



**City of Miami Beach
Office of Commissioner Deede Weithorn**

TRAC MEETING

AGENDA

**Thursday, December 18, 2008
5:00PM
City Manager's Conference Room**

- I. Call to Order
- II. Approval of Minutes
- III. Sunsetting TRAC
- IV. Online Log of City Commission Referrals
- V. Old Business
 - a. Land Use Boards

**CITY OF MIAMI BEACH
TRANSPARANCY,
RELIABILITY, AND
ACCOUNTABILITY
COMMITTEE (TRAC)**

**CHAIR
COMMISSIONER DEEDE
WEITHORN**

**VICE-CHAIR
STEVE CHANELES**

**MEMBERS
FRANK DEL VECCHIO
MIKE BURKE
SAM RABIN
ROBERT HENRY
DAVID LANCZ
MARK HUNTER**

**COMMISSION OFFICE
ANNE SWANSON
(305) 673-7105**

**STAFF LIASONS
ROBERT PARCHER
PATRICIA WALKER**

**CITY ATTORNEY'S OFFICE
JEAN OLIN**

**TRAC Meeting Minutes
Thursday, November 20, 2008**

In attendance:

Committee Members: Commissioner Deede Weithorn, Sam Rabin, Frank Del Vecchio, Dr. Robert Henry, David Lancz, Mark Hunter, Mike Burke

Absent: Steve Chaneles

Commission: Ed Tobin

City Staff: Robert Parcher, Anne Swanson, Trish Walker, Jorge Gomez, Gary Held, Denia Garcia, Ben Torter

Public: Henry Stolar, Harry Cherry, Leo Ostreicher, Dr. Sunshine

A motion was made to approve the October minutes by Frank Del Vecchio, second by Sam Rabin, minutes approved by the committee.

Mike Burke requested that the committee discuss the idea of an online check registry which would list each expenditure by the city on the website. Trish Walker talked about the different ways that the city pays different types of accounts. The committee was interested in finding out what about this would be useful to the public, what information people would necessarily be looking for and how could it be provided without overtaxing the city's resources. Commissioner Weithorn and Trish Walker are going to discuss this idea in greater detail and come back to the committee with a suggested action plan.

Frank Del Vecchio presented a series of suggestions regarding the process by which Land Development Board applications are made available to the public prior to the application being reviewed at a public meeting. Please see attachment A.

Henry Stolar presented his recommendations regarding the application process to the Land Development Boards. Please see Attachment B.

The committee requested that the City Attorney's office and the Director of the Planning Department respond to both Mr. Del Vecchio and Mr. Stolar's recommendations at the next meeting. Committee discussion was tabled until the December meeting.

Meeting Adjourned.

ATTACHMENT A

[D R A F T III] – DISCUSSION ITEM FOR T.R.A.C. COMMITTEE MEETING, THURSDAY, NOV. 20, 5:00PM, CITY MANAGER'S LARGE CONFERENCE ROOM.

Making the Land Development Application and Review Process more Transparent and Accessible to the Public.

1. Expand the **public notice period** from 15 days to 30 days. [Ordinance amendment required.]
2. Expand the **project description** in the public notice to include several standardized pieces of information not now included, such as lot size, buildable space, type and intensity of use, conversion – information essential for the public and the neighborhood to be put on notice of the nature and magnitude of what is being proposed. [Pay for the additional newspaper ad costs by a slight increase in the application fee.]
3. a. Require **posting on the city's website of basic information** at the time a land development application is **accepted for processing**. This will give the public a heads up as to what is in store. [In addition, by identifying applications by neighborhood association district in which located, the city could **affirmatively e-mail the neighborhood association** or associations affected with that basic information.]

