Minutes of August 26, 2019

Meeting Called to order at 6:53 p.m.

1. ROLL CALL

P&Z Board Members

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Reappointed ** Resigned *** New appointment

STAFF PRESENT: Matt Wood, Director of Growth Management
                Jason Chockley, Planner
                Carlos Vega, Administrative Specialist
                Mark Reale, Broward Sheriff’s Office – Code Compliance

2. P&Z BOARD - MINUTES - WAIVE/APPROVE MINUTES OF 07/15/19: Motion to waive the reading of the minutes made by Lisa Dodge and seconded by Jeremy Katzman. All ayes on voice vote. MOTION WAS APPROVED. Motion to approve the minutes made by Lisa Dodge and seconded by Alex Weisberg. MOTION WAS APPROVED.

3. PUBLIC COMMENTS: None

4. NEW BUSINESS: CODE CHANGES
   A) Code Section 6-9(b)2 – Portable Storage Units*
   B) Code Section 6-40(a)2 – Roof Maintenance*
   C) Code Section 25-4(g) – Restaurant Seating
   D) Code Section 9-28(3) – Special Event Permits

* BSO Code Enforcement Proposed Changes

Chairman Rouse turned the item over to Mr. Wood and he stated that tonight they have four pretty straightforward proposed code changes to address consideration of the following: The first two have been suggested from our Code Compliance division and the last two are from Growth Management. 1. Increasing the time allowed for PODS to be placed on any one site from 21 to 28 days and increasing the number of POD permits within any 12 month period from 3 to 4. 2. Revising the maintenance standards for roofs to require that only non-residential roofs shall be required to be cleaned to eliminate stains, mildew etc. Residential roofs will continue to be required to be maintained to prevent water damage. Residential gutters will continue to be required to be maintained to eliminate dirt, stains, mildew and other signs of deterioration. 3. Relaxing the parking space requirements for restaurants to require 1 space for every 50 square feet of gross floor area for the kitchen and dining room floor areas only. 4. Increasing the maximum number of special event permits for any one site from 4 to 8 per year. This is in keeping with the previous code change allowing 8 special event permits.
Chairman Rouse asked if staff could give some background information on what precipitated the need for a change, has there been any prior action or conflicts that needed to be address or is this more just housekeeping.

Mr. Wood said the first two as he mentioned earlier originated from the Code Compliance department. The City Commission at the Code workshop had requested the Growth Management Department to work with the Code Compliance staff and get some input on proposed code changes from them. Mr. Mark Reale is here tonight and he could explain code change A & B and as far as C & D, first of all the restaurants require 1 space for every 50 square feet of gross floor area for the kitchen and dining room area only. Currently the code requirement is for the entire gross floor area of the restaurant which would include restrooms, the corridors, the hallways, storage rooms etc. Quite frankly it is a pretty restrictive parking requirement for restaurants. We are trying to be more business friendly in trying to relax the parking standards for restaurants. It is not unusual as other cities do account only for the kitchen and dining room area when they account for the parking requirements for restaurants. Finally in regards to the special events permits, this is an attempt to be more business friendly allowing more of the special events for shopping centers for example could have 8. The code was recently relaxed for the institutional uses like churches, that they could have 8 per year and so we figured that should be applied to the businesses as well.

Chairman Rouse turned it over to the board for discussion.

Mrs. Dodge asked regarding the roofs and gutters, do we have enough people to cite this? How are we going to maintain this? It says that “all residential roofs and gutters shall be maintained in good condition to prevent water from leaking into the building structure. Residential gutters must be cleaned or repainted when twenty-five (25) percent or more of any single sight view shows dirt, grim, stains, mildew, peeling or any sign of deterioration”. Are we going to enforce this? Are you able to do that? It seems like a lot.

Mr. Reale said the code as it stands in the past as far as an enforcement standpoint, we’ve gone out and cited the asphalt shingle roofs and also tile roofs. That is when 25% or more of the roofs were mildew. Over the years when they go out and do the sweeps of the roofs and to ask the residents to maintain the roofs there has been an outcry about the damage that is being caused by pressure cleaning. Especially the asphalt shingles, they have a gravel on them and once you start pressure cleaning it takes away the gravel. A lot of the roofing companies will not warranty the roofs anymore once they know that something has been done to them. It is more of an aesthetic thing he feels which its why it is in the code. As far as they are concerned when there are blue tarps on the roofs they know that there is damage they have brought cases like that to the magistrate, they want that to stay they just don’t want them or the City to be responsible because someone fell off their roof and getting hurt or dying. They also don’t want to be responsible for the damage or the cost because they asked them to clean the roofs or the City asked them now they are incurring a lot of leaks.

