

AUGUST 11, 1987

The Board of County Commissioners, Manatee County, Florida, met in SPECIAL SESSION in the Manatee County Civic Center, Palmetto, Florida, Tuesday, August 11, 1987, at 6:05 p.m., for the purpose of holding public hearings on Ordinances 87-07, 87-19 and 87-26.

Present were Commissioners:

Edward W. Chance, Chairman
Kent G. Chetlain, Vice-Chairman
Westwood H. Fletcher, Jr.
Patricia M. Glass
James J. McGrath

Also present were:

H. Hamilton Rice, Jr., County Attorney
Richard H. Ashley, Chief Deputy Clerk, representing
R. B. Shore, Clerk of Circuit Court
Fred Goodrow, Planning and Zoning Director

Representatives of the various news media were present.

The meeting was called to order by Chairman Chance.

All witnesses/staff giving testimony were duly sworn.

ORDINANCE 87-07 LOCATION OF ADULT ENTERTAINMENT ESTABLISHMENTS

Second public hearing (Notice in The Bradenton Herald 7/21/87 and 8/6/87) was held to receive public comment on

ORDINANCE 87-07: AN ORDINANCE AMENDING ORDINANCE 81-4 OF MANATEE COUNTY REGULATING THE LOCATION OF ADULT BOOKSTORES, ADULT THEATERS, SPECIAL CABARETS, PHYSICAL CULTURE ESTABLISHMENTS, AND ADULT PHOTOGRAPHIC STUDIOS; PROVIDING FOR LOCATIONAL WAIVER; PROVIDING FOR AMORTIZATION OF NON-CONFORMING ADULT BOOKSTORES, ADULT THEATERS OR SPECIAL CABARETS, PHYSICAL CULTURE ESTABLISHMENTS, AND ADULT PHOTOGRAPHIC STUDIOS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR THE DELETING OF SECTIONS 5.01, 5.02, 5.03 AND 5.04 OF MANATEE COUNTY ORDINANCE 84-11, AS AMENDED, RELATING TO THE LOCATION OF ADULT ENTERTAINMENT ESTABLISHMENTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

There were no objections to recommendation by the County Attorney to receive into the record of this hearing all public remarks and comments of the Special Meeting of the Board on July 28, 1987 together with all documents, studies, memorandums of law, petitions and correspondence received by the Board on that date as evidence and expressions of public concern.

Mark Barnabey, Assistant County Attorney, noted the three changes from the draft that was presented at the previous public hearing (7/28/87).

1. Definition of Special Cabaret has been amended pursuant to memorandum from the County Attorney's Office (7/27/87).
2. New Subsection 1.e has been added to Subsection 2040 which prohibits location of adult entertainment establishments within the Interstate Oriented corridor, as designated on the Manatee Plan. (This change would reduce the currently zoned land available by approximately 44 acres).

He said there are currently five interstate corridors in the County (University Parkway, State Road 70, State Road 64 and I-75, U.S.301 and I-75 and at I-275 and U.S.41) and those will be affected.

3. Sub-section B of the definition of incidental adult material vendors has been amended to require that such vendors provide the Planning and Development department with information to determine if more than 10 percent of the business stock to determine is devoted to (adult) materials, instead of the Sheriff's Office.

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Rosemarie Fallon made a brief presentation on the proposed ordinance and the impact on jurisdiction. She noted that no recommendation is made that particular uses be in a certain location, but it does indicate where they would be allowed and provides a greater restriction with respect to location than in the current ordinance.

Leon Koteki, Planning and Development, reported on the study of the unincorporated area where these types of businesses could be located under a 2,000 foot buffer separation between adult businesses and residential suburban and agricultural zoning districts. He referred to a map indicating the distances and depth of corridors, bumper separations from residential areas, and identification of non-residential uses which might restrict the location of adult business areas.

Discussion: Interstate oriented corridors, current zoning requirements for adult entertainment establishments.

Public Comments:

Comments by a number of people on various aspects of the proposed ordinance and related subjects included: Opposed to pornography; concern about grandfathering of establishments; coordination of efforts with municipalities; support of proposed ordinance and stronger pornography ordinance; concern on detrimental effect of adult entertainment establishments; requests that these establishments be limited; concern that the ordinance is enforceable and constitutional; opposing location of establishments close to mobile home parks; concern about the 10 percent gross sales clause and support to lower to 3 percent; support to increase distance of establishments from churches, schools, public recreation, etc.:

Tim Adams	James Baxter	Paul Blair
Timothy Fulton	Dana Pettit	Barbara Shinabarger
Richard Schneider	Rev. Paul Christ	Steve Stapleton
Rita D. Westrand	Elsie Thiesie	Joel Kramer
Ed Hornish	Bob Betts	
Pastor Oscar Jacobson, Christian Missionary Alliance Church.		

