



MINUTES OF THE CITY OF MIRAMAR PLANNING AND ZONING BOARD MEETING

MARCH 12, 2024

6:30 P.M.

A meeting of the Planning & Zoning (P&Z) Board was called to order by Chairperson Thompson on Tuesday, March 12, 2024, at 6:38 p.m. in the Commission Chambers, Miramar City Hall, 2300 Civic Center Place, Miramar, Florida.

I. ROLL CALL

The following members of the Planning & Zoning Board were present:

Matthew Thompson, Chairperson
Marcus Dixon, Vice Chairperson
Saran Earle-Cunningham
Wayne Lomax
Vivian Walters, Jr.
Wilbur Perez (Alternate)

The following member of the Planning & Zoning Board was absent:

Carson "Eddy" Edwards (Excused)
Mary Lou Tighe (Excused)
Annette Payne (Alternate)

A quorum was achieved.

The following City staff members attended:

Building, Planning & Zoning (BPZ) Director Nixon Lebrun
Management & Budget Director Rafael Sanmiguel
City Attorney Jordan Gary
Planner I Robert Artuso
Senior Planner Frensky Magny
Senior Planner Deyman Rodriguez, BPZ
Planner II Salim Monoar, BPZ
Landscape Plans Examiner Sue-Ling Rosario

II. PLEDGE OF ALLEGIANCE**III. LOCAL PLANNING AGENCY PUBLIC HEARING:**

- (1) Temp. Ordinance No. 1825, considering the Annual Review of the Capital Improvements Element (CIE) of the City Comprehensive Plan to update the Five-Year Schedule of Capital Improvements to account for FY 2024 - FY 2028.

(Presenter: Salim Monoar, Planner II)

Planner II Salim Monoar presented the proposed ordinance, as detailed in the backup, highlighting the following:

- On September 27, 2023, the City Commission adopted Resolution No. 23-202, approving the new improvement program with the Five-Year Plan expenditure projection for fiscal years (FY) 2024 to 2028
- The CIE annual update was not an amendment to the Comprehensive Plan; it was a routine modification done on an annual basis; the previous year's Five-Year Plan expenditure projection, FY 2023 to 2027, was removed and replaced
- The backup illustrated both the previous and current years' Five-Year Plans
- The City Manager recommended approval.

Member Perez asked if the subject plan was updated annually.

Ms. Monoar answered yes; the Five-Year Plan's expenditure projection was updated annually based on the forecasted expenditures approved by the City Commission; the changes reflected showed completed and new projects; it was a required annual update.

Member Perez sought clarification on the changes from the previous to the current year.

Ms. Monoar replied the changes were reflected in the table illustrated in the CIE, Table 6.1; the table showed all the City plans and budgets projected over the next five years.

Member Walters referred to Exhibit A, specifically requesting clarification on the "To be determined" allocation.

Chairperson Thompson indicated Finance Department staff would soon elaborate on the specific item. In looking at the backup, for the City's overall parks and facilities from 2023 to 2027, the five-year total for cost Parks & Recreation decreased significantly, as opposed to the shift from 2024 to 2028; it was close to a little over a \$20-million change.

Ms. Monoar referred to the tables for comparison, as they showed the number of projects between 2023 and 2024 decreased.

Member Walters repeated his request for clarification on Exhibit A, where the last line before the total showed \$70.949 million "To be determined," asking if this was a budgeted

amount that could be assigned as needed.

Management & Budget Director Rafael Sanmiguel replied the subject document spanned five years, and the City only budgeted funds one year at a time, so those funds were projections for the City's Five-Year Capital Improvement Projects (CIP) Plan. The City had no specific funding source for projects outside the current fiscal year, but once the City got to the year in which an actual projects would be executed, staff would budget for those projects, pushing back other project cost projections as needed; that is, for years outside the current fiscal year, the budgeted amounts were estimated, but not budgeted, and they were subject to change in amount and/or prioritization.

Member Walters asked what was the City's current bond rating.

