

# TOWN OF EDISTO BEACH

## PLANNING COMMISSION

Tuesday, May 27, 2014  
5:00 P.M.

Regularly Scheduled Meeting

THESE MINUTES ARE NOT VERBATIM, BUT DO ACCURATELY REFLECT THE PROCEEDINGS.

Members attending: Chairman Bill Andrews, Vice Chairperson Wanda McCarley, Members Mary Ann Cumalander, David Cannon, William Hackett and Tom Edens

Members absent: Member David Blauch, prior notice was given for his absence

Staff attending: Building Code Administrator Patrick Brown and Code Enforcement Officer Nancy Fitzgerald

Chairman Bill Andrews called the meeting to order at 5:00pm.

Chairman Andrews expressed his thanks and appreciation to Member Cumalander for her service on the Planning Commission. Her term expires May 31, 2014.

### **Review of Minutes:**

#### **Minutes from 4-22-14**

Chairman Andrews asked if there were any corrections to the minutes. There being no corrections offered by the Commission, Member Blauch moved to approve the minutes as submitted followed by a second from Vice Chairperson McCarley. A vote was taken and it was **unanimous to approve.**

### **Old Business**

Chairman Andrews began by advising the only order of business for today's meeting would be to review the revisions of Chapters 62, 71 and 86 which had been discussed in great length at the Work Session. The Town Attorney, Bert Duffie, had reviewed each of the revised chapters, added his legal insight to several questions the Commission had, as well as explaining his reasoning of revising several changes the Commission had initially made. Chairman Andrews then reviewed each item Attorney Duffie had either a question or comment about. The first item was in regards to changing the name of Chapter 62 from *Planning* to *Planning and Zoning Administration*, and the incorporation of sections on Zoning Administration and the Building Code Administrator from Chapter 86 to Chapter 62. Considerable discussion was held during the Work Session; the consensus of the group is that it is more easily comprehended if the Building Code and Zoning is in with Planning; that chapter addressed the scope of the responsibilities and powers and duties all in one place. The next item Chairman Andrews addressed was Section 62-33(c) and a word change from [may] to [shall], as well as removing [the chairperson] and adding [or request of at least two (2) members or the Town Building

*Official.]* Next on the list for review is 62-42(d) regarding the change from 15 to 25 day for public notice of the Zoning Board of Appeals hearing. Attorney Duffie stated there is not a time limit for publication, so either 15 days or 25 days is acceptable. Chairman Andrews asked Building Code Administrator Brown if he was okay with that change to 25 days. Building Code Administrator Brown then stated in the interest of providing the applicant a hearing in a reasonable amount of time, 15 days may be a better option, especially with the requirement of publication in the Town's local newspaper, *The Colletonian* which is published weekly. The proposed change of public notice 25 days before a hearing could push the applicant's hearing date even further out. Building Code Administrator Brown feels 15 days is the best option, in order to give the applicant a hearing within a reasonable amount of time. Chairman Andrews then asked the Commission if they are okay with 15 days rather than the initial amended change to 25 days. The Commission was in agreement to keep section 62-42(d) as it states, with 15 days as the time for public notice before hearing of an appeal. Chairman Andrews then moved on to 62-44, which changed [*may*] to [*may have*]. The commission was in agreement with this change. Chairman Andrews then moved forward to Chapter 71 with the first item in 71-4 and the use of the word [*chapter*] which has been added. Chairman Andrews then went through 71-6(a) with no issues there, moved onto 71-7 which is fine as revised. Chairman Andrews then stated the next item for discussion is in 71-8 concerned utilizing the current Ordinance, or revising with the longer Consultant's version. Attorney Duffie had no issue with the consultant's language, leaving the option to the Commission of which version to use. Chairman Andrews stated he feels the current language is the way to go, instead of the more verbose version. The Commission did not offer any discussion regarding this item, so Chairman Andrews advised to keep the current version of section 71-8 as is. Chairman Andrews then moved on to 71-31 and the inclusion of definitions for *Development* and *Building Code Administrator*. Chairman Andrews mentioned the Commission agreed the definitions were pretty well understood, however there was no harm in including them and may avoid some potential for confusion, even slight, so we will leave the definitions as stated and included in 71-31. Before moving onto Chapter 86, Chairman Andrews asked if there were any questions with regard to legal review pertaining to sections Chapters 62 and 71. The Commission had no questions, so onward to Chapter 86. The first item to be addressed was the movement of Zoning Board of Appeals and Building Code Administrator duties from Chapter 86 to Chapter 62, which was addressed earlier in the meeting. Chairman Andrews then moved on to the definition of private road that Attorney Duffie had raised a question about in the Work Session. Chairman Andrews mentioned in the course of revising the definitions, about 7 definitions were removed pertaining to roads. Chairman Andrews stated the Commission felt due to the size of the municipality we did not need several definitions defining essentially the same types of street, so the language was simplified and consolidated. Within the same section, the definition of *Retail Business Establishment* was added, after Town Council action to pass and approve the second reading at the last Council meeting. *Land use permit and certificate of occupancy* was changed on the recommendation of Attorney Duffie to *Use permit and certificate of occupancy*, with the definition remaining the same. Within the definition for *Use permit*, [*development*] was changed to [*use*]. Chairman Andrews moved onto 86-62, under Building and Sign Permits, the word [*development*] was removed from "...*development and sign permits*..." and replaced with [*building*] "...*building and sign permits*...". Chairman Andrews then moved onto 86-65 (2) Conditional and Temporary Uses, and the removal of the phrase "...*except for plans for major development, which shall be made by the Planning Commission upon recommendation of the Building Code Administrator*", which is a limitation that was not needed. Chairman Andrews stated the removal stemmed from the term *major development* which was defined by the consultants in their version and the Commission is not making a distinction between types of major and minor developments. Chairman Andrews then moved onto 86-65(3)(a) and the removal of the phrase "...*subject to the approval of Town Council*."; this section limits the responsibilities of the Building Code Administrator.

