC HEARINGS

A. ORDINANCES - FIRST READING

[ORD. NO.
2019-26](#)

An Ordinance Amending the Official Zoning Atlas of the City of Venice, Florida, Pursuant to Zoning Map Amendment Petition No. 17-16RZ, Relating to Property in the City of Venice Located at the Southeast Corner of N. Auburn Road and Border Road Owned by SSD Land Holdings, LLC, Rezoning the Property from Sarasota County Open Use Estate (OUE) to City of Venice Planned Unit Development (PUD); Providing for Repeal of all Ordinances in Conflict Herewith; Providing for Severability; and Providing for an Effective Date (Quasi Judicial)

Mayor Holic announced this is a quasi-judicial procedure.

Ms. Stelzer read the ordinance by title only.

Mayor Holic opened the public hearing.

Ms. Fernandez queried council members on conflicts of interest and ex-parte communications. Mr. Newsom disclosed receiving resident comments on the property's future and confirmed he can remain fair and unbiased and make a decision based on the record presented today. Ms. Moore disclosed general comments received from residents.

Ms. Stelzer noted additional correspondence was received and will be added to the agenda packet for final reading.

Ms. Fernandez provided an update since council's denial of the petition on November 28, 2018 to include Florida Land Use and Environmental Dispute Resolution Act (FLUEDRA) hearings.

A motion was made by Council Member Gates, seconded by Council Member Moore, to incorporate the record of the November 28, 2018 proceeding into the public hearing. The motion carried unanimously by voice vote.

Robert Lincoln, representing the applicant, being duly sworn, provided a presentation and spoke on changes to the application, developer agreement for additional intersection improvements, concerns brought forth by Fox Lea Farm to include buffer and groundwater impacts, no construction burning, notice of proximity incorporated into the developer's agreement, stipulations suggested by Fox Lea Farm, stormwater monitoring plan, knowledge of on-site contractors, petition being consistent with the comprehensive plan, density, joint planning agreement (JPA), compatibility, comprehensive plan Policy 8.2, Murphy Oaks' character and design, consistency with the density and characteristics of nearby neighborhoods/planned unit developments (PUDs), definition of compatibility, compatibility with Fox Lea Farm, compatibility review, considerations for determining compatibility, mitigation of potential incompatibilities, and planning staff's conclusion and findings of fact.

Jeffery Boone, representing Fox Lea Farm, being duly sworn, stated no objection to extending the applicant's presentation for an additional five minutes.

A motion was made by Council Member Gates, seconded by Council Member Newsom, to allow the applicant's presentation to proceed for an additional five minutes. The motion carried by voice vote 5 to 1 with Council Member Daniels opposed.

Mr. Lincoln spoke to the proposed development's compatibility with existing neighborhoods and consistency with the comprehensive plan.

Recess was taken at 10:18 a.m. until 10:30 a.m.

Discussion took place on requiring buyers initials on pages one and two of the notice of proximity, private enforcement, notice of proximity process during a resale, chipping versus open burning, stormwater pond, water table, dewatering impacts, density, number of proposed residences near Fox Lea Farm, property configuration and design, lot lines from Fox Lea Drive, buffering, concession on number of units, Fox Lea Farm's protection

and economic impact, construction impact, and land use compatibility with the comprehensive plan.

Mr. Boone requested clarification on Mr. Lincoln drafting the language regarding the aquifer system monitoring and mitigation plan stipulation. Mr. Lincoln noted he drafted the language based on input from the stormwater and groundwater experts who prepared the monitoring plan.

Mr. Shrum, being duly sworn, spoke on the JPA, comprehensive plan, rezoning property to provide a city designation, proposed planned unit development (PUD) zoning designation, focus of mediation, transportation improvements by the developer, enforcement concerns, compatibility, buffer along Fox Lea Drive, mitigation during construction, developer's agreement, Technical Review Committee's (TRC's) review of the revised plans, and legal description change.

Mr. Clark, being duly sworn, reviewed changes to buffers and landscape plans.

Mr. Shrum spoke to density, compatibility, buffer, and applicant exceeding code standards.

Mayor Holic left the dais at 11:29 a.m. and returned at 11:32 a.m. The meeting was paused.

Mr. Shrum commented on mitigating compatibility issues brought by adjoining properties, and responded to council questions regarding staff's review of applicant's proposed stipulations, eight foot concrete wall, buffer implication on overall project, property zoning designation, and maximum allowable density in Sawgrass.

Mr. Clark reviewed property history and background.

Discussion followed regarding property annexation and zoning, stipulations, and density of surrounding JPA areas.

Recess was taken at 12:01 p.m. until 1:15 p.m.