Mrs. Dodge asked if this would overturn the HOA’s or can the HOA’s still maintain this.

Mr. Chockley said HOA’s are their own entities.

Mr. Konhauzer said that the HOA’s are in first position even though you are not enforcing it.

Mr. Reale said correct any bylaws from the HOA’s if they want to enforce that they wouldn’t get involved. Along with any other bylaws that is not a City Ordinance they don’t get involved unless it is a City Ordinance.
Mr. Konhauzer asked if they have considered advising the HOA’s as you are advising us of the policies being relaxed of making people go on their roofs.

Mr. Reale said sometimes we’ll get a request from the HOA’s for example in Flamingo Gardens, they have those green awnings and so they send out their 100 letters and maybe they get compliance from 50 or so and since it’s in the ordinance that awnings must be maintained so then he goes out with the HOA’s as long as they have initial contact with the owners then we follow up. Ultimately a case can come to the magistrate for something like that.

Mr. Katzman asked regarding Item 4A Portable Storage Units, where it says the 12 month period you can only have 4 consecutive 1 week terms of the permit and he was curious what happens if somebody move out and somebody moves in. Let say he’s moving out and he puts all his stuff in a POD for a month and then he’s gone and then somebody buys his house and moves in next month.

Mr. Konhauzer said it is separate.

Mr. Katzman said but is says “in a residential district within 12 months” he just wants to make sure.

Mr. Konhauzer said he would imagine its each homeowner not a compilation of it. It starts over, is that correct?

Mr. Chockley said yes they would evaluate it as a change of ownership.

Mr. Katzman said it doesn’t say that. Would it make sense to say that?

Chairman Rouse asked Mr. Katzman what language are you proposing?

Mr. Katzman said this isn’t verbatim but basically saying if there is a change of homeownership that it would reset.

Mr. Chockley said it could be something we can talk to building department on. The permits come through the building department which would track any change of ownership because they are linked to BCPA and so that automatically does an update. He’s stated that he has never seen them turn away a permit with a change of ownership for that so by practice that has been done.

Mr. Katzman said so if could align with practice that would be good right.

Mr. Chockley said yeah its one of those that sometimes its kinds of just an unspoken with a change of ownership it resets kind of everything but they could check with building department to make sure they confirm and adjust it accordingly.

**MOTION: TO APPROVE ADDING THE LANGUAGE “IF HOMEOWNERSHIP CHANGES THAT THE TERMS RESET” PROPOSED CODE CHANGE IN CHAPTER 6 SECTION 9(b)2 PORTABLE STORAGE UNITS MADE BY JEREMY KATZMAN AND SECONDED BY CRAIG KONHAUZER. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.**

Mr. Weisberg asked if right now there is a requirement that residents keep their roofs free of mildew, grime, dirt and everything else.

Mr. Reale said correct.
Mr. Weisberg asked if that was being enforced.

Mr. Reale said yes.

Mr. Weisberg asked is there not a concern that if that is removed everyone is going to have dirty, nasty, grimy, mildew roofs?

Mr. Reale said that when the previous City Manager was here it was brought to the Commission on a few occasions and they had asked us to stop the enforcement on this until further review regarding the roofs. As of right now we have not been enforcing the roofs until we get any further directions from the City.

Mr. Weisberg asked how long has that been the practice.

Mr. Reale said he couldn’t tell you how long he didn’t know.

Mr. Weisberg asked if there were other ways to clean the roofs to the satisfaction of the inspectors other than power washing?

Mr. Konhauzer said no. Power washing is truly the only way and as Mr. Wood he believe explained when its on an asphalt roof the pebbles get blown away. Even on his own roof even though its foam and that it is done to code, people walking on it, people putting pressure on it it’s not good.

Mr. Reale said people walking on the ceramic tiles they break them so they have to know exactly how to walk on them if not you get water intrusion that way also.

