*** Town of Micanopy***

***Planning & Historic Preservation Board***

***Regularly Scheduled Meeting***

***Tuesday • February 26\_2019 – 7:00 pm***

MICANOPY, SEMINOLE CHIEF

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 -- Present

Fro Warren, Chair -- Present

Scott Walker, Town Attorney -- Present

Andrea True, Town Attorney -- Present

Patty Polk, Deputy Town Clerk -- Present

4. Agenda Approval:

***Motion made and seconded (Massey/Fuller) to approve the agenda as amended tabling evaluating the Town Hall South Rear Entrance Steps and the documents from Attorney Walker; passed 5-0***

5. Approval of Previous Meeting Minutes:

January 22, 2019 Regularly Scheduled Meeting Minutes

***Motion made and seconded (Fuller/Brady) to approve the January 22, 2019 meeting minutes as submitted; passed 5-0***

6. Citizen’s Forum:

* Holly Morris, 712 NE Cholokka Blvd, discussed the Town Commission agenda item #8 Citizen Board and Committee Reports and would like the Planning & Historic Preservation Board to designate a board member to give the report. She feels that there has been business that has not been moved forward when is should have been. Chair Warren provides a written report when he cannot attend the commission meetings.
* The town website was discussed and numerous citizens stated that the website is still up and working. Deputy Town Clerk explained that we took it down with the help of yahoo who stated several times that it is down. H. Grace Fuller stated that communication in the Town can be improved and we should improve communication to better inform our citizens. Board member Massey agrees that a report should be given at the Town Commission meetings and he would like to assign a member at each P&HPB meeting to be prepared to give the report at the following Town Commission meeting.

7. Public Hearings:

* Action: Special Use Permit – Alcoholic Beverage Establishment (Beer & Wine Only)

Parcel: 16629-000-000

Location: 402 NE Cholokka Blvd, Micanopy, FL 32667

Owner: Dan Siari, Herlong Mansion Bed & Breakfast, LLC

Chair Warren started the public hearing. Attorney Walker gave the definition of ex parte “communication that occurs outside of this hearing. Traditionally it in a judicial proceeding that the judge is rendering a ruling based upon only the evidence that is presented to the judge that is the due process, procedural due process, substandard due process rules, that we have that have come through the court system, and our constitution that is whole concept of it. If you have a communication with the judge outside of the presence of the other side and they don’t know what’s going on of that that is where the whole idea of due process breaks down because there was communication outside of the normal proceeding. Applying that concept to this type of hearing is ex parte communication means that one of the P&HPB members has had communication with one of your citizens about this particular matter outside of the proceeding. The case law originally when Quasi-judicial proceeding became the norm out of a case known as the “Synder Decision” they originally said you cannot have ex parte communications. The law became that you can have ex parte communication and what we want to do is place any ex parte communication on the record and ask if this communication will affect your vote this evening. The Town of Micanopy has a specific ex parte provision in our LDC which authorizes us to have ex parte communications and disclose it at the quasi-judicial proceeding.

Attorney Walker swore everyone in, who anticipates speaking during this hearing, as a group who may speak at this Quasi-Judicial Hearing. Names were not given.

1. The Board or Commission shall determine whether it has jurisdiction over the matter. Yes
2. Members of the Board or Commission shall, if necessary, state whether they have a conflict of interest or must otherwise disqualify from hearing the case. None
3. Members of the Board or Commission shall disclose and place on the record any ex parte contacts relating to the matter before the Board or Commission. H. Grace Fuller stated that she has had ex parte communication with merchants downtown about this application and they discussed this issue and how they felt about this issue and they wanted to know her opinion which she did not disclose and stated that she would make her decision at the hearing. She spoke with Jerry Morris and Andy Thurber. Her step mother was on Town Council in Mount Dora, President of the Merchants Association, and Executive Director of the Development Group and she spoke with her about this matter. Attorney Walker stated that we will discuss this communication as we go through our deliberations.
4. Introduction of the Petition by the Town.

