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***Town of Micanopy***

***Planning & Historic Preservation Board***

***Regularly Scheduled Meeting***

***Tuesday • August 27, 2019 – 7:00 pm***

1. Call to Order: 7:00 p.m.

2. Invocation & Pledge of Allegiance to Flag:

3. Roll Call:

Board Members

Ann Baird, Vice Chair -- Present

Tom Brady -- Present

H. Grace Fuller -- Present

David Massey -- Absent with notice

Fro Warren, Chair -- Present

Andrea Parker, Town Attorney -- Present

Patty Polk, Deputy Town Clerk -- Present

4. Agenda Approval:

***Motion made and seconded (Baird/Brady) to approve the agenda as submitted; passed 4-0***

5. Approval of Previous Meeting Minutes: July 23, 2019 – Regular Called Meeting Minutes

* ***Motion made and seconded (Fuller/Brady) to approve the July 23, 2019 regularly called meeting minutes as submitted; passed 4-0***

6. Citizen’s Forum: None

7. Public Hearings: None

8. New Business: None

9. Old Business:

* Airbnb – Newspaper Article provided by Tom Brady – Brady discussed the article and points of interest about ways that Miami Beach is solving the problem of illegal short-term vacation rentals, fines associated, and how to check advertising sources to see who is advertising rooms or ways to locate rentals. He finds it very interesting to see how many problems they have in Miami Beach and wondered if there are any law suits filed. Attorney Andrea Parker answered that there is a pending law suit, which is still in circuit court, and it may go to the appellate level. Fuller questioned if the short-term vacation rental law suit is against the City of Miami Beach? The case is *NATALIE NICHOLS VS CITY OF MIAMI BEACH, FLORIDA ET AL. Case No. 2018-021933-CA-01*. Natalie Nichols is challenging the Miami Beach ordinance restricting Airbnbs. The main issue is whether the ordinance is valid or if State law preempts the local ordinance. Baird questioned if other cities have similar law suits? Attorney Parker has not looked at the whole state for lawsuits.

Counties in Florida require a business tax receipt for businesses, including Airbnbs and short-term vacation rentals. Also, counties in Florida can impose a tourist development tax to the regulations with charges of 5% being common. Chair Warren questioned if there is a limit to the amount of additional taxes can be added to every Airbnb in Town? Attorney Parker stated that there must be a limit; 2%–5% seems to be the normal amount; she will do a survey to find out. Attorney Parker would be glad to do a survey of similar-sized cities in close proximity to Micanopy to determine how short-term vacation rentals and taxes are regulated. The Board is interested in regulations such as how many rooms in a house can be rented or if a residential house could be converted into a small hotel? Brady would like to get Commission feedback to determine opinions on this subject prior to researching this issue. Fuller is curious to know who wrote the law, what are the politics behind it, and who is supporting this law. Further, she questioned if Alachua County has a representative at the State level that would have more information about what the State is doing; what has driven this particular law? Attorney Parker responded that Florida Statute 509.032(7)(b), passed in 2011 and amended in 2014, talks about short-term vacation rentals and says that a local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental or vacation rentals. Fuller believes that, in our small Town, no more than10% of homes in Micanopy should be allowed to have short-term rentals. Chair Warren believes that we could be sued if we set a limit.

Stoney Slaton questioned if short-term rentals can be restricted to C-1 or C-2 zoning or if a zoning change would be necessary. Attorney Parker made sure that she understood the question before she answered; “If it’s a residential district are there any additional restrictions or approvals to operate an Airbnb?” The town can require a business tax license (occupational license). She doesn’t believe a change in zoning is necessary but would need to do more research to confirm.

