

Len Rubin

From: ddavis@juno-beach.fl.us
Sent: Thursday, October 17, 2024 7:36 AM
To: Len Rubin; ddyess@juno-beach.fl.us
Cc: 'Frank Davila'
Subject: Item 12 - Quasi Judicial Proceeding - initial thoughts Town Council Meeting Agenda Packet - October 23, 2024 at 5:30PM

The proposal is very good. Enclosed are thoughts from my initial review. I have asked folks who have experience in other jurisdictions to provide additional insights, so please consider these as preliminary thoughts only. The thoughts here are intended to address allowing equal time for those who are opposed to a project to provide their insights. It is also to avoid any perceived bias by staff in their presentation. Preferably, we would have several open public forum workshops and all conditions of approval would be captured in the final site plan approval, we need language to make this preferred path happen. Thank you for your consideration.

Suggestions to consider :

Add page 191, line 12-14, “prohibit private oral and written communications between members of the Town Council and Planning and Zoning Board and the Applicant or the Applicant’s agents, prior to the completion of the quasi-judicial hearing, in favor of open public forum workshops regarding the development projects proposed; for a developer engaging citizen groups to advocate on their behalf, the general public in open public forum workshops must be given equal opportunity to comment on the project to prevent perceived project bias; and make other minor revisions; and

Add page 192, 2.c.(3). The public may participate so long as comments are on topic and not repetitive., 2.c.(4) Council or Board Members may not testify either for or against a project unless they have recused themselves from the vote.

Add page 193, 4. Ex-Parte Communications A. Written Communications. For comments submitted to all of Town Council, the Town Clerk provides the ex parte communication list to be included within the record of the proceeding, and all or part of these comments will either be read into the record or a summary will be provided, and the comments become part of the record of the proceeding. The Town adopts the ex parte form that must be completed by each board member and council member to be turned in as part of the record of the proceeding.

Add, page 194, Conduct of the Hearing 8.A. If there is a mailing that was received by all TC members or by one TC member that was then forwarded to the Town Clerk to share with all of Town Council members, then the clerk will summarize and put this information into the record of the proceeding.

Conduct of the Hearing 8.B. The Town Staff shall act as neutral fact finder in its presentation. The cadence of speech, tone and vocabulary used must be objective as to discerning competent substantial evidence that the project either meets code requirements or does not. The Mayor or Council members may move to cancel or reschedule a hearing if the staff presentation is perceived as advocating on behalf of a project rather than presented as neutral fact finder.

Add Page 195, 11. Time Limits – delete and substitute

- A. Applicant – the number of presenters and the time of the presentation be limited based on the complexity of the project. No matter how many presenters’ special permission must be received to spend more than one hour on the presentation. Whatever time is given to the applicant, to speak in favor of a project, then

an equal amount of time shall be given to members of the public who oppose the project to prevent perceived bias.

- B. Participants – allowed to speak so long as relevant on topic and not repetitive. The purpose of public participation is to give the decisionmakers on the project an opportunity to hear public opinion both for and against a project. The Town Staff in their P&Z review capacity will have spent many hours with the applicant reviewing the project. The open public forum workshops held prior to the quasi-judicial hearing and the public input at the quasi-judicial hearing is intended to level the playing field so that residents who are opposed to the project have an opportunity to express their opinions, to be heard, and for their evidence to be considered in the Town decision making. The preference is to have more than one open public forum workshop so that the public is involved in the process.
 - i. Members of the Public Opposed to the Project or with ideas to improve the project – given same amount of time as the applicant.
 - ii. Members of the Public in Favor of a Project are given a time less than the applicant and cannot repeat evidence already presented.
- C. Participants shall be given the opportunity to speak and rebut evidence submitted as fact.
- D. Expert Witnesses – as much time as necessary so long as relevant and not repetitive.

Page 196, item 14. **DELETE ALL.** *Discussion - I do not believe that we should remove our right to reconsider. Especially, if facts are presented that are later refuted as not true or if there was a misunderstanding of the law on an issue that is later clarified. We do not do great job on our Staff memos and applicant presentations are sometimes misleading so I believe that we should allow reconsideration. Often there are project changes that are not committed to the site plan but are oral at the hearing, if later it is determined that there was not a meeting of the minds on an oral promise by a developer, the Town Council should have the opportunity to object at a later date. [recent examples, Caretta approvals given based on a power point presentation for site plan amendments; also Pulte Project conditions of approval were not committed to a site plan to show what the work would entail.]*

From: Caitlin Copeland <ccopeland@juno-beach.fl.us>
Sent: Wednesday, October 16, 2024 2:48 PM
To: Town Council <town_council@juno-beach.fl.us>; Len Rubin <len@torcivialaw.com>
Cc: Leadership Team <leadership@juno-beach.fl.us>; Fiorella Verdecia <fverdecia@juno-beach.fl.us>
Subject: Town Council Meeting Agenda Packet - October 23, 2024 at 5:30PM

Good Afternoon:

Please see the links below to the Agenda Packet for the Town Council Meeting on Wednesday, October 23, 2024 at 5:30PM:

[Town Council Meeting - October 23, 2024 \(PDF\)](#)

[Town Council Meeting - October 23, 2024 \(HTML\)](#)

Do Not Reply to All.

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Please note: Florida has a very broad public records law. Most written communications to or from local officials regarding town business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.