Presentation of Applicant’s Case. Dan Siara, Herlong Manion, handed out letters from business owners and citizens in support of his special use permit to serve beer and wine at his bed and breakfast. They are trying to give their guests the ability to purchase a bottle of wine or beer during their stay. They do not cater to guest who want to get drunk. They do weddings, how this works is you hire a catering company who serves their alcohol to your guests. This will not affect them as they will serve only beer and wine to their guests. As they were talking to the businesses and close neighbors, the citizens wanted to know what they can do to enjoy the Herlong property, he is happy to give tours of the Bed and Breakfast but this gets old after a few times. They are trying to accommodate citizens bringing their out of Town guests the ability to come to the Inn and have a glass of wine and hang out. They can call and make reservations and he will hire extra employees to serve them. Fuller would like to make sure she understands what the applicant is asking for and recapped what she heard. 1. People want to enjoy whether they are an over night guest or not if they make a reservation you should be able to enjoy wine or beer in your living room? Siari responded “Yes that is correct, their over night guests, will have advanced notice of beer and wine availability. Everyone is welcome to call and make a reservation to enjoy wine and beer”. Fuller stated that when you’re having weddings, celebrations, or parties, the caterers are getting the revenue. Siari responded “Yes, that is correct, if we have the beer and wine license then will be able to earn more revenue and taxes. If the guests want liquor, they will have to rely on the caterer to provide liquor.” Fuller stated that when she spoke to her step mother, she was concerned with the need for more police presence. Siari stated that he has owned the Herlong for 15 months and has not had any issues that would require police and doesn’t anticipate the need for security. They have recently hired a wedding planner to manage the weddings. Baird discussed outside guests and if they will have a designated place to serve guests. Siari responded that the first floor, veranda, and sometimes the second-floor veranda (20 guests’ maximum), and the beautiful grounds are available to guests. They just repaired the whole porch and added 3 tables. Brady questioned the definition of guests which is over night guests and people calling for a reservation. People who want to get drunk are not welcome. Brady is concerned that this venue may turn into a local beer or wine tavern. All of the wedding venues are out door or in the reception hall behind the Herlong. Bottles of wine and occasional beer will be sold as well as glasses of wine. He will sell it for a dollar more than the local establishments; Blue Highway and The Micanopy Café. Brady is concerned with the Herlong being close to the residential area and he’s worried about people walking around the grounds leaving bottles laying around. Siari reassured him that he will not allow that to happen as they will supervise their guests and if they don’t respect the Herlong they will not be welcome to come back in the future. No signage advertising beer and wine will be posted on the property. Massey questioned the attorney regarding our LDC regulations. Attorney Walker responded 4.02.14 Alcoholic Beverage Establishments do require spacing requirements of 500 linear feet of an established place of worship and assembly and from public and private schools. The place of worship would be affected in this case. The board has the ability to interpret the code and the code provisions.

Attorney Walker read the following section of the LDC: 4.02.14-D. *Special use permits. In addition to all of the above specific requirements, the Planning and Historic Preservation Board shall consider the factors and standards for special use permits. In granting a special use permit for an alcoholic beverage establishment, the Board shall consider the factors and standards usual to all special use permits, including the effect of the following factors on surrounding properties, particularly on surrounding properties located in residential districts, or an existing dwelling in any zoning district.*

*1. Noise generated by the proposed establishment, considering placement of doors, windows and open spaces and any plans for music or entertainment, live or mechanical;*

*2. Amount of traffic generation and the pattern of its dispersal from the site, considering likely impacts on residential areas or conflicts with other uses; and*

*3. Hours of activity.*

The other provision that we should look at is 10.05 Special Use Permits and 10.05.01 10.05.01 *Generally. Where the use regulations of this Code provide that a given use must be authorized by a Special Use Permit, the procedures in this section shall be followed.*

*10.05.02. Application and Submittals. An application shall be filed with the Town on a form available from the Town. In addition, a Site Plan meeting the requirements of this Article shall be submitted, unless the Planning and Historic Preservation Board specifically finds that due to the nature of the special use requested, a site plan is not required.*

*10.05.03. Review by Planning and Historic Preservation Board. The Town shall place the application on the next available agenda of the Planning and Historic Preservation Board allowing time for notice and staff review of the application. The Planning and Historic Preservation Board, with Town Commission approval, may refer the matter to a consultant engineer or planner for a report on whether the proposal meets the requirements of this Code. The Planning and Historic Preservation Board shall hold a quasi-judicial hearing on the matter pursuant to the procedures set forth herein. The Planning and Historic Preservation Board may approve the application, approve the application with conditions, or deny the application.*