Code Enforcement Officer Fitzgerald stated the 5 conditions listed under (a) will be included but were deleted in error when revising. Chairman Andrews moved onto 86-66, *Expiration of [Development] Permit; [development]* will be changed to Building. The next item mentioned is 86-68(a), correcting a typo, changing *[and]* to *[an]*. 86-135(b)(11) was listed under uses and is really a rule, so it was moved to the end of the section, as item (h). Chairman Andrews stated item (h) as just discussed in 86-135 does read as corrected. Chairman Andrews moved forward, onto 86-135 (b)(13) which stated “*Government owned or operated parks and open air markets...*”; this phrase was removed and replaced with “*Public Parks*”. Chairman Andrews moved onto 86-136, stating item 5 pertaining to government owned parks has been deleted, due to the permitted uses within the R-1 district which adequately covers the public parks aspect of it. 86-137, item (4) comes out, again the Government owned and operated parks statement. Chairman Andrews then moved forward through 86-138, item (8), 86-139 and item (b)(5), which is the removal of the same Government owned and operated parks statement. Also in 86-140, a correction was made regarding a reference to a section within Chapter 86, under (b)(1) 86-111(b) should be 86-135(b). Chairman Andrews referenced on their printed version the change had not been made, but was highlighted to be made. Code Enforcement Officer Fitzgerald stated again the final revision was not printed for the meeting today, but the changes have been made. Chairman Andrews then moved onto 86-140, item (b) (11), which is the deletion of the Government owned and operated parks statement. Member Cannon asked the question regarding the comments within the edited version of Chapter 86 which stated “BH-1”, or “BH-4”. Member Hackett offered those were the reminders of comments that Attorney Duffie had made during his review of the Chapter. Chairman Andrews explained those are changes where items are being moved, such as the public parks section. Member Cannon further noted all of the comments have a “BH-number”, which is not significant. Code Enforcement Officer Fitzgerald stated those notations are where Betty added the comments from Bert, which is why the changes made reflect her initials, BH, but they are Bert’s comments from his review. Chairman Andrews then moved onto 86-141, the definition in item (2), was changed from “*Any retail business involving the sale or rental of merchandise*” was changed to “*Any retail establishment*”, and as far as he knew that was the only place in all the ordinances that actually refers to the definition of a retail business establishment. Also within that section, under permitted uses, item (10) “*No permitted use shall create disturbing or offensive noises, traffic hazards or unsightly conditions*” was moved to item (k) as well as deleting item (16) which referenced Government owned and operated parks. 86-142, for public and semipublic district, item (5) Government owned and operated parks item changes to simply Public Parks. Chairman Andrews then moved onto 86-143, the former Mobile Home district, and the discussion at the Work Session for the need of such a district. Manufactured Home District is the wording now, and the direction from Attorney Duffie is that having such a district is a legal requirement to have certain categories of districts, even though they may not actually occur within the municipality, at least there is a provision for that which is why this district is still included in the ordinance. Chairman Andrews then moved onto 86-144, permitted PUD uses, 86-144(d)(2), again the Government operated parks and open air markets has been removed from that section. In 86-146, item (b)(5), Government owned and operated parks becomes Public Parks. Chairman Andrews reviewed 86-172, the word *[or]* was inserted into 86-172 (b). Chairman Andrews then addressed the comments from Attorney Duffie in regards to Chapter 71, specifically 71-6(a). Attorney Duffie stated “*Per state code section 6-29-1150(C), staff action relative to a land development plan may be appealed to the Planning Commission.*” Chairman Andrews explained staff action referred to the Building Code Department. As previously discussed in the Work Session, the Commission thought that all appeals of Building Code decisions would go to the Zoning Board, but according to state law, that is not necessarily the case. Chairman Andrews reviewed the section and stated the current revision refers appeals to the Planning Commission, so that is in line with state law. The next item Attorney Duffie

