

PLANNING COMMISSION
July 31, 2013
Meeting Minutes

The Planning Commission of Monroe County conducted a meeting on **Wednesday, July 31, 2013**, beginning at 10:01 a.m. at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL by Gail Creech

PLANNING COMMISSION MEMBERS

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| William Wiatt, Chair | Present |
| Jeb Hale | Present |
| Elizabeth Lustberg | Present |
| Ron Miller | Absent |
| Denise Werling | Present |

STAFF

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| Townsley Schwab, Senior Director of Planning and Environmental Resources | Present |
| Susan Grimsley, Assistant County Attorney | Present |
| Steve Williams, Assistant County Attorney | Present |
| John Wolfe, Planning Commission Counsel | Present |
| Mayte Santamaria, Assistant Director of Planning and Environmental Resources | Present |
| Joe Haberman, Planning & Development Review Manager | Present |
| Mitch Harvey, Comp Plan Manager | Present |
| Emily Schemper, Senior Planner | Present |
| Tim Finn, Planner | Present |
| Gail Creech, Planning Commission Coordinator | Present |

COUNTY RESOLUTION 131-91 APPELLANT TO PROVIDE RECORD FOR APPEAL

County Resolution 131-92 was read into the record by John Wolfe.

SUBMISSION OF PROPERTY POSTING AFFIDAVITS AND PHOTOGRAPHS

Gail Creech confirmed receipt of all necessary paperwork.

SWEARING OF COUNTY STAFF

Mr. Wolfe indicated that swearing of staff was not necessary since the one item to be heard was legislative.

CHANGES TO THE AGENDA

Ms. Creech informed the Commissioners that the first two agenda items were withdrawn.

APPROVAL OF MINUTES

Motion: Commissioner Werling made a motion to approve the minutes of the June 26, 2013 meeting. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

MEETING

New Items:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 101-1, DEFINITIONS, TO REVISE THE DEFINITION OF COASTAL BARRIER RESOURCES SYSTEM (CBRS) TO BE CONSISTENT WITH THE FEDERAL COASTAL BARRIER RESOURCES ACT; AMENDING SECTION 130-122, COASTAL BARRIER RESOURCES SYSTEM OVERLAY DISTRICT TO DISTINGUISH BETWEEN FEDERAL AND COUNTY PURPOSES; REVISING THE APPLICATION OF THE CBRS OVERLAY DISTRICT TO BE CONSISTENT WITH CBRA OBJECTIVES AND POLICIES OF THE MONROE COUNTY YEAR 2010 COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2013-067)

(10:04 a.m.) Ms. Schemper presented the staff report. Ms. Schemper reported that this is a request for a text amendment request by the Planning Department under direction of the Board of County Commissioners (BOCC). In the beginning of the year the BOCC discussed having Keith & Schnars, who are updating the County's comprehensive plan, do additional work to evaluate whether the comprehensive plan and land development code policies add additional protection to land over and above the comp plan and the code provisions that govern the tier system. The BOCC approved a contract amendment for Keith & Schnars to do this additional analysis, including some items that the public had requested. Keith & Schnars found that if the CBRS overlay ordinance were eliminated, CBRS system units would still be protected from development by the tier system. Almost all CBRS lands are within Tier I and ROGO has been effective at minimizing development in Tier I lands. Keith & Schnars also found the County's tier system and ROGO system have been effective in limiting development in the CBRS.

Based on these findings Keith & Schnars recommended a two-phased approach to amending the comprehensive plan and the land development code for the CBRS overlay district. Phase 1 includes modifications to the land development code by: One, removing any language that prohibits the extension of utilities and changing that to discouraging extension of utilities; two, eliminating language that refers to infrastructure utilities passing through CBRS system units; three, modifying the code to clarify that extension and expansion of central wastewater lines are allowable within the CBRS; four, including some additional language into the code explaining the purpose of the Federal Coastal Barrier Resources Act is to transfer the cost of development to the landowners rather than putting it on the federal taxpayers; and, five, stating the areas within the CBRS should be ineligible for most County expenditures and financial assistance for new

infrastructure except central wastewater. Phase 2 will include some amendments to the comprehensive plan language and then some additional amendments to the code that will make it then consistent with what is changed in the comprehensive plan. Ms. Schemper then described in detail how the proposed amendment today fulfills Phase 1. Staff recommended sending this on to the BOCC to amend the code as proposed.

Chair Wiatt asked for public comment.

Beth Ramsay-Vickrey, full-time resident of No Name Key, stated that a lot of what drove this revision is the No Name Key lawsuit regarding electrification of No Name Key that came about because of the CBRS overlay. Ms. Ramsay-Vickrey provided background information on how that lawsuit progressed. Ms. Ramsay-Vickrey believes this amendment creates a situation where the County will stand in front of the Coastal Barrier Resource Act rather than behind it, as warned against by the BOCC. Also, the newly proposed Section D is inconsistent with the federal act by discouraging the use of state funds in a CBRS area, which specifically states that the act only restricts the use of federal funds. Ms. Ramsay-Vickrey provided a legal opinion of counsel for the Key Largo Wastewater Treatment District that states the CBRA prohibits the Federal Government, and only the Federal Government, from making expenditures in CBRS areas. Ms. Ramsay-Vickrey questioned the County's ability to enforce the act, which in no way restricts the use of non-federal funds. Ms. Ramsay-Vickrey is also concerned no cautioning language has been added to steer new construction away from environmentally sensitive places while minimizing impacts to communities where substantial commitments of time and money have been made. In conclusion, Ms. Ramsay-Vickrey asked the Commissioners to remain consistent with the Federal CBRS Act by removing the newly proposed Section D language and adding cautioning language against harming existing communities where serious commitments of time and money have already been made.

Kathi Brown, full-time resident of No Name Key, pointed out that the BOCC has an ordinance supporting the east end of No Name Key being removed from the CBRS designation because it was erroneously put in there in the first place. Ms. Brown next pointed out that Keith & Schnars' recommended language minimizing impact to communities where substantial commitments of time and money have been made did not get considered in all of the events that led to the lawsuit. Ms. Brown voiced concern that the land development code is not specific and clear enough to prevent the County from ending up in another lawsuit in the future.

Chair Wiatt asked for further public comment. There was none. Public comment was closed.

Comissioner Lustberg asked for confirmation in regard to Section D, that the County has the legal right to determine that there are properties that the County does not wish to spend public money on providing services. Mr. Wolfe stated as a policy matter the County decides every day to discourage spending any County or government funds in those areas through ROGO and the tier system. Ms. Grimsley believes the County does have that right and emphasized the language clearly says that it has to be consistent with the federal restrictions, so it would not be any more restrictive than the Federal Government.

Motion: Commissioner Werling made a motion to approve. Commissioner Lustberg seconded the motion. There was no opposition. The motion passed unanimously.

GROWTH MANAGEMENT

Ms. Santamaria stated that staff has been polling the Commissioners for dates to set the Keith & Schnars presentation and that staff has been working on the deliverable right now to ensure the language is as requested and directed from the DRC meetings.

ADJOURNMENT

The Monroe County Planning Commission meeting was adjourned at 10:34 a.m.