Mrs. Dodge said she’s in agreement with you because how do you keep the roofs clean then. If we are just going to keep the gutters clean then I get it but how do you keep them clean without them getting mildew?

Mr. Konhauzer said he doesn’t know if there is an answer to that but listening to the Code Officer, it made sense to him that the City could be found culpable by forcing citizens to go up on their roofs. If they fell down they could say it is the City’s fault because they forced me to.

Mrs. Dodge said she still agrees with that but she’s still with the issue of the HOA’s that they can do it but the others ones can’t.

Mr. Konhauzer said the reason he asked the question was because HOA for Rock Creek cited him for 5% of his roof and he argued the fact that it might defeat his warranty. He sent paperwork that his roofer gave saying that it would defeat his warranty yet they still made him do it. That is why he asked if you’re the law and you’re not enforcing it how can HOA’s enforce it.

Mr. Katzman asked Mr. Reale if cities can supersede HOA’s legally.

Mr. Wood said that the HOA’s can be more restrictive than the cities.

Mr. Katzman asked what if they contradict the City.

Mr. Wood said whichever is more restrictive.

Mr. Chockley said that whatever bylaws that are in the HOA has to be followed by the residents regardless from what the City says.
Mr. Katzman said lets just say that if the City of Cooper City bans murder in Cooper City limits and the HOA says they would love everybody to murder as many people as possible as long as you are within Embassy Lakes how would that fly.

Mr. Chockley said that Murder is still a State Statute violation.

Mr. Katzman said but if Cities make laws.

Mr. Chockley said that usually in those particular cases where there is conflict and Mr. Reale can correct me if he misspeaks on this but usually the HOA has to initiate calling code in. If the HOA says we have a ban on this that conflicts with code but they are behind private gate he doesn’t believe code goes into private communities unless called correct.

Mr. Reale said they do go in as long as they have permission or if there is an agreement with the City and the HOA for us to do enforcement of the ordinances along with speeding and traffic enforcement issues. The only time they would get involve is if it’s a City Ordinance, if it is an HOA bylaw and not a city ordinance they don’t get involved.

Mr. Chockley said similar to Rock Creek when he was looking to buy a house for his family. HOA in there prohibits boats where the City has an ordinance that you can have boats. So if they were looking at a house in Rock Creek regardless what the City says the association still prohibits that.

Mrs. Dodge said what you just said is if you go into an HOA and they have you enforce one of their bylaws that is not one of our ordinances you can’t do that correct.

Mr. Reale said that is correct.

Mrs. Dodge said technically the HOA doesn’t have to do this because it is our ordinance and not the HOA ordinance it’s a bylaw in the HOA.

Mr. Reale said that sometimes a bylaw in the HOA and a City ordinance are the same.

Mrs. Dodge said that if you lived in Rock Creek and the ordinance says that you don’t have clean the roof then he technically couldn’t get cited by the City. The HOA can do what they want but not the City.

Mr. Konhauzer said that he was cited by the HOA not the City. After he did his homework he figured he had to do what they said.

Mr. Federici said that he remembers some of the meetings with pressure cleaning and putting the bleach on the asphalt shingles and voiding the warranties so and so forth, are we changing this because of that or falling off the roof? In his HOA they can’t have asphalt shingles you have to have tile roof.

Chairman Rouse said he doesn’t want to speak for the Code Officer but he thinks that your changing this for all of the above. If you have a restrictive item that is causing people to damage their roofs or fall off their roofs, he feels the City was concerned about that and is why they pulled back on this.

Mr. Konhauzer asked if it was fair to ask the City Enforcement to advise the HOA if everyone doesn’t like the conflict how you’re running it not that you’re saying they have to but why it makes sense.

Mr. Reale said if they called them up and asked them to get involved at that point they could let them know that it’s an issue and it would be on their side to enforce that. We could give them their stance on it.
Mrs. Dodge asked if Growth Management could tell the HOA’s that the City has changed their ordinance and at least give them knowledge that we change it.

Mr. Wood said it is not something that the City would typically get involved in. There’s many things that the HOA’s are more restrictive on than the City. If they got called to address that and answer some questions they can do that but for them to proactively go into the HOA’s to try to get them to change because we have changed he doesn’t think they can do that.

