ORDINANCE _____ - 2009

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SECTION 102-20 OF THE MONROE COUNTY CODE CONCERNING THE APPOINTMENTS AND TERMS OF MEMBERS OF THE PLANNING COMMISSION AND VACANCIES THEREON; DELETING REMOVAL FOR CAUSE EXCEPT AS SPECIFICALLY SET FORTH; DELETING THE REQUIREMENT FOR SPECIAL MEETINGS; REMOVING THE REQUIREMENT FOR TIME CERTAIN PUBLIC HEARINGS; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE SECRETARY OF STATE AND THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners (BOCC) desires to align the terms of the Planning Commission appointees more closely with the terms of the BOCC members; and

WHEREAS, the BOCC desires to clarify that there may be removal of commissioners on the Planning Commission at the pleasure of the county commission or for cause which is now defined in the code as (a) three unexcused absences or (b)commission of a felony or an offense involving moral turpitude, or (3) no longer being a qualified elector of the county; and

WHEREAS, the requirement to have a special meeting within seven days if a quorum is not present at a regular meeting is unduly burdensome given that the reasons for lack of

a quorum would most likely be of such an emergency to prevent a meeting within seven days; additionally, a special meeting may to be called by the chairman is currently provided;

NOW THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. Section 102-20 is amended as follows:

Sec. 102-20. Planning commission.

(a) Creation. There is hereby established a planning commission.

(b) Powers and duties. The planning commission shall have the following powers and duties:

(1) To serve as the local planning agency (LPA), required by F.S. § 163.3174;

(2) To prepare or cause to be prepared a comprehensive plan or element thereof and to submit to the board of county commissioners an annual report recommending amendments to such plan;

(3) To review and make recommendations to the board of county commissioners in regard to amendment of the official land use district map;

(4) To hear, review and approve or disapprove applications for minor or major conditional use permits;

(5) To initiate, hear, review and make recommendations to the board of county commissioners on applications for amendment to the text of this chapter;

(6) To hear, review and recommend approval or disapproval of all plats in accordance with the rules and regulations established by the board of county commissioners;

(7) To hear, consider and act on appeals of administrative actions;

(8) To act to ensure compliance with conditional use permits, as approved and issued;

(9) To make its special knowledge and expertise available upon reasonably written request and authorization of the board of county commissioners to any official, department, board, commission or agency of the county, state or federal government; and

(10) To adopt such rules of procedure necessary for the administration of its responsibilities not inconsistent with this article to govern the commission's proceedings.

(c) Qualifications for membership. Members shall be chosen from persons with experience in the areas of planning, environmental science, the business community, the development industry, and other Keys local industries. ***(**This provision is moved from later section)*** Members of the planning commission shall be qualified electors in the county. **In the event that any member is no longer a qualified elector or is convicted of a felony or an offense involving moral turpitude while in office, the board of county commissioners shall terminate the appointment of such person as a member of the commission.**

(d) Membership: appointment, removal, terms, and vacancies.

(1) The planning commission shall be composed of five members. Vacancies shall be filled by nomination by the district's commissioner for the district whose member on the board of county commissioners ~~member for the district who~~ made the previous appointment for the vacant seat. The county commissioner shall nominate a person qualified as provided in subsection (c) of this section to be approved by the board of county commissioners by a vote of at least three members. ~~*Members shall be chosen from electors with experience in the areas of planning, environmental science, the business community, the development industry, and other Keys local industries.*~~ ****Sentence relocated above**. The geographical representation of the Keys shall be considered, but not required when making appointments to the planning commission. ~~If no candidate is put forth for approval by the board of county commissioners member for the district prior to 60 days of expiration of the respective planning commissioner's term, the mayor shall submit a candidate for approval by the board of county commissioners.~~ If there is a vacancy on the planning commission which remains unfilled for more than sixty (60) days, the mayor may appoint a person to hold the office until an appointment is approved by the county commission.

(2) Members shall serve at the pleasure of the board of county commissioners. ~~or may be removed for cause prior to the expiration of their appointment and such r~~ Removal shall be approved by the affirmative vote of at least three members of the board of county commissioners.