Chair Warren understands that Miami Beach had regulations in effect regarding short-term rentals prior to 2011 and that is why they have a standing. Attorney Parker responded that Miami Beach has construed this law to say it is only regulating in what districts rentals can be located. Miami Beach’s LDC dates prior to 2011 and includes language which states that it is the City’s duty to protect the residential neighborhoods from intrusion by uses that would disrupt or degrade the health, safety, tranquility, character, and overall welfare of the neighborhood by creating such impacts as excessive density, noise, light, glare, odor, vibration, dust or traffic. Any policies that did regulate short term rentals were grandfathered in; if you had a policy in place it can stay in place. The question is, “If you then amended that policy, is it still grandfathered in or not?” Essentially because Miami Beach had that regulation, they construed that they are allowed to regulate the short-term rentals. Attorney Parker will monitor this case and keep the Board informed. We will discuss this topic again next month.

* Accessory Building & Recommendations – Chair Warren started the discussion by explaining that this Board is working on this document because we had applications to place accessory buildings in front of primary structures and our Land Development Code (LDC) wasn’t clear on placement of an accessory building. Attorney Walker provided several documents in October 2018 to work with, and Chair Warren has documented the notes to prepare for this discussion. Discussion ensued at length.

10. Board Member

* H. Grace Fuller – What happens when someone doesn’t comply with regulations? What are the consequences? Chair Warren replied that we have a process to follow; if a citizen has a complaint it can be brought to the Town Administrator for code enforcement.
* Tom Brady – has an idea to have a celebration for Micanopy’s 200th anniversary in 2021. He would like the idea to be presented to the Town Commission to see if they will appoint an ad hoc committee consisting of town merchants, local organizations, and interested citizens to plan a celebration. The Town, being the oldest inland town in Florida, is very historic; and we have state-wide attention here. Brady believes a celebration would help the Town. Chair Warren suggested getting the Governor and Senators involved, and offered to send them letters. Fuller would like to get Alachua County Commissioners involved as well.
* 1) Chair Warren stated that at the last Town Commission meeting the P&HPB was given the task to make a recommendation regarding the entrance triangle on the corner of NW Seminary Ave and CR234 near the elementary school. We are debating on asking Alachua County about acquiring the triangle, and what ramifications that might have: legality, parking, landscaping, uses, and if it would be an asset to the Town. Be prepared to discuss this at our next meeting.

2) Chair Warren read the letter/verbiage he put together regarding the dog pen on NE Tahota Ave and this Board’s knowledge of the property. This letter was presented by the P&HPB to the commission to investigate what action can or should be taken regarding this property. Attorney Parker answered that at this point the attorney’s office doesn’t know what direction the Board wants to proceed. We have two options, 1) The owner can apply for a variance and then the Board would decide whether or not to grant the variance, or 2) If this is something for which the Board feels that a variance cannot be granted, then it would go to the Code Enforcement Board with the Town Administrator and the attorney’s office handling the LDC violation. The property owner would be notified by written notice of the violation with a remedy required. Code enforcement, fines, and a possible lien on the property are possibilities. It may take more discussion on how you would like the attorney to proceed. Chair Warren responded that there is definitely a violation and a remedy is necessary. Fuller questioned if there is a limit of how many dogs a resident can have. Chair Warren will research this topic.

3) Pastor Stokes announced that the Willie Mae Stokes Community Center is having a wellness van for adults who do not have insurance. The community center is an asset to Micanopy and hopes to have the wellness van there on a monthly basis.

4) Town Commission is debating on asking the State to obtain a 50-acre parcel on the south side of CR234 (bypass road); there are 206.8 total acres associated with this parcel; should they apply for one small section of parcel or the whole parcel. It is not easy to obtain property owned by the State. Fuller stated that Bud DesForges’ idea was to use the property to put in a sewer system.

5) Resolution 2019-12 Fee Schedule discussed at the commission meeting was not passed. Polk stated that Resolution 2019-12 passed at a special called meeting 08/26/2019 (only change was amending solid waste fees on our existing fee schedule).

Attorney Andrea True Parker announced that her name has changed from Andrea True to Andrea True Parker as she has been married for 3 years and it’s getting confusing using two last names.

11. Adjournment: 8:43 pm

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MINUTES APPROVED:

As submitted\_\_\_\_As amended\_\_\_\_ at Planning & Historic Preservation Board Meeting\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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JP Warren, Chair Patty S Polk, Recorder