*10.05.04. Standards. The Planning and Historic Preservation Board shall apply the following standards in the review of special permit applications, in addition to any specific standards in this Code for the particular special use:*

*A. That the proposed use and associated development is consistent with the Town of Micanopy Comprehensive Plan, and complies with all required regulations and standards of this Land Development Code and other applicable regulations.*

*B. That the proposed use or development will have general compatibility and harmony with the uses and structures on adjacent and nearby properties.*

*C. That necessary public infrastructure is available to the proposed site and that the requirements of concurrency management have been fulfilled by the proposed use or development.*

*D. That the proposed use or development will have screening and buffers of such dimension, type and character to improve the compatibility and harmony with adjacent and nearby properties.*

*10.05.05 Review of Planning and Historic Preservation Board Decision. Review of the decision of the Planning and Historic Preservation Board on a Special Use Permit may be requested as provided in herein. If no review is requested, the decision of the Planning and Historic Preservation Board shall be final. It is the intent that such review be a prerequisite to cetiorari review by a circuit court.*

Attorney Walker stated that you have the ability to look at bed and breakfast as a separate entity. Bed and Breakfasts (BNB) are defined in your code. This is not really an alcohol beverage establishment, it is different than a bar, it is not open to the public. If you interpret your code as such that BNB such as allowing the guests to purchase a bottle of wine, a glass of wine, or champagne. If that is in furtherance of your zoning code in a BNB use you have the ability to grant this use. This is a vastly different concept. One of the questions Patty asked going into this is “can we impose restrictions on this?” and you can. That’s the whole nature of a special use permit you are entitled to say no signage. You have the ability to fashion a special use permit and tailor it to a BNB use which fits within different zoning districts. There may be other conditions you want to place on the permit as well, it is certainly in your realm to place more conditions if you want. Then that sets the standard forever more so that if we have another business owner who applies with a similar request, we now have some standards as to how to apply the same situation. Brady stated that the LDC definition for Bed and Breakfast Establishment calls for the dwelling to be owner occupied or tenant manager; there is an Inn Keeper living on the property. Chair Warren does believe that we have the prevue to make the decision to allow a beer and wine license on this property. He went over the regulations and the Herlong meets the criteria. Massey questioned what wording to use to keep this establishment from becoming a bar. Walker stated that what Mr. Siari stated was that the beer and wine sales will be for guests with reservation; not for beer and wine sales to the general public.

1. Presentation of Staff’s Case. None
2. Presentation of Affected Party’s Case. None
3. Rebuttal by Applicant. Dan Siari thanked everyone for their support. They work hard every day, they want to take care of their guests so they want to come back for more, and they want to give back to the Town by offering a glass of wine by reservation.
4. Rebuttal by Staff. None
5. Rebuttal by Affected Parties. None
6. Public Input:

* Dr. Steven Eisenman, is building a home on NE Bay Ave, he is new to town and he currently rents at 403 NE Cholokka Blvd, and he is delighted about the idea and he hopes the committee will allow the request.
* Father Les Singleton, Vicar, Church of the Mediator, 501 NE Cholokka Blvd, as an Episcopalian he always finds it amusing when people are worried about beer and wine across from an episcopal church. As a matter of fact, if you come to our second Sunday 2:00 music event afterwards we’ll have some refreshments and may have some wine as well.
* Glen Gilson, 209 NE Tuscawilla Rd, questioned if a bed and breakfast can give someone a glass of wine? Dan Siari stated that by law they can give one glass of wine to each guest and no more.
* Jennifer Vogel, 353 NW Eestaulkee Ave, has lived here a few years now. As a newcomer she got her impression of the Town by the face book page. When you came into Town to purchase the Herlong Mansion she was interested to see the reaction of the Town. People knew you, they knew your history, and they considered you one of us. There was a lot of confidence and support and we should demonstrate that confidence in allowing you to do this.

1. Deliberation and Vote of Board or Commission. Discussion ensued.
2. Preparation of Final Order. Town Staff to prepare special use permit.
3. Approved of Final Order. Chair Warren signature on special use permit.

***Motion made and seconded (Brady/Fuller) to approve the special use permit allowing the Herlong Mansion to serve beer and wine to their guests with the following 2 restrictions: (1) No signage on site announcing alcohol sales to the public and (2) Sales are limited to overnight guests and to guests who make advanced reservations; passed 5-0***

Applause from audience. Chair Warren called the meeting back to order using the gavel.