Ms. Fernandez explained council's role for today's hearing.

Mr. Shrum noted the county's comprehensive plan designation for the property when annexed was moderate density residential for five units per acre.

Mr. Boone cross-examined Mr. Shrum regarding the county's

comprehensive plan designation for the property prior to being annexed, Mr. Lincoln's testimony on the compatibility policy applying to Fox Lea Farm, requirement for a compatibility analysis as part of the application, JPA using the county's compatibility policy, staff's testimony on comprehensive plan Policy 8.2, staff's review of the rezoning application to include compatibility mitigation, density, Toscana Isles, Crush-It, Inc. wall buffer, and language on additional off-site improvements in the developers agreement.

Mr. Lincoln objected to improper cross-examination and noted staff did not testify on the developers agreement.

Mr. Boone noted Mr. Shrum did testify about the developers agreement coming out of the mediation.

Ms. Fernandez stated Mr. Lincoln is correct in that the scope of cross-examination is limited to the direct testimony of the person who is being questioned and does not recall Mr. Shrum going into detail about the developers agreement other than referencing it.

Mayor Holic noted objection sustained.

Mr. Boone cross-examined Mr. Shrum on changes to the revised BMP narrative, July 2, 2019 memorandum he prepared noting staff's determination of substantial and competent evidence for consideration, and addressing issues raised by Fox Lea Farm.

Mr. Lincoln objected to Mr. Boone's cross-examination on the memorandum.

Mr. Boone noted Mr. Shrum testified from the document.

Ms. Fernandez confirmed it is appropriate for Mr. Shrum to be questioned about the document.

Mayor Holic stated objection is noted and overruled.

Mr. Shrum explained the memorandum provided a summary of substantive changes to the application pursuant to the mediation.

Mr. Boone cross-examined Mr. Shrum regarding transportation and environmental study requirements, submission of a study to show groundwater level impacts, staff's agreement on groundwater study preventing adverse impacts to Fox Lea Farm's groundwater levels, county's approval of transportation improvements, buffer along Fox Lea

Drive, whether tree buffer will be subject to the city's or county's tree ordinance, review of the revised BMP narrative, July 2, 2019 memorandum, interpretation of language in the revised BMP narrative referencing existing vegetation adjacent to buffer in the Fox Lea Drive right-of-way will be kept in its current condition to the extent practical, protected trees, replacement of damaged vegetation, tree height requirements, concern with different standards in the developers agreement and revised BMP narrative, stormwater impact, pond depths, stormwater management section including language on groundwater, including the revised BMP narrative as part of the zoning regulations for this planned unit development (PUD), and developer's standard to minimize or prevent adverse groundwater impacts.

Mr. Lincoln objected to Mr. Boone's cross-examination noting he is taking language from a summary description and not a legally binding document.

Mr. Boone referenced language in Mr. Shrum's July 2, 2019 memorandum noting the project will be subject to these additional changes and stipulations.

Mr. Lincoln stated the stipulations are in the development concept plan.

Ms. Fernandez noted actual standards are referenced in the ordinance and staff's memorandum has no regulatory aspect.

Mayor Holic stated objection is noted.

Mr. Boone cross-examined Mr. Shrum on the stipulations contained in the revised BMP narrative, six foot temporary berm for chipper, Murphy Oaks summary of changes pursuant to mediation, and number of agreed changes that are city standards.

Richard Ulrich, representing the Sawgrass Community Homeowners Association and Dick Longo, being duly sworn, cross-examined Mr. Shrum regarding Sawgrass property location, Curry Creek basin, and stormwater affecting the Sawgrass community.

Mr. Lincoln cross-examined Mr. Shrum regarding changes in the plan addressing council, staff and neighborhood concerns and items staff wanted the applicant to include in the BMP.

Recess was taken at 2:07 p.m. until 2:13 p.m.

Mr. Boone spoke on Fox Lea Farm, introduced a letter written to Magistrate Scott Steady dated February 22, 2019 as part of the record,

and commented on Fox Lea Farm's request for the city to approve a reasonable development plan with adequate safeguards and Fox Lea Farm's annual economic impact to Sarasota County.

Mr. Lincoln objected to the relevancy of Fox Lea Farm's annual economic impact.

Mr. Boone noted Fox Lea Farm is an affected party that can be impacted by the development if adequate safeguards are not in place.

Mayor Holic stated objection is noted.

Mr. Boone commented on concern with groundwater impacts from the Murphy Oaks development and requested Laurie Birnbach and Kim Farrell from Fox Lea Farm make a presentation in respect to the groundwater.

