



MIAMI BEACH

MEMORANDUM

TO: Land Use and Development Committee

FROM: Jorge M. Gonzalez, City Manager *JMG*

DATE: May 16, 2012

SUBJECT: **BOARD MEMBER QUALIFICATIONS AND CATEGORIES**

AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE BY AMENDING CHAPTER 118, "ADMINISTRATIVE AND REVIEW PROCEDURES," ARTICLE II, "BOARDS," DIVISION 2, "PLANNING BOARD," SECTION 118-53, "COMPOSITION;" DIVISION 3, "DESIGN REVIEW BOARD," SECTION 118-72, "MEMBERSHIP;" DIVISION 4, "HISTORIC PRESERVATION BOARD," SECTION 118-103, "MEMBERSHIP;" AND 118-104, "APPOINTMENT;" DIVISION 5, "BOARD OF ADJUSTMENT," SECTION 118-131, "MEMBERSHIP," TO CLARIFY THE QUALIFICATIONS AND CATEGORIES OF MEMBERS TO BE APPOINTED TO THE CITY'S LAND USE BOARDS; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND

At the April 11, 2012 meeting, the City Commission approved on first reading an ordinance proposing to clarify the qualifications and categories of members to be appointed to the City's Land Use Boards. The Ordinance was approved on first reading and referred to the Land Use and Development Committee between first and second reading. The motion was made by Commissioner Góngora to approve the ordinance, seconded by Vice-Mayor Libbin and approved by a 7-0 vote. Second Reading and Public Hearing scheduled for June 6, 2012 Commission Meeting. Commissioner Weithorn stated that the referral to the Land Use and Development Committee between first and second reading is to be able to review the categories to make sure the category requirements are clear.

Below is a timeline of the review of this ordinance:

- January 28, 2009: The City Commission referred two items to LUDC
 - Voting procedures for Land Use Board.
 - Clarification of categories for membership on the Land Use Boards.
- April 6, 2009: The Committee discussed the voting procedures for the City Commission appointments to the Land Use Boards. The Administration and the Legal Department were instructed to prepare an ordinance amending Chapter 2 of the Code, requiring that when the City Commission votes to fill a position by category, they may only vote on one category at a time.
 - Ordinance No. 2009-3642, adopted 7-15-09, amended Chapter 2, Administration, Article III, Agencies Boards and Committees, Division 1.

The Committee did not reach the item dealing with the clarification of the Land Use Board categories and continued this issue to the May meeting.

- May 4, 2009: The Committee referred to the Planning Board an ordinance that clarifies some of the membership categories of the Land Development Review Boards. The Committee reviewed the membership requirements of the Planning Board, Design Review Board, Historic Preservation Board and the Board of Adjustment. The motion included, among other changes, the creation of two citizen-at-large categories for the Planning Board, clarification of the registered architect and several other refinements to the various categories.
- June 6, 2011: The Committee discussed this ordinance again and gave the Administration direction on several refinements to the ordinance. Specifically, the Committee wanted to explore more flexibility on the licensing requirements for some of the categories. Ultimately, this item was deferred to the next meeting to make changes to the licensing requirements.
- July 20, 2011: The Committee expressed the desire to open up the categories to provide more flexibility, broadening the architect position to permit licensure in any state.
- September 14, 2011: (Item C4G), the City Commission referred this proposed ordinance to the Planning Board for its review and recommendation.
- October 24, 2011: The Planning Board made a motion not to recommend approval; however the vote was 3-2, thus motion did not pass; two members were absent and two member voted against the motion (4 votes are required for approval of a recommendation).
- February 15, 2012: The Land Use and Development Committee discussed the Planning Board proceedings and by a 3-0 vote decided to move the item to the full City Commission.

ANALYSIS

The land use boards are tasked with the regulation of land development, thus the composition requirements are very specific to include individuals who maintain specialized positions, knowledge, experience and/or expertise and a number of these members are required to be registered professionals. In addition, Chapter 118 of the City Code specifically describes rights to serve on these boards, which require members to be either residents of the City, or have their principal business interest within the City. The City Commission may waive the residency requirements by a 5/7ths vote in the event a person not meeting these requirements is available to serve on the board and is exceptionally qualified by training and experience.

The proposed ordinance clarifies the membership categories in Land Use Boards. For instance, for the Planning Board, the category of registered architect would be defined as an architect registered in the state of Florida; the professional architectural designer or professional urban planner would be described as a professional practicing in the fields of architectural or urban design or professional urban planning; the developer category is described as a person who has experience in developing real property; and the attorney position is clarified as licensed to practice law in the state of Florida. In addition, the Planning Board membership would categorize three persons as citizens at large or engaged in general business. The membership categories for the Design Review and the Historic Preservation Boards follow similar descriptions. In the case of the Planning Board, the ordinance also clarifies that three of the seven members may be citizens at large or engaged in general business in the City.