Mr. Sanmiguel responded the City had an AA1 rating; the rating was also affected by the amount of debt service the City had on hand, particularly in the utilities fund; the more reserves there were in the utilities fund, the higher the bond rating. The City's philosophy was it was very expensive to keep big reserves on hand just to get the AAA rating; it was found not to be worth the sacrifice.

Vice Chairperson Dixon assumed the City Commission has not seen the proposed changes to the CIE.

Mr. Sanmiguel answered this was not correct; the City Commission already saw the changes to the CIE, as it was published in the proposed, and the adopted CIP books, and it was published in the adopted regular, operating budget book.

Vice Chairperson Dixon questioned if when 2028 was added, the estimates and projects that were added were done based on staff recommendations alone.

Mr. Sanmiguel said they were added based on a number of factors, including the direction to staff from the City's executive team, and from the elected officials. Projects were vetted based on their merit, cost feasibility, and their need/demand in the community, and internally.

Vice Chairperson Dixon asked if it was safe to assume the funds allocated for projects in 2023 were fully expended.

Mr. Sanmiguel answered no, explaining that whatever funds were not expended in the fiscal year a project was being worked on was carried forward to subsequent years; many CIP projects were multiyear projects, so their allocated funds did not sunset; the City was able to reallocate funds to the same project from fiscal year to fiscal year.

Chairperson Thompson observed, moving from 2023 to 2024, it appeared staff created a separate section for future projects, asking if this was so they did not comingle with existing projects.

Mr. Sanmiguel affirmed this to be the case; this was done so there was no confusion.

The tables showed projects the City was committed to doing, as well as future projects that could be done if funding was found, so they were included in the CIP to facilitate, for example, the possibility of applying for grant funding.

Chairperson Thompson noticed this appeared to be the case for Phase VI of the Historic Miramar Drainage Improvement project; this was a Public Works project estimated at \$17 million in 2024 to 2028. He asked if no funds had been earmarked for that project.

Mr. Sanmiguel replied not yet, but when it came to infrastructure-type projects, particularly those for improvements to stormwater drainage, there would be funding available through the ad valorem assessment the City levied to each parcel for stormwater. For such projects, it was really a timing issue with regard to funding those projects.

Member Walters remarked on seeing nothing in Exhibit A for public safety, asking if it was illustrated elsewhere.

Mr. Sanmiguel explained the City had a number of public safety CIP projects that were already fulfilled to satisfy public safety needs; the only existing public safety project was the smart city initiative for a real time crime center; the aim was to leverage technology to facilitate catching criminals through smart surveillance technology. He said it was located on the bottom of the second page of Exhibit A, shown as the first capital equipment vehicle **(unintelligible 27:03)** smart city surveillance system, and real time crime center.

Member Walters affirmed he saw it listed as 54017, asking if this would be a collaboration with the City's IT Department.

Mr. Sanmiguel answered yes; IT staff would lead the charge on that initiative.

Ms. Earle-Cunningham believed most of the money to fund the real time crime center would come from a grant.

Mr. Sanmiguel indicated there were no plans to fund that project with grant dollars.

Chairperson Thompson opened the discussion to the public; he received no input.

Chairperson Thompson asked for a motion to approve Ordinance No. 1825, as presented,. Member Earle-Cunningham made a motion to approve, seconded by Member Perez; the following vote was recorded:

AYE: Chairperson Thompson, Vice Chairperson Dixon, Members Earle-Cunningham, Lomax, Perez, and Walters

NO: None

ABSENT FOR VOTE: Members Edwards, Tighe, and Payne

MOTION PASSED: 6-0

IV. QUASI-JUDICIAL PUBLIC HEARING:

City Attorney Gary reviewed the City's quasi-judicial procedures, collectively swearing in all persons wishing to speak on agenda item IV. (1).

- (1) Amending the City of Miramar Land Development Code (LDC) at Chapter 3 to add a new section 325 to be entitled, "Reasonable Accommodation"; and providing for an effective date.