Mrs. Dodge said she’s not asking to go proactive but she just asking to get the information out. We are all one City and what is fair for the people that don’t live in an HOA should be fare for the people that do live in an HOA just to give them knowledge. She’s not saying she wants them to change or any of that just saying hey we’ve changed our code we thought we’d tell you. In fairness maybe they don’t because we have the code saying you will do it that you know now that we are changing it maybe the will be a little easier to. It is the same thing whether I’m in an HOA or I am down the street at my own house, if somebody on my roof falls somebody is going to get sued.

Mr. Wood said he believes the City could definitely get the word out on the code change be that on the website probably would be the way to do it.

Mr. Konhauzer said that he would like to make an amendment that they feel the Code Officer should advise all of the HOA’s of the change and their thinking and why. It does create a hardship in many ways.

Mr. Federici said he could tell you that in Embassy they will still cite you if your roofs are dirty. He would believe that 75 - 80% of the people that clean their roofs aren’t the homeowners its somebody that they hired that as a professional. He thinks that they are just going in a circle here. He thinks that they should keep out of HOA’s, he doesn’t see how it has anything to do with us. HOA’s got their own government for instance how about you guys come in and pave an embassy lakes street. We are responsible to pave the streets they can be responsible to have their roofs cleaned.

Mr. Konhauzer said one is a proposal for safety.

Mr. Federici said what does that have to do with you I don’t get it.

Mr. Konhauzer said when he sits here and he thinks about this things he doesn’t think about me. He thinks about the entire City of Cooper City and the hardship our community has to go through. Forget about me he can afford it, he has the people to do it for him but most people don’t and it is a hardship. To him this would answer that hardship. He doesn’t think we are telling people what to do, he doesn’t think it is big government, its common sense.

Mr. Weisberg said the bottom line is they are not going to listen but Mrs. Dodge is right it’s one City we are all Cooper City. There is nothing wrong with getting the news out and saying hey we suggest this. They are not going to listen probably.

Mr. Federici said but you can’t require them to do it.

Mr. Weisberg said we are not requiring them to do it.

Chairman Rouse asked if we could possibly just add this to the newsletter or something like that and not necessarily put formal language in here that it is responsibility of the City.
Mrs. Dodge asked can you just put something out that we changed the ordinance. As you said something on the website or something. We are not asking you to knock on everyone’s door and its not fair to the Code officers as its only like a couple of them but the City if we put something on the website let people know and if they read it they read it if they don’t they don’t but at least there is something.

Mr. Katzman wants to add that it be clear in the newsletter that HOA’s do not have to follow that. What will happen is that people will read the newsletter and say oh I don’t have to follow this anymore because the City supersedes the HOA.

Mr. Chockley said that it may go more as a generic response to the HOA’s announcing an abundance of code changes going through because multiple ones that we are going to bring to you including one for discussion tonight. HOA’s have certain ones that wouldn’t even allow another proposal that we were prepared to talk about tonight. Some of the code changes we’ve gone over the last six months conflict with HOA’s requirement so numerous HOA’s are going to have one that changes against an HOA’s. It will probably be a blanket notification that lots of code changes are coming up and that numerous code changes will be in effect and be different than HOA’s.

MOTION: TO APPROVE PROPOSED CODE CHANGE IN CHAPTER 6 SECTION 40(a)2 ROOF MAINTENANCE MADE BY LISA DODGE AND SECONDED BY CRAIG KONHAUZER. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.

Mr. Goulet asked if this ordinance is for existing restaurants as well as new builds?

Mr. Wood said correct.

Mr. Goulet asked if there were restaurants in our City being cited for parking issues or how did this come about.

Mr. Wood said it is not a parking enforcement issue it is an attempt to recognize that Cooper City has one of the more stricter parking standards for restaurants at 1 to 50 square feet. It is a recognition that at 1 to 50 in many other cities they only account for the dining area and the kitchen area. Currently in the code every square foot of gross floor area in the restaurant is included. That includes the restrooms, the hallways, the storage rooms and they are just saying that it is probably a little much and we can relax the code a little bit and make it a little bit easier to meet the parking requirements for restaurants.

Mr. Goulet said he sees this code not so much for existing restaurants but more for future growth in our city.

