

City Commission. The referendum submitted by the City for the public listed this projects.

Mr. Hill stated that the at the previous commission bond was stated that the money has to be used for the proposed projects.

Mr. Harrison stated that the City has to do the projects that were voted on.

Mr. Hill asked is the City's financial report is accurate.

Mr. Harrison stated that the report is accurate. He explained that there are some things that could be explain better by the Financial Director.

MR. Hill stated that Mr. Harrison mentioneded that we need to use the bond money since the City doesn't have money for the proposed capital improvement projects. He believes that the City has to spend more money.

Mr. Harrison said that Commission committed to these projects and the City has to do something if not the City will go backwards. He stated that the 260 million dollars are operational funds. The City cannot allocate operational funds to fund capital improvement projects.

Ms. Eaton believes that City wants to do the pier project so that it is ready for when the two large restaurants open.

Ms. Stacer stated that he was part of the Budget Committee. One of the financial theories is that you balance your...IT makes more sense to use 30 year capital. You don't pay City staff out of long term debt as it will not balance...He believes that the investment on the capital that creates new jobs.

(1:15:05)

2. Presentation by Daniel Lauber, Consultant – Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People with Disabilities

Ms. Jennifer Gomez, Assistant Development Services Director, introduced herself to the Board. She explained that the presentation will be given remotely and that this will be the first time such a presentation has been given to the Planning and Zoning Board. She thanked Mr. Chris Feltgen and the rest of the people involved in making this virtual meeting possible. She stated that Mr. Lauber is from Illinois and an expert on community residences for people with disabilities. Ms. Gomez explained that the City has learned from him a different approach to regulating group homes than what previous outside counsel had advised. The City of Delray Beach has adopted his concept and that this is a precedent for the City of Pompano Beach to consider. Ms. Gomez explained that the implementation

strategy is that this report will be taken to the March City Commission meeting after receiving a recommendation from the Board tonight. It will then serve as the basis for zoning code text amendments which will come to this Board before ultimately being considered by the City Commission in April.

Mr. Daniel Lauber presented himself to the Board. He began by stating what a community residence for those with disability is, explaining that many people with disabilities cannot live on their own. The goal of these homes is to achieve normalization and integration for the residents. The process started out with people with developmental disabilities and has spread to other kinds of disabilities, including addiction recovery. He stated that a key part of the fight against substance abuse is having proper sober homes. He displayed a map of the City showing the 66 group homes that are licensed by the state as well as locations of other suspected or confirmed unlicensed community residences. He stated that anywhere that multiple communal homes are clustered in close proximity, the effectiveness of them in the war on drugs is undermined because they do not facilitate the integration of the residents with the broader community. Where there are concentrations of these homes they tend to change the residential character of neighborhoods and create a de facto social service district. The intention of the forthcoming ordinance is to protect residents from unscrupulous operators, thereby protecting the surrounding neighborhoods. It will apply to all community residences, including those licensed by the State, and will propose nothing radically new. The concept of distance separations between communal homes has been around for many years and has been adopted by hundreds of zoning ordinances around the country.

Mr. Lauber explained that in order for zoning protections to provide “reasonable accommodations” that the Fair Housing Act requires, they must be intended to achieve a legitimate government interest, actually achieve that interest, and be the least drastic means necessary to achieve that interest. The ordinance to be drafted will be very similar to those of Prescott, Arizona and Delray Beach, Florida. Since Prescott passed their ordinance, the number of communal homes in that small community fell in half - largely because insurance companies cracked down on the scam operators.

Mr. Lauber gave an overview of the Fair Housing Act and its amendments. He explained that it serves to level the field for individuals who are disabled and cannot live on their own but need a group living arrangement. The Act makes it clear that a special exception process cannot be the primary way of regulating group homes because this would impose a significant burden on the person intending to purchase a single-family house due to the time it takes to navigate the approval process. Whatever zoning regulations are adopted must be fact-based and not based on unsubstantiated fears. He stated that a common fear is that group homes negatively impact property values. Numerous studies, however, including one of his own, show that as long as group homes are not clustered together in close proximity and are properly licensed, they do not negatively impact property values, neighborhood safety, or parking/traffic. There have not been many recent studies into this because all of the earlier studies came to this same conclusion.