(Presenter: Sue-Ling Rosario, Landscape Plans Examiner)

Landscape Plans Examiner Sue-Ling Rosario presented the subject LDC amendment, as detailed in the backup, stating the proposed amendment would establish a consistent standard for reasonable accommodations for individuals with disabilities, align the City's zoning regulations with federal laws, and uphold the principles of nondiscrimination, equal access, and inclusivity for all individuals. The City Manager recommended approval.

Vice Chairperson Dixon wondered what the existing process was; that is, was the proposed amendment putting in writing the practices already being used by the City, or was this something new.

Ms. Rosario replied the City's current processes only took into consideration conditions of the physical site; they did not take into account the personal circumstances of an individual. Recently, the BPZ Department received multiple requests from city residents, asking for a deviation from current regulations due to personal circumstances, but the LDC lacked a procedure to include a review of personal circumstances.

Chairperson Thompson questioned if the requests were with regard to accessibility into the home, or was it something else.

Ms. Rosario responded that it could vary. For example, a request came from a gentleman who asked to be allowed to use a specific material on his driveway that the LDC did not currently allow, as his disability caused him to need a softer landing when exiting his vehicle. There were several requests for artificial turf due to allergies to sod. Thus, the proposed amendment would provide a process for staff to review such requests.

Chairperson Thompson mentioned being weary of persons taking advantage of the process, asking if the review would include such requirements as asking applicants to produce a doctor's note, or an affidavit.

Ms. Rosario stated during the review process, staff would draft an application requiring the applicant to meet the definitions of disability, per federal law, and the application would be reviewed administratively, and by the City Attorney.

Member Walters sought clarification that the subject amendment would enable staff to review such requests without requiring a variance, which meant they would not have to come before the P&Z Board; it would become a normal part of doing business.

Ms. Rosario answered yes; the reviews would be done by staff in conjunction with the City Attorney.

Member Walters thought this was a good change.

Chairperson Thompson agreed it was a good change, but still expressed concern that a neighbor might wish to make a similar change.

Member Walters wondered if controls would be put in place to prevent this.

Interim BPZ Director Nixon Lebrun added Miramar was not the first Broward city to implement such regulations, and he attended numerous P&Z directors meetings with other Broward cities, and it was a recurring issue many cities sought to address; only a few cities put the proposed regulations in place. He indicated the proposed amendment also stemmed from some updates to the Florida Statute back in 2017 or 2018, and the proposed change was no different from what already existed in the housing field, and it was to address federal requirements; the change was being done in anticipation of possible litigation costs in the event an application was denied, and a lawsuit was filed. Again, the City would be going by the definitions of the federal government, the FHA, ADA, etc., so if an applicant met all these requirements, their request would be approved.

Member Walters pointed out that when the amendment went to the City Commission for consideration, the public had an opportunity to voice their support or concerns.

City Attorney Gary affirmed this was the case; approval of ordinances, including amendments, went through a first and second reading by the Commission. If someone applied for special consideration based on what they saw their neighbor doing, without documentation to verify their disability, their request would be denied.

Chairperson Thompson commented documents could be falsified.

Mr. Lebrun directed the board's attention to a clause in the proposed amendment that allowed the City to revoke its decision if it was discovered the requester gave false information to secure the reasonable accommodation. This was further facilitated by the requirement for annual renewal, in the event the disability was not a permanent condition, or the person moved, thus no longer warranting the special accommodation. He stressed the City did not have a process in place to accommodate such requests, and the amendment was based on already established federal and state laws. The last variance that came before the board for the approval of a pool area included safety requirements for proper fencing, etc.; that application could be interpreted as a reasonable accommodation for a resident with a very visible disability.

Vice Chairperson Dixon asked if the definition of "reasonable" was laid out in the federal and state guidelines, and included in the proposed amendment.

Ms. Rosario responded if any part of an application open to interpretation with regard to

what was deemed reasonable, staff would get input from the City Attorney to make that ruling, but staff would first determine if the requester met the qualifications of disability.