8. New Business:

* Ordinance 2019-01 – Tree Ordinance

Discussion ensued at length with concern for future tree canopy and trimming. Massey would like to change the Sec. 15-14 to change the line which reads “not to be placed within 15’ feet of the power lines” change the 15’ to 7’ Fuller said 10’ and Massey agreed to 10’.

* Debra Kennedy, 251 NW Seminary Ave, has some concerns regarding the Tree Ordinance and the Vegetation Management Plan (VMP); would prefer the arborist be on site during the trimming, would like to have contact numbers to call with concerns during the trimming, would prefer speaking to someone who speaks English, and would like to be informed of the date trimming will begin. Attorney True stated that the VPM is available in the Town office and is not attached to the Tree Ordinance due to convenience when changes are made to either document. Chair Warren suggested Kennedy attend the Town Commission meeting to discuss these concerns.
* Jennifer Vogel, 353 NW Eestaulkee Ave, stated that instead of striking the 15’, we should go with a lesser distance to give future generations a better tree canopy.
* Cheryl Roberts, 554 NW Seminary Ave, she loves trees, as you can see in her yard, but they can be dangerous when they come into contact with power lines and transformers. We need to take everything into consideration. The canopy from Live Oak trees can get humongous.
* Cynthia Murphey, Ft McCoy, moved here from California and the Santa Anna winds that kill people. By taking control over your own tree trimming you can avoid the power company butchering your trees. Trim in fall so the canopy is back by spring.
* Fuller encouraged the citizens to attend the meetings in the future. Massey stated that safety issues should be discussed in the VMP.

***Motion made and seconded (Massey/Baird) to recommend approval of the Ordinance 2019-01 Tree Ordinance with the following changes: (1) Sec. 15-14. Establishment of a Preferred Tree List. Changing the line which reads “not to be placed within 15’ of the powerline” to read “not to be placed within 10’ of the powerline” to provide more of a tree canopy in the future. (2) Sec 15-15. Invasive Tree List under (h) Bamboo to read “Running Bamboo”; passed 5-0***

* Ordinance 2019-02 – Floodplain Ordinance – Chair Warren read Ordinance 2019-02 on short title.

Board members questioned whose comments are in the blue boxes. Attorney True responded the comments are from Leigh Chapman with the Division of Environmental Protection.

Chair Warren tabled the Ordinance 2019-02 until the next meeting – Flood Plain due to numbering issues and it is not a complete document.

* LED Street Light Proposal – discussion ensued at length.

Fuller discussed the February 12, 2019 Town Commission meeting. Duke Energy representatives presented light pole will not be replaced, only the light, which will be placed to avoid light pollution. **Read below for a detailed account of the presentation by Duke Energy at the Town Commission meeting.**

*Duke LED Street Light Proposal*

*Wayne Young, Duke Lighting Specialist, presented a proposal to change existing High-Pressure Sodium (HPS) street lights to LED lights. Mayor Parker kidded that it appeared that the proposals would cost the Town an additional $66/month to save us money. Mr. Young explained that the energy consumption costs, especially as fuel energy costs increase, would outweigh the additional rental costs of the fixtures. At existing rates, the energy consumption costs of the HPS fixtures is about $450/month; whereas the costs to operate the LED lights would be about $201/month. Wayne Young reported that there is no dimming capability with LEDs; however, there is a choice in bulb wattage. LED lights produce higher lumens at half the wattage. The proposed light fixtures are full cut-off lights, which are directed straight down, not upwards or outwards. A field verification procedure would need to be completed to determine exact equipment being utilized. Mr. Young advised the Commission that eventually HPS fixtures would be discontinued, as parts will not be manufactured; forcing lights to be replaced with LEDs. Mayor Pro Tem Aufmuth commented that we could deal with that issue when the time comes. Commissioner Roberts detailed his past and current efforts to ensure that the street lights remained in working order in an attempt to curtail drug use, break-ins, and high crime rates in certain areas of Micanopy; LEDs might help in that effort. Commissioner Roberts reported that he had been in contact with Hawthorne, Waldo, and High Springs who all had changed to LEDs. Duke offered to replace a portion of the existing HPS fixtures with LED to determine resident response. Liz Boothman (302 NW Eestaulkee Avenue) was not in favor of installing the LEDs, as she liked being able to see the stars at night. Ed Burnett, who stated that he is a facility manager, was in favor of installing LED lighting for safety purposes and to save power costs. Mayor Pro Tem Aufmuth reminded all those present that the people at this meeting represent maybe 10% of the population of Micanopy; and he felt that we needed to be careful about the manner in which we might change the character of the Town. Mayor Parker suggested that the lighting change proposal might be controversial to some residents and should be sent to the P&HPB for consideration.*