b. Contemporaneously with the mailed and published public notice of the public hearing on the project, **post on the website an expanded description of the project**. This would be more detailed than the published notice, and would be the location an interested person or neighborhood association would go to when public notice is given – mailed and published. The expanded project description could be standardized for the applicant to fill in. This should be no burden, for the applicant must address all development aspects in formulating an application.
4. After the date for public hearing is set, **changes to essential features of the application should be posted on the website**, and a closing date for such changes established. It should be unacceptable for an applicant to hand out changes to land development boards as late as the meeting itself. The public has no opportunity for review. Perhaps a **deadline of ten days' prior** submission and posting to the website is necessary to ensure public access to application changes.
5. Agendas should set reasonable parameters, to the extent feasible, for the **approximate time agenda items requiring a public hearing will be heard**. [Reference, Charter policy, Citizens' Bill of Rights (A) 5. *Right to be heard*. . . *Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard.*"]
6. Authorize the **written transcript** that is required for an appeal by an affected party to be transcribed from the city's DVD recording of the public hearing, without the resident having to schedule in advance the services of a court reporter, and incur those expenses.
7. Require **administrative decisions** by the Planning Director to be **posted** on the city's

ATTACHMENT A

website, and the deadline for appeal extended from the current five days to 20 days.
[Ordinance amendment required.]

Submitted to the Transparency, Reliability and Accountability Committee by Frank Del Vecchio, Oct. 29, 2008; updated November 16, 2008.

Amended Nov. 19, 2008

Transparency, Reliability, and Accountability Committee

Meeting of November 20, 2008

Transparency in the Land Development Application Process

Recommendations by Henry Stolar (First Revision)

I support, fully and enthusiastically, the seven recommendations by Frank Del Vecchio, as set forth in his DRAFT III dated November 16, 2008.

I submit the four additional recommendations below, which are intended to be complementary to Mr. Del Vecchio's seven recommendations. His recommendations principally address the issue of public access to materials. My recommendations principally address the issue of the transparency, reliability, and integrity of the accessed materials.

All the access in the world is of no value if the accessed materials are opaque, incomplete, misleading (intentionally or otherwise), or if they in any other way fail to disclose the important facts which the public has the right to know. For meaningful public access, there must be quality in the materials to which there is public access.

1. Real Parties in Interest as Applicants. Require that the real party(ies) in interest be the Applicant(s), or at least be the Co-Applicant(s), in every Application submitted to a Land Use Board. Where, for example, in a hotel, the proposed operator of a restaurant is different than the hotel owner, it is that restaurant operator who should be at least one of the Applicants.

Comment: In the above example, the conditions in a Land Use Board's final Order will typically apply to the restaurant operator and not to the hotel owner. It is that restaurant operator who clearly should be bound by the conditions, and that is most effectively accomplished by that restaurant owner's being an actual Applicant in the Application. (Ordinance amendment may be required, although the existing ordinance seems clear enough. Please see the definitions of "Applicant" and "Development" in Code Section 114-1, but those definitions are not now being used.)

2. Information on Applicants. Require that basic biographical, experience, and corporate entity personnel information (names and addresses of directors; names, addresses, and offices of top three or four officers) be furnished by the individuals who are the principals of each Applicant. That information should be furnished **(A)** in written form, through inclusion in the Application, and **(B)** in oral form, through testimony at the public hearing held by the appropriate Land Use Board. (Ordinance amendment required.)

Comment: Currently, application materials include massive submissions by an Applicant’s lawyers, architects, traffic consultants, sound consultants, and other paid proxies and professionals—but little or no information about the Applicant. That is a topsy-turvy arrangement. It is the Applicant upon whom City government and City residents rely for the project being launched, prosecuted diligently, and operated properly—which includes operating it in compliance with the conditions of approval. (Ordinance amendment required since, for example, Section 118-193, entitled “Applications for Conditional Uses”, lists no requirements for the Applicant or the Application.)

3. Date-Stamping and Docketing of All Filings. Require that, at the time of filing, (A) each Application, its supporting materials, and any later amendments to any of those materials be stamped with the date and time of filing, through use of the commonly-available automated machine designed for that purpose, and (B) each such filing be contemporaneously recorded, by name and filing date, on a separate docket sheet.