Mr. Konhauzer said that he knows from doing a synagogue commercial space and he did Maximo’s which was is in Davie, part of the issue that we had between the person opening the restaurant and the City is the parking so it is a hardship when you think about functional usable square footage versus not. A common area where all the tables are is where you get your parking from so it just makes good sense to me not to punish them for bathrooms and places where you are double counting them.

Mr. Goulet said that makes a lot of sense.

Chairman Rouse said he has a concern not for new businesses per say or the actual business owner but if you have a center that is going through a remodel and there is a variance request for parking changes because they have put more landscaping and they are going to lose “x” number of spaces, is this going to be a vehicle for that developer to say we are not truly losing spaces because of the code change and now theses restaurants didn’t need that much space.
Mr. Wood said it will help facilitate that sort of thing.

Mr. Konhauzer said that is part of helping the businesses. This tells the restaurants that we are not going to punish you for unused space that doesn’t need parking.

Chairman Rouse said it may not necessarily punish the restaurant but it may punish the strip center because if restaurant “x” is going to lose 5 spaces than that is 5 spaces that other tenant could of used.

Mr. Chockley said the circumstances on that vary depending on how it was originally parked. Some of the shopping centers are a blank ration as an all encompassing use versus a free standing building or an outparcel that has its own property line and own parking. Right now maybe they are meeting the bare minimum parking and they couldn’t do an expansion because the business is growing. Right now we can step in and say hey code just changed and we can take off all these other areas that weren’t counted against you and yes now you can open up an additional 1000sf without having to borrow from the center.

Mr. Konhauzer said we are talking specifically about restaurants but how would that effect other business like Publix or Aroma would they come back and say well you are counting our kitchen and bathrooms in a different way and were being hurt. Should we add more to that mix other than just restaurants or is this just a restaurant issue.

Mr. Chockley said the bigger issue is the restaurants because the centers come in as a 1 to 300 and it is spreads over a much larger footprint where a freestanding restaurant at the 1 to 50 it is a big impact.

MOTION: TO APPROVE PROPOSED CODE CHANGE IN CHAPTER 25 SECTION 4(g) RESTAURANT SEATING MADE BY CRAIG KONHAUZER AND SECONDED BY LISA DODGE. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.

Mrs. Dodge said that she is confused on section 3(iii). I guess this an HOA thing? It says “four (4) special events per year limit shall not apply to special events held within private residential communities served by a guard gate restricting access to the private roads. For purposes of this exemption, roads within community development districts served by a guard gate shall be included within this exemption”. She’s doesn’t understand are we including them or are we excluded them?

Mr. Chockley said that is existing language that they don’t fall under a number of events per year. If its in within private community and private gates they are not limited to a certain number per year.

Mrs. Dodge asked what do these special event permits cover?

Mr. Chockley said as examples, Christ the Rock when they do their Halloween festivals, carnival in the spring time or harvest, when the do the pumpkin sales and decorations. When the Church of God Pastor lived in a glass house for a while.

Mrs. Dodge asked if that was when they got rid of the 4.

Mr. Chockley said correct. The churches were tending to pull the most and they were running out of their 4 so a couple months back they relaxed the churches to go up 8 and the centers were still restricted to 4. We saw that some of the centers were reluctant to pull permits for individual businesses because they didn’t want to give up their only 4 for the greater good of the shopping center so to say. We are raising it now so that maybe before they were reluctant to pull it for one tenant where now they may not.
MOTION: TO APPROVE PROPOSED CODE CHANGE IN CHAPTER 9 SECTION 28(3) SPECIAL EVENT PERMITS MADE BY JIMMY GOULET AND SECONDED BY ALEX WEISBERG. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.

5. **GROWTH MANAGEMENT DIRECTOR’S REPORT:**
Mr. Wood said that for the next P&Z meeting they have one petition that is Parcel C-2 of the Monterra property. They have a residential age restricted multifamily community that is being proposed.

Mr. Chockley said that will be on 9/16/2019, it is a public hearing advertised.

Mr. Wood said that as far as we know that will be the only item on that agenda.

6. **BOARD MEMBER CONCERNS:**
None.

7. **ADJOURNMENT:**
The Meeting adjourned at 7:29 p.m.