***Motion made and second (Aufmuth/Mance) to send the issue to the P&HPB for consideration; Passed 4-1 (Roberts opposed)***

***Planning & Historic Preservation Board discussion.***

* + - Dr. Eisenman, 403 NE Cholokka Blvd, would hope the proper height of the lights, power of light, and number of lumens are considered to avoid light pollution. The least number of lights is the best so you can see the stars. Duke Energy should do a survey of the current lights should be done.
    - Holly Morris, 712 NE Cholokka Blvd, remembers the issue was discussed at the Town Commission meeting and LED lights are more cost effective.
    - Cynthia Murphy, Fort McCoy, in California they revamped the town so they have street lamps in commercial districts. They have shaded votives to keep light down and directed downward.
    - Jerry Morris, 712 NE Cholokka Blvd, the Town may be changed by this decision.
    - Troy Blakely, NW Seminary Ave, the commission wants the P&HPB opinion.

***Motion made and seconded (Massey/Baird) to recommend to the Town Commission to have Duke Energy install sample lights at the Ball Park for observation by the Planning & Historic Preservation Board members; passed 5-0***

Mike Roberts stated that Duke Energy said that the led lights, for the first 90 days, will not have a diffuser on them; giving people time to get used to the new lights. Our current lights are not working to full capacity as some of them are not working properly.

9. Old Business:

* Evaluate the Town Hall South Rear Entrance Steps – Tabled
* Re-visit Downtown Shade Structure Design (Pergola) – Town Commission recommended that the design be sent back to the P&HPB.
* Frank Dahmer, 201 NE Cholokka Blvd, handed out a picture from an Amish company in Pennsylvania showing a pavilion type building. You can order a kit package to build a pergola or a pavilion from this company that must be built by a contractor hired by the Town. The cost will be approximately $22,000.00, we provide the foundation and assembly. It would be a functional place to have people gather or musicians.
* Holly Morris, 712 NE Cholokka Blvd, loves the idea with a metal roof. The commissioners recommended starting over with the plan.
* Chair Warren stated that the Commissioners would have to appoint an adhoc committee to do this project. The adhoc committee discussed not having a roof due to not wanting people to hang out there.
* Ann Baird stated that the original committee wanted a shade structure so you would need to start over.
* Troy Blakely, 152 NW Seminary Ave, he doesn’t think the commission wanted to start over.
* Chair Warren stated that if 50% of the citizens are for a structure and 50% are not or don’t like the proposed structure, he is apprehensive to place anything on the island.
* Frank Dahmer, 201 NE Cholokka Blvd, stated that the building would need maintenance and the merchants are willing to do the maintenance.
* David Massey heard that people were up in arms over the pergola and that they didn’t want a structure at all. Workshops and commitment from merchants would be necessary.
* Steven Eisenman, 403 NE Cholokka Blvd, stated that the downtown district of town is such an important place and recommends an architect design.

***Motion made and seconded (Baird/Fuller) to recommend to the Town Commission to set up a new ad hoc committee to discuss the Island #3 shade structure that will come back to this board for approval; passed 5-0***

* Floor Area Ratio (FAR) – Chair Warren presented the FAR documents with the current FAR of .03 and the proposed .02 Far based on the total square footage of the current structures on the documents. Be prepared for further discussion at our next meeting.
* Documents from Attorney Walker - Tabled

10. Board Member Comments:

* H. Grace Fuller walked the ballpark which has been in public discussion recently. She noticed a car with youth inside which left on her arrival, another car left as well. Her conclusion is that bad behavior was going on. The ball park is a neat facility, does need light maintenance, and use by the town citizens would be great.
* Ann Baird stated that it is great to have citizen participation.
* Tom Brady stated that tree pamphlets and other important information are available in the town office.
* Chair Warren – No comments.

11. Adjournment: 9:48 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