Comment: These simple measures will assure the basic integrity and completeness of a file, as well as the timely filing of everything in it, so that a member of the public, who wishes to examine a file, will know that she is seeing everything which should be in the file. To that end, these measures complement (A) Mr. Del Vecchio’s Recommendation No. 3(a), pertaining to the filing of applications, and (B) Mr. Del Vecchio’s Recommendation No. 4, pertaining to a deadline for filing amendments to applications. (Ordinance amendment required.)

4. Obtaining Approvals before Work Begins. Require that all appropriate Land Use Board approvals be obtained before construction or renovation begins.

Comment: Following last month’s Planning Board approval of indoor and outdoor restaurant and bar facilities at the Mondrian South Beach Hotel, I have given some thought to the timing of that approval. It was granted by the Planning Board at the first meeting at which the Application was considered, but only after a vast amount of construction had been accomplished. The facilities were nearing completion, and the property was on the eve of its opening, timed to accommodate Art Basel attendees.

Applications which are considered after construction has begun—or, even worse, as it nears completion—create real problems for all concerned. Late consideration of Applications completely compromises the Land Use Board review process. On the one hand, the Land Use Board may well feel pressured to approved an Application, despite misgivings or despite a need for more time to refine conditions, because the Applicant has made a huge investment and the opening of the project is imminent. On the other hand, for those same reasons, if there is a denial of the Application—or even a postponement of the decision—that works a considerable hardship on the Applicant. (Ordinance amendment required.)

Swanson, Anne

From: Frank Del Vecchio [fdelvecchio@atlanticbb.net]
Sent: Thursday, December 11, 2008 10:17 AM
To: Swanson, Anne
Cc: Deede Weithorn
Subject: Fwd: TRAC Agenda Items, Dec. 18, 2008
Attachments: Dec. 6, 2008 Sunsetting TRAC.doc

Dec. 11, 2008

MEMO FOR Anne K. Swanson, Aide to Commissioner Weithorn

FROM: Frank Del Vecchio, Member, TRAC Committee

SUBJ: My Request for Agenda Items, Thursday, Dec. 18 Meeting of Transparency, Reliability and Accountability Committee (T.R.A.C.)

I have three pending requests for the Dec. 18 TRAC committee agenda:

(1) My Dec. 4 request that the city attorney and the planning director provide to the committee by Monday, Dec. 15, their comments on the pending TRAC agenda item concerning improving the public's accessibility to the land development application process.

(2) On Dec. 6, I requested an agenda item on a schedule of TRAC business that should be discussed prior to the May 9, 2009 statutory "sunset" date for the committee. [One of those items is whether the committee should or should not recommend establishing TRAC as a standing committee.] Memo attached.

(3) On Dec. 10, I requested an agenda item: Compiling and Posting a Log of City Commission Referrals.

I would appreciate your transmitting this e-mail and its attachment to the members of the committee.

Dec. 4, 2008

To: Anne Swanson

From: Frank Del Vecchio

Subj: Land Development Applications Dec. 18 TRAC Agenda Item

At the Nov. 20 T.R.A.C. meeting, Assistant City Attorney Gary Held and Planning Director Jorge Gomez offered to review and comment on the agenda item on Land Development Application and Review processes, for the Dec. 18 meeting of the committee. The committee voted to discuss the item and the recommendations at its December 18 meeting.

It would be most useful for the committee to have the benefit of those reviews and recommendations prior to its Dec. 18 meeting. Many of the items are interrelated and there are various ways of dealing

12/16/2008

with the issues raised. I would very much like to have those recommendations in hand a few days before the meeting, so as to have sufficient time to correlate them to the applicable ordinances, to the administrative procedures, and to the bylaws of the several land development boards.

I would very much appreciate your passing this request along to Commissioner Weithorn - that she ask the city administration and the city attorney to provide to the T.R.A.C. committee their comments and recommendations by Monday, December 15, and that when received, those comments be e-mailed to the members of the committee.