(3) ~~All members shall serve a term of two years and there shall be no term limit, however each member shall be reappointed. Planning commission members shall be compensated as determined by the board of county commissioners.~~ *All appointments shall terminate upon replacement by a County Commissioner with another person appointed and approved by the county commission. Confirmation of existing appointments or new appointments by all county commissioners elected in the fall of each election year shall be made by those commissioners at or before the regular monthly meeting of the board of county commissioners in February of each year following an election year. Terms of the planning commission appointments shall be from their appointment dates until replaced or terminated.*

(4) At an annual organizational meeting, the members of the planning commission shall elect one of its members as chair and one as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. The chair shall serve a term of one year. No member shall serve as chair for more than two consecutive terms.

(5) The presiding officer of any meeting of the commission ~~shall~~ may administer oaths, shall be in charge of all proceedings before the commission, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the commission.

(6) **If any member of the commission shall fail to attend three regular consecutive meetings without prior notice and an excuse sufficient to the planning commission within any three-month period, such failure shall constitute sufficient grounds for termination of the member's appointment.** The commission coordinator shall notify the chair or the vice-chair, as the case may be, and he shall immediately file a notification of such nonattendance with the county administrator for placement on the agenda of the board of county commissioners; and the board shall, by appropriate action, terminate the appointment of such person and fill the vacancy thereby created as soon as practicable. A member who desires to be excused shall contact the commission coordinator prior to the meeting. The commission coordinator

shall report the request to the chair who shall make the determination to grant or deny the request.

(7) A representative of the school district shall be appointed by the school board as a nonvoting member of the planning commission and shall attend those meetings at which the planning commission considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application.

(e) Recording secretary. The director of planning shall appoint a recording secretary to serve the planning commission. The secretary shall keep minutes of all proceedings of the commission, which minutes shall be a summary of all proceedings before the commission, attested to by the secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the commission voting. In addition, the secretary shall maintain all records of commission meetings, hearings and proceedings, the correspondence of the commission, and a mailing list of persons wishing to receive notices of meetings, agendas or minutes and who have paid an annual fee set by the board of county commissioners to cover copying and mailing costs.

(f) Staff. The department of planning shall be the professional staff of the planning commission.

(g) Quorum and necessary vote. No meeting of the planning commission may be called to order, nor may any business be transacted by the commission, without a quorum consisting of at least three members of the commission being present. The chair shall be considered and counted as a member. The concurring vote of at least three members shall be necessary for the commission to take action on major or minor conditional use applications, final plat approvals, amendments to the text of this chapter or to the official land use district map. All other actions shall require the concurring vote of a simple majority of the members of the commission then present and voting.

(h) <u>Planning commission members shall be compensated as determined by the board of county commissioners.</u>

~~(h)~~ (i) Meetings, hearings and procedure.

(1) Regular meetings of the planning commission shall be scheduled twice monthly beginning January 1 of every calendar year ~~for twice monthly~~ and special meetings may be scheduled as required by a majority of the board of county commissioners, the chair of the planning commission, or a majority of the members of the planning commission. However, no regular meetings shall be scheduled for the month of August.

(2) The regularly scheduled (bi-monthly) meetings shall be held in Marathon or an appropriate location in the middle keys. All items which relate to specific properties such as but not limited to minor and major conditional uses, variances and administrative appeals, shall be held at the regularly scheduled meetings. The planning commission may, in its discretion, schedule special meetings in the upper and lower Keys subarea as required by the demand for such meetings. In cases where an item is postponed due to the lack of a quorum of the planning commission, the item shall be continued to a special meeting ~~to be held within seven working days.~~ or to the next available regular meeting. In cases where an item is postponed for any other reason, the item shall be continued to the next regularly scheduled meeting. Items which are ~~not~~ related to specific properties, such as but not limited to text amendments to this chapter and comprehensive plan amendments, may be heard in Marathon or the planning commission may, in its discretion, schedule such items for the most appropriate area or for additional meetings in each subarea.

(3) All meetings and hearings of the commission shall be open to the public.

~~(4) Public hearings shall be set for a time certain.~~

Section 2. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 3. Conflicting Provisions.

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state, or County law, rule code or regulation, the more restrictive shall apply.

Section 4. Transmittal.
This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes and as required by F.S. 380.05(6) and (11).

Section 5. Filing.

This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 6. Effective Date.

This ordinance shall become effective as provided by law and stated above.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 17th day of June, 2009.

Mayor George Neugent	_____
Mayor *pro tem* Sylvia Murphy	_____
Commissioner Kim Wigington	_____
Commissioner Heather Carruthers	_____
Commissioner Mario Di Gennaro	_____

(SEAL) MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
Attest: DANNY L. KOLHAGE, CLERK

By _____ By _____
Deputy Clerk Mayor George Neugent