Mr. Lauber explained that under the proposed ordinance, the owner/operator of the proposed community residence must complete a short application form that City staff will use to determine if the proposed community residence is a permitted use, if it requires a special exception, whether it requires a reasonable accommodation to house more than 10 people, whether it meets minimum building code requirements, whether it meets parking requirements, or whether it is not permitted at all. He explained the circumstances in which spacing requirements have been thrown out, pointing out that the City's policy that a family cannot be comprised of three or more unrelated people would not apply to communal homes. Another circumstance is when a jurisdiction fails to conduct research that provides factual justification for spacing and licensing requirements. One of the reasons that this study was held, therefore, was to determine if there is a need to regulate community residences.

Mr. Lauber explained that under the forthcoming proposed ordinance, a communal residence that would house not more than 3 unrelated people would be allowed by right in all residential zoning districts. If it proposes to house more than 3 unrelated people, the reasonable accommodation would be determined through a checklist of considerations as displayed in the presentation slide. He stated there is a distinction between group homes where residents have no time limit and those that have limits of weeks or months. Either of these uses would have to be at least 660 feet from another communal residence and be licensed, certified, or sanctioned by Congress. If the criteria are not satisfied, heightened scrutiny will be applied through a special exception process. Homes with a time limit on residency have the additional criteria that they are not located within single-family districts. If they are, a special exception would be required. Existing communal homes would be required to obtain certification within a set period of time. The maximum number of people that can live in a communal residence is limited by square footage per resident and this same limit applies to any kind of living arrangement.

Mr. Lauber spoke of instances where several adjacent multi-family properties are being used as sober homes and stated that this kind of agglomeration is not a legitimate group home living arrangement. He stated that the courts are aware of this phenomenon and noted how this tends to change the character of neighborhoods. Existing facilities that fail to obtain certification could be closed by the zoning ordinance. Any aggregation of these homes should be limited to medical or institutional areas.

Mr. Lauber summarized by stating that the forthcoming ordinance will protect community residents and neighborhoods from scam operators, require state certification and licensing in order to protect occupants from abusive operators, help prevent existing concentrations from expanding or becoming more intense, and prohibit concentrations from developing.

Mr. Tony Hill stated that an individual informed him that if BSO or the fire department responds to a call for service at a sober home and discovers controlled substances, the home will lose its license and no longer is to be treated as a sober home. He asked if this has been taken into consideration.

Mr. Lauber stated that the draft ordinance will state that if an operator loses their licence, they will have a certain number of days before closing down and will need to find their residents new housing.

Ms. Hill asked if the regulations will require that operators become certified through the City.

Mr. Lauber stated that they will need to be licensed through the State and that the State has an operator (FARR) handle this demanding licensing process. Provisional certification will first be granted because they want to examine the home's operations before granting a permanent license.

Mr. Hill stated that sober homes are not required to join FARR.

Mr. Lauber confirmed that the State does not require certification through FARR, but stated that the forthcoming ordinance would require in the City that certification be obtained through FARR or the sober home establishment would be shut down.

Mr. Stacer asked if the requirement of having certification is mandated by the City of Delray Beach.

Mr. Lauber confirmed this and stated that it has been done in many other places as well without objection from the Department of Justice or Department of Housing and Urban Development.

Ms. Rhonda Eaton stated that she understands there is an opioid epidemic. She hopes that the City can enact legislation in the state that would enforce suspected or confirmed group homes to become certified. She suggested that sober homes should be made to be ADA compliant and that some of the smaller homes would not comply with these regulations.

Mr. Lauber stated that the City can use its police power to shut group homes down if they don't have the certification. He stated that ADA compliance would have to be mandated for all residences City-wide.

Ms. Jocelyn Jackson asked if unlicensed homes would receive a violation if they reopen after being previously shut down.

Mr. Lauber stated that the new regulations would give the City the ability to shut down unlicensed homes and potentially levy fines. These homes will not be able to open a new location with the new regulations.

Ms. Gomez informed the Board that this presentation will be given by Mr. Lauber at four additional hearings. She invited the Board to reach out if they have any questions.

Ms. Joan Kovac asked if the goal of the ordinance is to require community homes to be licensed.

Ms. Gomez confirmed this and added that it would also add distance separation requirements. Based on the Fair Housing Act's requirements, there will also be special exception possibilities in order to provide reasonable accommodations.

Mr. Stacer asked if anyone in the audience wished to speak. There were none.