Date: Sat, 06 Dec 2008 19:50:53 -0500
 To: Anne Swanson<anneksw@gmail.com>
 From: Frank Del Vecchio <fdelvecchio@atlanticbb.net>
 Subject: TRAC Agenda Item, Dec. 18, 2008
 Cc: Deede Weithorn<Weithorn@ACFM-CPA.com>

Dec. 6, 2008

MEMO FOR: Anne K. Swanson, Aide to Commissioner Deede Weithorn

FROM: Frank Del Vecchio, Member of the T.R.A.C. Committee

SUBJ: Sunsetting T.R.A.C. May 9, 2009

This is a follow-up of my e-mail to you on this subject Nov. 21, 2008. I request that it be forwarded to the members of the TRAC committee and that it be placed on the agenda for the Dec. 18, 2008 TRAC meeting.

SUMMARY: TRAC will sunset as an ad hoc committee May 9, 2009. I do not recommend that legislation be enacted establishing TRAC as a standing committee. I recommend in the alternative that the city administration prepare a recommendation as to what TRAC-type initiatives it would adopt and continue, with regular progress reports to the city commission. I recommend devoting the remaining six TRAC meetings to completing the initiative on improved public access to the land development application and review process, and to information about financial transactions, preparing a report and recommendations, and obtaining and commenting on plans the city administration may advance for continuing transparency, reliability and accountability initiatives.

Date: Wed, 10 Dec 2008 19:30:23 -0500
 To: Anne Swanson<anneksw@gmail.com>
 From: Frank Del Vecchio <fdelvecchio@atlanticbb.net>
 Subject: TRAC Agenda Item, Dec. 18: Log of City Commission Referrals.
 Cc: Deede Weithorn<Weithorn@ACFM-CPA.com>, Robert
 Parcher<RobertParcher@miamibeachfl.gov>, <josesmith@miamibeachfl.gov>, Jorge
 Gonzalez<jorgegonzalez@miamibeachfl.gov>

Log of City Commission Referrals.

I request that the Dec. 18 TRAC committee agenda include an agenda item: Log of City Commission Referrals.

As you know, based on a request of the TRAC committee, the checklist of city commission agenda items is now readily available on the commission agenda website list.

On the backside, so to speak, of the city commission meeting, included among the many items in the after action report, are the referrals made to various city commission committees and other boards and committees, such as planning board, HPB, etc.

As an illustration, I was impressed by the number of referrals made at today's city commission meeting. I watched with great interest the discussion on the Sunset Harbor area garage, and the referral of item C4B concerning zoning amendments to the Light Industrial District.

My request is that consideration be given to a log of such referrals, that could also be made available on the city commission agenda segment of the city's website, in connection with but in addition to the after action report. What I envision is a log of such city commission referrals, giving the item referred, the date of the referral, the committee or board to which the item is referred, and other useful relevant information including the date that the item is scheduled to be heard or was heard. This would enable all interested parties to keep track of the progress of these referrals through the city's processes.

Dec. 6, 2008

MEMO FOR: Anne K. Swanson, Aide to Commissioner Deede Weithorn

FROM: Frank Del Vecchio

SUBJ: Sunsetting T.R.A.C. May 9, 2009

This is a follow-up of my e-mail to you on this subject Nov. 21, 2008. I request that it be forwarded to the members of the TRAC committee and that it be placed on the agenda for the Dec. 18, 2008 TRAC meeting.

SUMMARY: TRAC will sunset as an ad hoc committee May 9, 2009. I do not recommend that legislation be enacted establishing TRAC as a standing committee. I recommend in the alternative that the city administration prepare a recommendation as to what TRAC-type initiatives it would adopt and continue, with regular progress reports to the city commission. I recommend devoting the remaining six TRAC meetings to completing the initiative on improved public access to the land development application and review process, and to information about financial transactions, preparing a report and recommendations, and obtaining and commenting on plans the city administration may advance for continuing transparency, reliability and accountability initiatives.

