

**CITY OF DELTONA, FLORIDA  
PLANNING & ZONING BOARD MEETING  
WEDNESDAY, MAY 16, 2012**

A Regular Meeting of the Deltona Planning and Zoning Board was held on Wednesday, May 16, 2012, in the City Commission Chambers, 2345 Providence Boulevard, Deltona, Florida.

**1. CALL TO ORDER:**

The meeting was called to order at 7:00 p.m. by Chairman Burbank.

**2. ROLL CALL:**

Chairman	Tom Burbank	Present
Vice-Chairman	David McKnight	Present
Secretary	Heather Mulder	Present
Member	Adam Walosik	Unexcused
Member	Noble Olasimbo	Present
Member	Victor Ramos	Present
Member	Michael Kiepert	Present

Also present: Planning & Development Services Director Chris Bowley; and Administrative Assistant II, Pauline Shattuck.

**3. APPROVAL OF MINUTES:**

**A. Minutes:**

**1. Meeting – March 21, 2012.**

**Motion by Member Kiepert, seconded by Member Olasimbo, to adopt the minutes of the Regular Planning & Zoning Board Meeting of March 21, 2012, as presented.**

**Motion carried with members voting as follows: Member Kiepert, for; Member Olasimbo, for; Member Ramos, for; Member Mulder, for; Member McKnight, for; and Chairman Burbank, for.**

**4. PUBLIC COMMENTS: None**

**5. OLD BUSINESS: None**

**6. NEW BUSINESS:**

**A. Ordinance No. 07-2012, Adult Entertainment Language**

An Ordinance of the City of Deltona, Florida, Amending Code of Ordinances Subpart B, Land Development Code, Amending Chapter 110 Section 318, Industrial District, by copying language from Section 110-814(a) to Section 110-318(b), providing for severability; providing for an effective date.

Mr. Bowley said as you know the Adult Entertainment Ordinance has been brought up recently in Deltona. In review of our Code, Section 78-81 states “... *no person shall propose, cause or permit the opening of, operation of, or enlargement of, except when an enlargement may be required by law, an adult entertainment establishment unless the establishment will be located in an industrial zoned district or where adult entertainment establishments are an expressly permitted use.*” At the time of the adoption and writing of this ordinance an action was needed, which was to place within the Industrial Zoning district, as a use, the ability to have adult entertainment establishments. Section 110-814 states “*Additional regulations for certain permitted principal uses and structures.*” In there was placed, under Section 110-814(a), Adult Entertainment Establishments. “*Adult entertainment establishments shall be permitted only in accordance with the requirements of the adult entertainment code, chapter 78, Code of Ordinances.*” A step was completed between the two; the Adult Entertainment Ordinance was established in our Code of Ordinances and reference to it was placed in 110-814(a). Going back to Section 110, 1202(g), Powers and Duties of the Planning and Zoning Board, it states “*Planning and Zoning Board review shall not be required for amendments to city ordinances that are initiated by the staff or the city commission to correct grammar and spelling errors, change fees, change the organization of the ordinances, or change processing procedures when mandated by state statutes, provided such changes do not affect consistency with the comprehensive plan, the use of land, or change the meaning of the adopted regulations.*” The statement that says “the use of land” means that anything coming before you dealing with the use of land is not exempt from your peruse--in this case, the Adult Entertainment Ordinance. Because that step was not completed by actually placing language in the Industrial zone section, and in talking to the City Attorney, to complete that step that should have been created when the Adult Entertainment Ordinance was written and established, the best thing to do is to just copy the language out of Section 110-814(a) and place it in the Industrial district, which is Section 110-318. By placing it there, it is proposed that it would be under subsection (b) as a Conditional Use. It would come before the City Commission for their review instead of being a by-right use automatically anywhere that has Industrial zoning. At least there would be a level of review by the City Commission. The P&Z Board would also be able to review applications for adult entertainment establishments. That is the reason we are here tonight--to complete that administrative process.

Member Kiepert said his question is what is adult entertainment? Do we consider convenience stores that sell adult magazines, condoms, cigarettes, etc., or a bar with a girl in a bikini swinging from a pole as adult entertainment? Mr. Bowley said we are interpreters of the Code and the best way to interpret the Code is to look at the definitions section. He said in this case, definitions were created for adult oriented establishments. Deltona’s Code breaks out adult book store, adult booth, adult entertainment establishment, adult material, adult motel, adult performance establishment, adult theater, etc.