commented on, 71-7, under amendments, “Per state code section 6-29-1150(A), amendments to the land use ordinance must first be submitted to Planning Commission for approval or disapproval before going to the council.” Attorney Duffie suggested the language should read “From time to time this chapter may be amended by Town Council after submission to and approval or disapproval by the Planning Commission...”. At the Work Session, Attorney Duffie mistakenly recommended the removal of this step. Vice Chairperson McCarley asked Chairman Andrews to review that item again for the Commission. Member Cannon asked if that item would apply to all the Chapters. Chairman Andrews advised he did not think so. Member Cannon advised that is what we are doing now, suggesting changes to all the chapters. Chairman Andrews stated the item Attorney Duffie refers to is just for Chapter 71. Building Code Administrator Brown advised the current code is very similar to what Attorney Duffie is proposing, but the approval or disapproval language is not stated. Chairman Andrews agreed, and further stated Attorney Duffie had proposed removal of “...receipt of a recommendation from the Planning Commission on such amendment and Town Council holding a public hearing...”. Chairman Andrews advised Attorney Duffie recommends putting that statement back in, with a little bit different wording, essentially saying the same thing. Chairman Andrews stated the printed version of Chapter 71 is correct, as it reflects going through Planning Commission for amendments. That being the last item from Attorney Duffie’s review, Chairman Andrews asked if the Commission had any other comments or questions related to the legal review of the 3 chapters. Having heard no additional comments or questions, Chairman Andrews asked for a motion to continue the process, and further explained to clarify that the Commission would not be voting on recommending the changes to Council. What the Commission is recommending to council is that we continue with this process, which will involve holding a public meeting and soliciting input from Council and the public, and providing an opportunity to consider that input and incorporate those changes prior to a first reading that would ostensibly take place prior to the August council meeting. Chairman Andrews wanted to make very clear what it is he is asking for in the motion, that again, it is not a motion to adopt or recommend the ordinances as they exist. It is a motion to take the ordinances as they exist, in their draft form, and continue the process forward. Member Edens made a motion to continue the process. Member Hackett seconded. Chairman Andrews asked for discussion of the motion. Building Code Administrator Brown advised including the revision date of the draft copy for each Chapter. Chairman Andrews advised the draft would be dated May 27, 2014 in their recommendation to Council. Having no further discussion, a vote was taken on the motion and it was **unanimous to approve**.

Chairman Andrews then stated the last item to discuss would be the date of the presentation. Town Council will need to take action at the next Council meeting in early June to decide to when to actually hold the special meeting. Chairman Andrews states the proposed date at this time is June 24<sup>th</sup>, which is the day of the regularly scheduled June Planning Commission meeting. The intent would be to have the special meeting at 4pm that day, before the regular meeting held at 5pm. This of course is all subject to the will of Council. From that point on, presumably the Commission will get input from the public and Council, which will give the chance for discussion at the July Planning Commission Work Session. Chairman Andrews stated depending upon the magnitude of any proposed changes, the Commission may or may not choose to keep the August 14<sup>th</sup> date for Council’s first reading. At this point, it looks as though it will be July before the Commission can actually consider any revisions and take any action to recommend to Council.

#### **Public Comment**

No one was signed in for Public Comment.

There being no further business to discuss, Chairman Andrews asked for a motion to adjourn. Member Hackett so moved, with Member Edens seconding. The vote was **unanimous to adjourn** at 5:42 pm.

The Freedom of Information Act, § 30-4-80(3) was complied with.

APPROVED BY THE PLANNING COMMISSION

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Submitted by Nancy Fitzgerald, Code Enforcement Officer

A digital recording of this meeting is on file at Town Hall.

A quorum of Council may be present.  
No discussion or action on the part of Council will be taken.

DRAFT ONLY