Ernest S. Marshall supported the ordinance; inquired about coordinated efforts with municipalities; and made suggestions concerning distance from bus stops, enforcement and definitions.

Esther Rachnal expressed concern that by giving an industry sanction in certain areas they are being given the power to go ahead and increase its success. She read articles of the Boston Combat Zone, known because of the high incident of crimes.

Scott Carter inquired about current laws and determination of legalities and pornography; community effort in the enforcement of ordinance; methods used to arrive at definition of adult entertainment establishment; percentage of sales that would constitute an adult establishment; incidental vendors; video stores.

Pastor James Pike, President of the Manatee County Ministerial Association, expressed concern about the ordinance being enforceable and constitutional and if challenged, would the board pursue the ordinance further.

Joseph J. Lozo, retired State District Judge from the State of Michigan, spoke about the detrimental effects of these establishments in the community; supported enforcement of laws.

Recess/Reconvene. All members present.

Joe Christian, Secretary of the Colony Cove Homeowners Association, read a letter to the Commissioners opposing the change in land use which would allow adult establishments on US 301 and Erie Road.

Michael Tewksbarry spoke in opposition to any such establishments in the county.

Mark Barnabey pointed out that under the proposed ordinance existing establishments would have to come into conformity with code revision and location requirements within a year.

The public comment portion of the hearing was closed.

Rick Ashley, Chief Deputy Clerk, submitted

1. Petition from Colony Cove Mobile Home Park with signatures of 20 residents.
2. Petition from Terra Siesta Mobile Home Park Association with 201 signatures of residents protesting location of pornographic businesses in the Ellenton Area.

Discussion: Definition changes; widening of corridors from 500 to 750 feet in certain areas including proximity to bus stops; provide for inclusion of attorney's fees in event of litigation; definition of bar and dance hall; rationale for 10 percent of the business stock requirement in the ordinance; licensing procedures for adult establishments; rebuttable presumption clause that would require establishments to prove that they are not violating the law; requiring certified audit of the business; factor to determine whether or not the business is violating the use to which it is entitled; designation of interstate corridors; severability provision in ordinance written for overcoming constitutional challenges; charter government, etc.

Upon question, the County Attorney advised that with the changes made since the last hearing, he and staff had prepared the strongest land development code amendment based on the constitutional limitations as outlined in his memorandum of law (7/21/87).

Motion: Adopt Ordinance

Mr. Fletcher moved the adoption of Ordinance 87-07 with the amendments as identified by counsel, since the July 28 public hearing. Motion was seconded by Mr. McGrath.

Amendment (Setback)

Mr. Chance stepped down as chairman and moved to amend setback from a church and school by increasing distance from 2,000 feet to 2,500 feet. Motion was seconded by Mrs. Glass.

Mr. Rice noted that the proposed amendment to section I, location of adult entertainment establishments, would leave the distance from day care center or public recreation facility at 2,000 feet.

Voting "Aye" were Mr. Chance, Mr. Chetlain, Mrs. Glass, and Mr. McGrath. Mr. Fletcher voted "Nay". Motion carried.

Adoption Ordinance 87-07

The vote was unanimous on adoption of Ordinance 87-07, as amended.

RECORD S-36-972

Recess/Reconvene. All Members present.

ORDINANCE 87-26: MOBILE HOMES/RESIDENCE - MEDICAL HARDSHIPS

Public hearing (Notice in The Bradenton Herald 7/10/87 and 7/23/87) was held to receive public comment on

ORDINANCE 87-26: AN ORDINANCE OF MANATEE COUNTY, FLORIDA PROVIDING FOR AN AMENDMENT TO MANATEE COUNTY ORDINANCE 81-4, THE MANATEE COUNTY COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE; PROVIDING FOR A STATEMENT OF FINDINGS; PROVIDING FOR AMENDMENT TO SECTION OF ORDINANCE 81-4 RELATING TO THE REGULATION OF AND REQUIREMENTS FOR TEMPORARY MOBILE HOME RESIDENCES IN CASES INVOLVING MEDICAL HARDSHIPS IN CERTAIN ZONING DISTRICTS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

The Planning Commission recommended denial.

Jim Lee, Planning and Development, advised the ordinance would allow a mobile home for medical hardship as an accessory use to a principal use in certain zoning districts (A-1, A and V-Village), on a minimum of two acres, with approval of a special permit by the Board for a period of two years with the potential of one year renewal. He said the proposed ordinance includes the wording contained in Ordinance 87-02, which was removed by the Board on April 1, 1987.