Member Kiepert said he looked through that prior to the meeting and stated it is confusing to him. He said the City gets franchise fees from BrightHouse and other cable companies that provide adult channels. He thinks this item is unclear and needs to go to the Commission for a further definition as what is adult entertainment, and what is and isn’t allowed, before the P&Z could approve this item.

Mr. Bowley said this item is an administrative act. Language was written and placed in Section 110-814. In compliance with the adult entertainment ordinance, that language also had to be placed in the Industrial zoning district. Mr. Bowley said that what he hears Member Kiepert say is that City Commission may revisit or want to revisit the definition of adult entertainment establishments. Member Kiepert said he is not against the item going into industrial parks but the Commission needs to review that before the P&Z can actually approve this item. The P&Z needs to define the who, what and where of it. Mr. Bowley said if that is something that the P&Z wants to consider, they could make a recommendation to the City Commission to do. Under the Powers & Duties of the P&Z, the use of land, they could do so, but it is something separate and detached from what is being proposed tonight. What is being proposed tonight is just to complete an act which should have occurred in the past, to add that language into the Industrial district.

Further discussion ensued regarding reviewing definitions and the adult entertainment ordinance. Mr. Bowley said that is a big undertaking and would be beyond the peruse of this act. Member Kiepert said he did not agree.

Member Olasimbo asked for the locations of the Industrial zoned areas and whether the adult entertainment establishments would fall into light industrial or heavy industrial. Mr. Bowley said it is just general industrial. The ordinance does not distinguish between light or heavy industrial. He said Deltona does have Industrial zoned districts and there are criteria within the Adult Entertainment Ordinance, because there is consideration of proximity to schools, interchanges, etc. Mr. Bowley gave the general locations of the two Industrial zoned areas in Deltona.

Member McKnight said he believes there is currently only one adult entertainment establishment in the City. He asked what this ordinance would do to that business. Chairman Burbank said this is more bookkeeping than anything else because it was omitted when the Ordinance was adopted. It does not do anything to that business because, according to the City Attorney, given the intent of the Ordinance when it was adopted, that this sentence is basically just cleaning up the books. There was brief discussion regarding termination language for the adult entertainment business (Dare Wear) which, Mr. Bowley said, will come before the P&Z at another time for an administrative change.

Chairman Burbank said he is more than prepared to support this item because it does clear up the books.

Member Kiepert asked Mr. Bowley if there was any way this item could be pushed back in order for the City Commission to clarify the definition of adult entertainment? Mr. Bowley said the agenda memo is specifically for just an administrative act. He said if the Board so chooses, to bring up the topic for discussion by the City Commission as a workshop item. Further discussion ensued. Chairman Burbank said he thinks this is not something the City Commission wants to touch at this time. There is a Code Enforcement action against the adult business establishment at this time and until that gets settled the City Commission probably would not want to talk about it. He suggested that they hold this topic in abeyance until the Commission decides what they want to do. Further discussion ensued.

**Motion by Member Olasimbo, seconded by Member Ramos, to recommend that the City Commission approve Ordinance No. 07-2012 Amending Code of Ordinances Subpart B, Land Development Code, Amending Chapter 110 Section 318, Industrial District, by copying language from Section 110-814(a) to Section 110-318(b).**

**Motion carried with members voting as follows: Member Kiepert, for; Member Olasimbo, for; Member Ramos, for; Member Mulder, for; Member McKnight, for; and Chairman Burbank, for.**

**7. DISCUSSION:**

**A. By the Board:**

Chairman Burbank commented that he was disappointed that a P&Z Board meeting is being held for a single sentence to the Land Development Code. He would like to see a more robust agenda for the meetings.

Chairman Burbank said the P&Z Board received an award of recognition for 4<sup>th</sup> place in volunteer hours at the City.

**B. By the City Attorney: N/A**

**C. By Planning & Development Staff: None**

**8. ADJOURNMENT:**

There being no further business, the meeting adjourned at 7:23 p.m.

**ATTEST:**

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**Tom Burbank, CHAIRMAN**

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**Pauline Shattuck, RECORDING SECRETARY**