1. OPTIONS: Permit statutory "sunsetting" of the ad hoc TRAC committee May 9, 2009 without establishing a standing committee, or sunset the ad hoc committee and enact an ordinance to establish TRAC as a standing committee. [Sec. 2-22(3), City Code.]

2. BACKGROUND: The Transparency, Reliability and Accountability Committee (TRAC) was established as an ad hoc committee by a Mayoral announcement dated April 4, 2008, effective May 9, 2008. Ad hoc committees in practice and by legislative policy have a one-year life, and are differentiated from standing committees. [Secs. 2-22(5), 2-458(4), 2-459(b) – definition of "Agency", City Code.] The terms of the members of an ad hoc committee may not exceed one year [Sec. 2-22(5)]. The city's website posting lists May 9, 2009 as the expiration of the members' terms.

3. ASSESSMENT OF TRAC ACCOMPLISHMENTS:

I think TRAC has proved to be a success as a classic ad hoc committee with a one-year life to deal with a problem, and that it should be sunsetted when its year is over, without establishing a standing committee. Significant initiatives stimulated by the committee should be continued by the city administration, and reported on regularly to the city commission. Initiatives particular to a standing board or committee should be considered by the committee involved, and by staff that supports those committees.

The crisis of confidence that triggered TRAC was the building department scandal, and eroding public trust.

TRAC served its initial purpose well. It focused on the Building Department, and Commissioner Deede Weithorn, its chairperson, having the confidence of the city commission, hammered out with the city manager an audit approach that deals with the issue. In my opinion, if TRAC had not been in

existence as a public instrument to focus on this initiative, the city commission would have been anxious to deal with it and would have had no mechanism to do so. We pressed the city manager on his management oversight, and I think the outcome was outstanding: the audit process is going to give the city commission and the general public an authoritative insight into that Department.

In connection with its assessment of Building Department oversight, the TRAC committee considered a restructuring of responsibility in the city's audit process, and possible legislative and charter changes dealing with audits and investigations. The city manager pledged strong management oversight, and his frequent participation in TRAC meetings, and staff follow-through demonstrates his seriousness.

TRAC examined two key departments with risk exposure: Building Department, and Traffic & Parking. The audit is dealing with the first, and we identified no serious risk management deficiencies in the second.

We spent a lot of time with IT, and support the SEARCH initiative. We obtained an addition to the city commission meeting website info which is an abbreviated agenda readily accessible to members of the public interested in prior detailed knowledge about the city commission agendas.

We have two current initiatives, which should be accomplished within the next three meetings: making the land development application process more accessible to the public, and exploring the scope of financial transaction information that should be put on the city's website.

I recommend that the city administration continue the substance and the spirit of the initiatives fostered through the TRAC process, such as Website accessibility, enhanced audit program, and further consideration of "Enterprise Risk Management" protocols in the administration of the various departments.

4. TIMETABLE:

I would devote the December 18, 2008 and January 22, 2009 TRAC meetings to wrapping up our recommendations on the land development application process and financial transaction information. In the event the December 18 meeting is cancelled, these two items should be completed at the Jan. 22 meeting. That can be done provided the city administration and the city attorney's office provide their recommendations in advance for the committee's use.

I would devote the March 12 and April 16, 2009 meetings to preparation of a report and analysis of what the TRAC process produced, and recommendations to the city commission about what further TRAC-type business the city administration should formalize as policy and process. I think we should prepare a draft report and recommendation and vote the draft at the March 12 meeting, inviting administration and city attorney review and comment for discussion at the April 16 meeting. At the April 16 meeting we should synthesize the results of that process, and vote our recommendations. We should request the city administration to draft a recommended report and recommendation that we discuss and vote on at our final meeting, which should be scheduled for Thursday May 7, 2009.

I would devote the final meeting of the ad hoc TRAC committee, May 7, 2009, to adoption and transmittal of that report.