Mr. Lincoln objected to testimony by the affected party regarding groundwater impacts and noted subject requires expert testimony.

Mr. Boone noted Mr. Lincoln can inquire on Ms. Birnbach's and Ms. Farrell's qualifications during cross-examination and the same testimony by both parties is part of the record.

Mayor Holic stated objection is noted.

Laurie Birnbach, being duly sworn, spoke to elements that make and hurt the farm to include safety and water, economic impact to the city and county, concern with water table and construction, visitor check-in, footing, facility uniqueness, and compatibility.

Kim Farrell, being duly sworn, explained footing, and spoke to safety concerns, the farm's proximity to the development, and concern with construction.

Mr. Lincoln cross-examined Ms. Birnbach and Ms. Farrell regarding Fox Lea Drive being a county right-of-way and surveying of the public right-of-way.

David Brown, Progressive Water Resources, being duly sworn, provided a presentation on predicted hydrologic impacts and proposed monitoring and spoke to proper soil moisture, aerial photograph, developer's consultant's use of the Southwest Florida Water Management District's (SWFWMD's) district-wide regulatory model, review of the predictive modeling results and consultant's report, developer's monitoring plan, model assumptions, pond one (southern pond-no hydrolic barrier), pond 2

(northernmost pond), drawdown, and recommendations.

Mr. Boone asked Mr. Brown which monitoring plan will provide the best protection to Fox Lea Farm.

Mr. Lincoln cross-examined Mr. Brown regarding level of the water table during a drought.

Mr Boone objected to speculation by Mr. Lincoln.

Mr. Lincoln cross-examined Mr. Brown on his review of the applicant's proposed groundwater monitoring plan, early warning system notification, data provided in real time, and installation of the monitoring plan.

Mr. Lincoln commented on Fox Lea Farm granting permission to have wells installed on site.

Mr. Boone objected and requested Mr. Lincoln's testimony be stricken. Mr. Boone noted there has been no discussion on Fox Lea Farm granting permission to have wells installed on site.

Mayor Holic stated objection is noted.

Mr. Lincoln cross-examined Mr. Brown regarding Fox Lea Farm's water use permit to include participation in the development and withdrawal points from pond.

Mr. Boone objected and noted beyond the scope of direct.

Mr. Lincoln clarified on trying to establish water impacts and withdrew his question.

Mr. Lincoln cross-examined Mr. Brown regarding water level impact to Fox Lea Farm and withdrawing water from irrigation pond, modifying applicant's monitoring proposal to be effective, and determining Progressive Water Resources' monitoring plan is the better plan.

Mr. Boone objected to ask and answer of a question.

Mr. Brown responded to council questions regarding dewatering impacts to I-75, state and Florida Department of Transportation involvement in monitoring, and dewatering affecting area ponds.

Mr. Lincoln cross-examined Mr. Brown on dewatering drawdown effects and SWFWMD permit standard on assuring no adverse impact to

groundwater.

Mr. Brown responded to Mr. Boone's question on who is involved with the pond once the SWFWMD permit is issued, accident warning notifications, and reimbursement of a negative impact to Fox Lea Farm.

Mr. Boone spoke to Mr. Brown's groundwater monitoring plan, having all stipulations in one document, concern with status of regulatory documents, 40 acre development, and statements on Fox Lea Farm's position on the proposed development.

Mr. Boone presented a document containing a list of current developments in the city and asked Jim Collins, planner with the Boone Law Firm, being duly sworn, on the preparation and accuracy of the document.

Mr. Boone reviewed densities of approved developments and requested all development standards be condensed into one document and included in the ordinance.

Mr. Ulrich spoke on Sawgrass development, neighborhood compatibility, density concern, compatibility as defined in the comprehensive plan, opposition to number of proposed homes being developed, and stormwater issues with Curry Creek.

Jack Worrell, 762 Egret Walk Lane, being duly sworn, commented on units per acre, Curry Creek, preservation of trees, widening Edmondson Road and Auburn Road junction, number of units per acre, Misty Pines, Legacy Trail, concern with trespassing onto Sawgrass and Fox Lea Farm, and reducing proposed density.

Mr. Lincoln cross-examined Mr. Worrell regarding Edmondson Road and Auburn Road intersection improvements and right-of-way.

Victor Romano, 708 Egret Walk Lane, being duly sworn, read letter from current ponds and preserves chairman opposing proposed density and impact to Fox Lea Farm.

Paul McCullough, 476 Arborview Lane, being duly sworn, reviewed council member statements made at the November 28, 2018 meeting and commented on compatibility.