Vice Chairperson Dixon observed there were two parts: if they met the qualification of disability, and if the request was reasonable; if there were subjective elements to the latter that required the advice of the City Attorney, he assumed this meant there were objective elements staff was using as a guide with regard to reasonable. It did not appear there was much objective guidance in federal and state requirements, so City staff had to review applications, make a determination as to reasonableness, then get input from the City Attorney.

City Attorney Gary noted there was case law with regard to reasonableness, but it was mostly decided on a case-by-case determination.

Member Perez wondered if "reasonable accommodations" would be extended to code violations.

Ms. Rosario replied if a code violation existed, and the requester applied for reasonable accommodation, it would pause the violation; if they were approved, the code violation would be voided for as long as the reasonable accommodation was current.

Chairperson Thompson understood the reasonable accommodation was reviewed each year for continued approval, asking what happened if the home was sold, and the new owner did not need the reasonable accommodation. He knew city staff was not involved in the sale of a home, asking how this could be monitored.

Ms. Rosario said the approval of the reasonable accommodation was due to an individual circumstances, so it was not tied to the property. If the person sold the home, there was language in the amendment stating that the sale of the property would trigger the new owner to revert the property to its former condition to meet code requirement. She said during the annual review process, staff could verify if the person in need of the reasonable accommodation still lived there, and continued to need the accommodation.

Chairperson Thompson asked if this would be recorded in the public record, since the reasonable accommodation was tied to the person, not the property.

Mr. Lebrun stated the City would not go as far as recording the alteration in the public record, as it was based on individual circumstances; it did not run with the property. However, the City would have an internal registry, and each one would be monitored annually; an inspector would be dispatched to ensure the circumstances warranting the reasonable accommodation still existed.

Ms. Earle-Cunningham questioned what would happen if the buyer was not notified of the reasonable accommodation, wondering how they would learn that they had to remove it.

Mr. Lebrun responded Florida's case law showed it was a matter of buyer beware; the City currently had numerous open building violations, and some buildings changed

ownership without the new owner knowing anything about attached violations, particularly with regard to unpermitted work. Staff was in the process of drafting an ordinance for approval to create a re-occupancy certificate that required sellers to make disclosures before entering into a real estate contract for residential single-family, townhome, duplex, or apartment; they had to apply to the City for the certificate to ensure there were no existing zoning violations, etc. As part of the inspection to get that certificate, if any safety violations existed, the City would take action accordingly. He said staff examined city records for any documentation on what was granted to the property being sold, taking actions where necessary to make the potential buyer aware; for example, if a reasonable accommodation was granted to the present owner, and in being sold, it no longer applied.

Chairperson Thompson said hence his asking if the reasonable accommodation was tied to the property, as it would be revealed if a prospective buyer did a title search. Too many times new buyers found out after the fact about code violations or special conditions they inherited with the purchase that later led to hardships being placed on them.

Mr. Lebrun said the proposed re-occupancy certificate would address that, as realtors, banks, etc. would be notified before a purchase could take place. He said this process was used successfully elsewhere in cities in Miami-Dade County, and it gave the City more control, as most buyers only became aware of preexisting violations, unpermitted renovations, etc. when they came to the City to do permitted changes on their property.

Member Walters opined the proposed amendment was a good one; at the end of the day, certain things were the responsibility of a buyer and a seller; it was a private transaction, so the onus was on them to make disclosures, and/or do in depth research.

Mr. Lebrun mentioned a bill in Tallahassee being considered to establish a flood disclosure requirement, requiring a seller to disclose if their property was ever flooded. The City wished to go as far as it could to protect its residents.

Chairperson Thompson recalled reporting latent defects were reduced from seven to five years by the State Legislature.

Chairperson Thompson opened the discussion to the public; he received no input.