MIAMI BEACH

OFFICE OF THE CITY MANAGER
JORGE M. GONZALEZ, CITY MANAGER

MEMORANDUM

TO: Chairperson Weithorn and Members of the TRAC Committee

FROM: Jorge Gonzalez, City Manager
Jose Smith, City Attorney 

DATE: December 18, 2008

SUBJECT: Referral from TRAC Committee – Comments on Proposals to Amend the Land Development Regulations

At your November 20, 2008 TRAC Committee meeting certain proposals were presented concerning possible amendments to the Land Development Regulations. The Committee referred the proposals to the City Manager and City Attorney for comment. This memorandum responds to that request.

A. Proposals re: "Making the Land Development Application and Review Process More Transparent and Accessible to the Public."

1. Expand the public notice period from 15 days to 30 days.

Comment: This proposal delays the timing for applications to be heard by the respective land use boards. If the purpose is to provide more opportunity to review applications being considered by the boards, two options are available:

a. The City could consider the Miami-Dade County model of providing an additional notice when an application is filed, which would provide more time for public review of these applications, without delaying their processing for hearing. This additional notice raises several questions that deserve greater discussion at the TRAC Committee, as well as at each Land Use Board, if this is a proposal that is recommended to proceed further. For example, in terms of how is this accomplished, is this considered a second notice and where would it be published?

b. The City could publish a 30-day notice. In this case, it would be more advantageous to advance the submission deadlines an additional two weeks, which would make this a two-month (60 days) deadline before the scheduled hearing (see attached sample worksheet with a 60 day submittal deadline).

2. Expand the project description in the public notice to include several standardized pieces of information not now included, such as lot size, buildable space, type and intensity of use, conversion – information essential for the public and the neighborhood to be put on notice of the nature and magnitude of what is being proposed. [Pay for the additional newspaper ad costs by a slight increase in the application fee.]

Comment: This additional information is not necessary for most of the applications for which public notice is given, and if necessary is normally included in the application form or plans. Staff believes that sufficient notice is provided with the information already included in the public notices to provide an opportunity for further investigation if an application is of interest to an affected person (see attached typical notice of public hearing).

3. a. Require posting on the city's website of basic information at the time a land development application is accepted for processing. This will give a heads up as to what is in store. [In addition, by identifying applications by neighborhood association district in which located, the city could affirmatively e-mail the neighborhood association or associations affected with that basic information.]

Comment: As indicated in the Comment to #1 above, the Administration agrees with this comment, and is working towards improving the City web site to provide such information. It does not have to be an amendment to the LDRs, however. Any notices sent out involves additional staff time, which is not presently available under the present budget scenario. Interested persons will have to remain vigilant in their observation of applications filed in their neighborhood when the web site updates are implemented.

It should be noted that there is no central webmaster and all these postings have to be done by Planning Department staff. There are four land use boards and if the applications for all are averaged out, with staggered submission deadlines, this would require some additional resources and training.

3. b. Contemporaneously with the mailed and published public notice of the public hearing on the project, post on the website an expanded definition of the project. This would be more detailed than the published notice, and would be the location an interested person or neighborhood association would go to when public notice is given – mailed and published. The expanded project description could be standardized for the applicant to fill in. This should be no burden, for the applicant must address all development aspects in formulating an application.

Comment: Staff reports are currently being posted on the web when they are available. These include extremely detailed information and provide an accurate description of the project. Staff is in the process of updating the application forms, and will take this comment into consideration so that the suggestion can be incorporated into the existing forms without creating a new one.

Posting of additional application materials on the web site, such as the application form, plans, etc., would become a massive task, far exceeding the available resources of the Planning Department.

4. After the date for public hearing is set, changes to essential features of the application should be posted on the website, and a closing date for such changes established. It should be unacceptable for an applicant to hand out changes to land development boards as late as the meeting itself. The public has no

opportunity for review. Perhaps a deadline of ten days prior submission and posting to the website is necessary to ensure public access to application changes.