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Mr. Lee referred to recommendation by the Planning Commission, based on concerns outlined in memorandum of August 11, 1987 from the Planning Director.

There were no objections to recommendation by the County Attorney to receive into the record of this hearing all public remarks and comments of the Special Meeting of the Board on July 28, 1987, together with all documents, studies, memorandums of law, petitions and correspondence received by the Board as evidence and expressions of public concern.

Pat and Claude Bradbury spoke in favor of the ordinance.

The public comment portion of the hearing was closed.

Discussion: Wording in Ordinances 87-02 and 87-26; districts affected; acreage, etc.

Hearing Continued

Mr. Fletcher moved to continue the public hearing to August 27, 1987 at 10:30 a.m. or as soon thereafter as same may be heard. Motion was seconded by Mrs. Glass. Voting "Aye" were Mr. Chance, Mr. Fletcher, Mrs. Glass, and Mr. McGrath. Mr. Chetlain voted "Nay". Motion carried.

ORDINANCE 87-19: ZONING/LAND DEVELOPMENT CODE - FALSE INFORMATION

Public hearing (Notice in The Bradenton Herald 7/21/87 and 8/6/87) was held to receive public comment on

ORDINANCE 87-19: AN ORDINANCE OF MANATEE COUNTY, FLORIDA PROVIDING FOR AN AMENDMENT TO MANATEE COUNTY ORDINANCE 81-4, THE MANATEE COUNTY COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE; ALLOWING VARIOUS COUNTY BOARDS AND COMMISSIONS THE RIGHT TO RELY ON INFORMATION PRESENTED AT THE MEETINGS; PROVIDING THE APPROPRIATE COUNTY BOARDS, AND WHERE APPROPRIATE, THE PLANNING DIRECTOR, CERTAIN RIGHTS TO REZONE PROPERTY AND AMEND, REVISE, REVOKE, RESCIND AND VOID DEVELOPMENT AND SITE PLANS, SUBDIVISION PLATS, VARIANCES, PERMITS AND DEVELOPMENT ORDERS APPROVED IN RELIANCE UPON FALSE OR INCORRECT INFORMATION PRESENTED BY THE APPLICANT, HIS ATTORNEY OR HIS AGENTS; PROVIDING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS WITH THE AUTHORITY TO VOID ERRONEOUSLY ISSUED PERMITS; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Mr. Barnebey advised (memo 8/6/87) that recent litigation involving developers and the County suggested possible omissions in the County Land Development Code which the Board may wish to clarify to insure that the implied defects are corrected.

This same ordinance was previously submitted to the Board with one exception: Subsection 2.408M was amended to clarify that this subsection applies to types of approvals involving site or development plan review. Prior language could have been interpreted to include building permits which were addressed in 401G as amended. The Planning Commission recommends adoption.

There were no objections to recommendation by the County Attorney to receive into the record of this hearing all public remarks and comments of the Special Meeting of the Board on July 28, 1987, together with all documents, studies, memorandums of law, petitions and correspondence received by the Board on that date as evidence and expressions of public concern.

Public Comments:

Leo Mills, Jr., registered land surveyor, commented that while he believes this a good ordinance, there are certain facts or information that are indefensible from a land surveyor's standpoint and the Board would have to rely on the reputation of the applicant or his agent. On the question of mean highwater line studies, these are done on as needed basis and the State mandates that all such studies are dated.

The public comment portion of the hearing was closed.

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Upon question, Mr. Rice said the Ordinance is not retroactive, but if prior false information is resubmitted as support for a subsequent action by the Board, then that falsification would endanger the entire process; that the ordinance establishes a procedure and expands to cover even mistakes of fact.

Mrs. Glass moved to adopt Ordinance 87-19 providing for an amendment to Ordinance 81-04. Motion was seconded by Mr. Fletcher and carried unanimously.

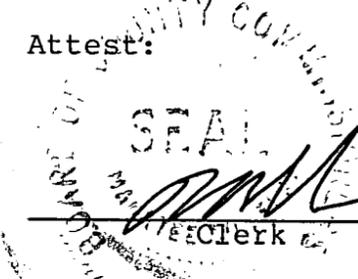
RECORD S-36-973

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Attest:

APPROVED:

A circular seal of the City of Chicago is partially visible, containing the text 'SEAL' and 'CITY CLERK'. A signature is written over the seal.
Clerk
Adj: 10:10 p.m.


Chairman 10/20/87