Chairperson Thompson asked for a motion to approve the proposed amendment, to the City of Miramar's LDC as presented. Member Walters made a motion to approve, seconded by Member Perez; the following vote was recorded:

AYE: Chairperson Thompson, Vice Chairperson Dixon, Members Earle-Cunningham, Lomax, Perez, and Walters

NO: None

ABSENT FOR VOTE: Members Edwards, Tighe, and Payne

MOTION PASSED: 6-0

V. APPROVAL OF MINUTES

- **Regular Meeting Minutes of December 12, 2023**

Chairperson Thompson asked for a motion to approve the December 12, 2023, minutes, as presented; Member Lomax made a motion to approve, seconded by Member Walters; the following vote was recorded:

AYE: Chairperson Thompson, Vice Chairperson Dixon, Members Earle-Cunningham, Lomax, Perez, and Walters

NO: None

ABSENT FOR VOTE: Members Edwards, Tighe, and Payne

MOTION PASSED: 6-0

- **Regular Minutes of January 9, 2024**

Chairperson Thompson asked for a motion to approve the January 9, 2024, minutes, as presented; Member Lomax made a motion to approve, seconded by Member Walters; the following vote was recorded:

AYE: Chairperson Thompson, Vice Chairperson Dixon, Members Earle-Cunningham, Lomax, Perez, and Walters

NO: None

ABSENT FOR VOTE: Members Edwards, Tighe, and Payne

MOTION PASSED: 6-0

VI. OTHER BUSINESS

Chairperson Thompson asked for a motion to approve the excused absence of Member Edwards; on a motion by Member Lomax, seconded by Member Walters; the following vote was recorded:

AYE: Chairperson Thompson, Vice Chairperson Dixon, Members Earle-Cunningham, Lomax, Perez, and Walters

NO: None

ABSENT FOR VOTE: Members Edwards, Tighe, and Payne

MOTION PASSED: 6-0

Chairperson Thompson asked for a motion to approve the excused absence of Member Tighe; on a motion by Member Lomax, seconded by Vice Chairperson Dixon; the following vote was recorded:

AYE: Chairperson Thompson, Vice Chairperson Dixon, Members Earle-Cunningham, Lomax, Perez, and Walters

NO: None

ABSENT FOR VOTE: Members Edwards, Tighe, and Payne

MOTION PASSED: 6-0

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Member Walters thanked staff for the job they did for the P&Z Board; the board was an all-volunteer board, and staff provided the board with all its information, for which he was thankful, as well as for their patience.

Senior Planner Deyman Rodriguez announced a new assistant director for the BPZ Department would be starting in the present week; he would introduce her at the board's next meeting.

Vice Chairperson Dixon wondered if the board could get an update at the next meeting on the amendment(s) to the City's noticing requirements.

Senior Planner Frensky Magny replied staff did not have any updates at present regarding the noticing radius; staff sought guidance from the board on changes to the noticing radius they wished to see. Staff's review of the noticing radius in 2016/2017 resulted in recommendations specific to the City noticing via the internet, and on the City's website.

Vice Chairperson Dixon stated, as the matter was not on the present meeting's agenda, and to give board members time to give it due consideration, he suggested making it an agenda item at the next board meeting.

Member Walters concurred, asking staff to email board members the material to review, so they could be prepared to make recommendations at the next P&Z Board meeting.

Mr. Lebrun thought, when considering noticing radii, it was important to distinguish between special exception applications, rezonings, or amendments to the Land Use Plan; that is, the extent of the impact the changes would have. For example, Broward County used a wider notice radius for rezoning, as opposed to a non-use variance. He asked board members to keep in mind the type of applications being dealt with.

Mr. Magny added the City was moving forward with doing noticing on eBlasts, via the City's marketing team, etc., but he knew the board's main concern was with regard to the mailed notice radius. He recalled the information previously sent to the board was with

regard to noticing changes to the Land Use Plan, and rezonings, as these were changes that triggered the mailed noticing; some cities did not notice for site plans.

VII. ADJOURNMENT

The next meeting: April 16, 2024, at 6:30 p.m.

The meeting was adjourned at 7:51 p.m.



Matthew Thompson, Chairperson
MT/cp