Mr. Ulrich spoke on lot coverage and sizes of proposed development compared to the Sawgrass community, Mr. Lincoln's statement on competent substantial evidence, and requested a reduction in density.

Recess was taken at 3:41 p.m. until 3:47 p.m.

Detlef Furhmann, 728 Sawgrass Bridge Road, being duly sworn, spoke to concern with traffic on Border Road and Auburn Road.

Lynette Edmonds, 476 Arborview Lane, being duly sworn, spoke to Fox Lea Farm's economic impact.

James Courtright, 479 Arborview Lane, being duly sworn, commented on stormwater runoff, pond one, potential noise transmitted from I-75, density, and setbacks.

Mr. Boone spoke to Fox Lea Farm's concern with horse footing, density, compatibility policy, groundwater monitoring plan, Windham development's consideration of Fox Lea Farm's concerns, stormwater management, having stipulations condensed into one document and included in the ordinance, developer's agreement, and request for a reasonable development with adequate safeguards.

A motion was made by Council Member Gates, seconded by Council Member Moore, to extend the meeting end time to 6:00 p.m. The motion carried unanimously by voice vote.

Mr. Lincoln explained the legal description change and concrete wall space.

Mr. Lincoln questioned Mike Alfieri, Water Resource Associates, LLC., being duly sworn, on preparation of the groundwater study and groundwater monitoring plan, and review of plan provided to the city.

Mr. Lincoln spoke regarding the early warning system being addressed in their groundwater monitoring plan, data access, Fox Lea Farm granting permission to install wells on site, density compatibility, open space, applicant reducing the density to 90 units and, denial leading to mediation instead of litigation, comprehensive plan, and combining stipulations into one document.

Herb Lawson, applicant, being duly sworn, spoke on compromising and ability to have swimming pools in back yards.

Mr. Lincoln spoke on Mr. Boone's proposed stipulations, proposing a compromise on the density, groundwater monitoring plan, and existing zoning.

Mayor Holic closed the public hearing.

A motion was made by Council Member Daniels, seconded by Council Member Gates, to approve a total of 80 units to be built on the property.

Discussion took place regarding density compatibility with the surrounding neighborhood and property value.

Mayor Holic reopened the public hearing.

Mr. Lawson agreed to a total of 85 units to be developed.

Mr. Lincoln noted applicant will return with a modified BMP at second reading.

Ms. Fernandez stated there was no issue with changing the density to 85 units and have the applicant return with a revised BMP.

Mayor Holic closed the public hearing.

An amendment was made by Council Member Moore, seconded by Council Member Daniels, to approve a total of 85 units. The amendment carried by voice vote 4 to 2 with Mr. Newsom and Vice Mayor Cautero opposed.

Discussion followed on both parties agreeing to stipulations to be attached to the ordinance by second reading and considering a stipulation for a solar stop sign at Edmondson Road and Border Road paid by the developer subject to the county's approval.

Mr. Boone suggested council not make a decision today.

Discussion continued on concerns with compatibility, horse footing, groundwater, density and stipulations.

Ms. Fernandez noted council's decision must be supported by competent substantial evidence in the record.

The motion as amended carried by voice vote 4 to 2 with Mr. Newsom and Vice Mayor Cautero opposed.

Discussion continued on concern with compatibility and construction of development, both parties working together and agreeing to stipulations, density, issue with water table, solar stop sign at Edmondson Road and Border Road, prohibition on pools, safeguards, enforceability, emotional decision making, voluntary reduction in total number of units, postponing first reading of the ordinance, and scheduling a special meeting.

Recess was taken at 5:18 p.m. until 5:26 p.m.

A motion was made by Council Member Gates, seconded by Council Member

Daniels, to postpone Ordinance No. 2019-26 to September 24, 2019.

Mr. Daniels noted he sought legal advice to propose a reduction in density.

The motion carried unanimously by voice vote.

IV. CHARTER OFFICER REPORTS

City Attorney

Ms. Fernandez had no report.

City Clerk

Ms. Stelzer had no report.

City Manager

Mr. Lavallee had no report.

V. COUNCIL REPORTS

Council Member Gates

Ms. Gates had no report.

Council Member Moore

Ms. Moore had no report.

Council Member Newsom

Mr. Newsom had no report.

Council Member Cautero

Mr. Cautero had no report.

Council Member Fiedler

Ms. Fiedler was absent.

Council Member Daniels

Mr. Daniels had no report.

Mayor Holic

Mayor Holic had no report.

VI. AUDIENCE PARTICIPATION

There was none.

VII. ADJOURNMENT

There being no further business to come before Council, the meeting was adjourned at 5:30 p.m.

ATTEST:

Mayor - City of Venice

City Clerk