Comment: While Staff shares concerns about amending applications after notice of the hearing, often changes are in response to comments in the Staff report, or are in response to Board member comments at a site visit or other applicant contact. Therefore, some changes should be permitted, i.e., if they are responsive to Staff or Board member comments. An applicant's self initiated changes should not be allowed if they materially amend the application.

5. Agendas should set reasonable parameters, to the extent feasible, for the approximate time agenda items requiring a public hearing will be heard. [Reference, Charter policy, Citizens' Bill of Rights (A)5. "Right to be heard. . . Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard."]

Comment: Staff has, in the past, attempted to schedule items on land use board agendas with approximate times to the extent predictions of such times were possible. Generally, such predictions are not possible and often these times were not accurate. The Chair of each Board has the discretion, on a case by case basis, to determine if a certain item should have a time certain public hearing. This practice has worked well in the past to ensure that the public has an approximate time when the matter will be heard and certain knowledge that it will not be heard prior to the posted time.

6. Authorize the written transcript that is required for an appeal by an affected party to be transcribed from the city's DVD recording of the public hearing, without the resident having to schedule in advance the services of a court reporter, and incur those expenses.

Comment: As long as the court reporter certifies the transcript, a transcription from a DVD recording of the public hearing is permitted.

7. Require administrative decisions by the Planning Director to be posted on the city's web site, and the deadline for appeal extended from the current five days to 20 days.

Comment: Staff will work towards posting written administrative decisions by the Planning Director on the web site. The deadline for appealing administrative decisions of the Planning Director is set by section 118-352(a) as 30 days from the date of decision, unless mailed then five extra days are added to such period; thus no amendment is necessary for that purpose.

B. Further Proposals re: "Transparency in the Land Development Application Process."

1. Real Parties in Interest as Applicants. Require that the real party(ies) in interest be the Applicant(s), or at least be the Co-Applicant(s), in every Application

submitted to a Land Development Board. Where for example, in a hotel, the proposed operator of a restaurant is different than the hotel owner, it is that restaurant operator who should be at least one of the Applicants.

Comment: Land Development Boards obtain jurisdiction over properly noticed applications determined complete by the Planning Director or designee. Applications must be submitted by any person or entity involved in the project, with an affidavit signed by the property owner, among many other things (e.g., project information and disclosures of interest). It is artificial and not relevant whether involved persons or entities are designated an Applicant, or not. What is relevant is that the application be complete, properly noticed, and that a staff report be submitted with a recommendation. All involved persons are subject to the conditions of the Board's order, which were recently amended as a matter of course to include a condition making the Order binding on successors and assigns.

2. Information on Applicants. Require that basic biographical, experience, and corporate entity personnel information (names and addresses of directors; names, addresses, and offices of top three or four officers) be furnished by the individuals who are the principals of each Applicant. That information should be furnished (a) in written form, through inclusion in the Application, and (b) in oral form, through testimony at the public hearing held by the appropriate Land Use Board.

Comment: Applications presently require owner and representative contact information. If the owner or lessee is a corporation, or other entity, not publicly traded, further individuals are identified as part of the disclosure forms. Basic biographical, experience and officer or director information is not necessary for a Land Use Board to perform its function of evaluating land use proposals and their impact on the public health, safety and welfare. Biographical or experience information submitted is not competent substantial evidence upon which to evaluate a project and approve or deny an application.

3. Date-Stamping and Docketing of All Filings. Require that, at the time of filing, (a) each Application, its supporting materials, and any later amendments to any of those materials be stamped with the date and time of filing, through the use of commonly available automated machine designated for that purpose, and (b) each such filing be contemporaneously recorded, by name and filing date, on a separate docket sheet.

Comment: Currently, the original application form and letter of intent are date-stamped. After the submittal date, any updated pages to the application are date stamped and the replaced pages voided and kept on file. Staff does not see any benefit to the suggestion contained in subparagraph b.

JMG/JS/TW/JGG/GH/ML