The LUDC expressed a desire to open up the categories to provide more flexibility, broadening the architect position to permit licensure in any state. Where a land use board has only one architect requirement, staff believes that it is important that an architect registered in the State of Florida be required in order for that person be knowledgeable in local current code requirements and architectural and design trends. However, where a board has a requirement for several architect positions, such as the Design Review Board and the Historic Preservation Board, one of the architects that is registered in the United States may qualify. In fact, such a person may be able to offer perspectives that are different from the local views and trends.

At the request of the Committee, the ordinance also introduces a secondary category for attorneys that are licensed in other states. This would still keep in place the requirement that any Board that has a requirement to have an attorney, that attorney should be licensed in the State of Florida, but creates a second attorney position with broader licensing requirements. Staff has introduced this concept in two of the Development Boards.

Staff explored clarifying the membership for the Board of Adjustment. In particular the financial consultation category, however, the Board of Adjustment and membership categories reside in the City Code, Part 1 – Charter and Related Special Acts. Therefore, licensing requirement cannot be clarified without a referendum vote that would change the Charter language. At the direction of LUDC (see below) only the clarification that members representing the professional categories must be licensed in the State of Florida has been included in the proposed ordinance.

PLANNING BOARD ACTION

At the Planning Board meeting of October 24, 2011, a motion was made **to not** recommend adoption of the ordinance as proposed. Members of the Board discussed the categories and proposed certain changes, such as eliminating certain membership categories that are recommended by non-profit organizations, with staff expressing displeasure and total opposition to such a proposal. Finally a motion was made for a recommendation of the ordinance as amended. However, with a vote of 3-2, the motion did not pass. At the time, there were two members absent and two members voted against the motion. Because of the outcome of the vote, the ordinance was taken back to the Land Use and Development Committee for guidance.

LAND USE AND DEVELOPMENT COMMITTEE

At the February 15, 2012 meeting, Richard Lorber introduced the item and explained that it clarified and broadened the categories and qualifications of the members of the four Land Use Boards. Henry Stolar spoke. Gary Appel, Charlie Urstadt and Nancy Liebman spoke regarding the Miami Design Preservation League role on the Historic Preservation Board.

The Committee went through each of the four Boards and discussed minor changes, as follows: Historic Preservation Board: broaden Attorney licensed in Florida to licensed in the U.S.; Planning Board: no change; Design Review Board: add to category IV "or resident with interest or background in design issues; and Board of Adjustment: delete proposed change defining Financial Consultant, keep attorney licensed in the State of Florida to conform with the City Charter.

MOTION: Wolfson/Libbin (3-0). Move ordinance to Commission with changes referenced above.

FISCAL IMPACT

In accordance with Charter section 5.02, which requires that the "City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions," this

shall confirm that the City Administration evaluated the long-term economic impact (at least 5 years) of this proposed legislative action, and determined that there may not be a measurable impact on the City's budget by enacting the proposed ordinance.

CONCLUSION

The Administration recommends that the City Commission approve the proposed Ordinance on first reading and set a second reading public hearing for the May 9, 2012 meeting.

RECOMMENDATION

It is recommended that the proposed ordinance be approved after second reading and public hearing at the June 6, 2012 City Commission Meeting.

JMG/JGG/RGL/ML

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"BOARD MEMBER QUALIFICATIONS AND CATEGORIES"

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE BY AMENDING CHAPTER 118, "ADMINISTRATIVE AND REVIEW PROCEDURES," ARTICLE II, "BOARDS," DIVISION 2, "PLANNING BOARD," SECTION 118-53, "COMPOSITION;" DIVISION 3, "DESIGN REVIEW BOARD," SECTION 118-72, "MEMBERSHIP;" DIVISION 4, "HISTORIC PRESERVATION BOARD," SECTION 118-103, "MEMBERSHIP;" AND 118-104, "APPOINTMENT;" DIVISION 5, "BOARD OF ADJUSTMENT," SECTION 118-131, "MEMBERSHIP," TO CLARIFY THE QUALIFICATIONS AND CATEGORIES OF MEMBERS TO BE APPOINTED TO THE CITY'S LAND USE BOARDS; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Land Development Regulations of the City Code provide for the appointment by the City Commission of members of the four land use boards namely, the Planning Board, the Design Review Board, the Historic Preservation Board, and the Board of Adjustment; and

WHEREAS, certain questions have arisen as to the qualifications and categories of membership of persons appointed to these boards; and

WHEREAS, it is desirable to resolve these questions to provide certainty to the appointment process and to instill confidence by the public in these boards; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

Section 1. Chapter 118, "Administration and Review Procedures," Division 2, "Planning Board," Section 118-53, "Composition," is hereby amended as follows:

Sec. 118-53. Composition.

(a) The planning board shall be composed of seven regular voting members. Each regular member shall be appointed with the concurrence of at least four members of the city commission. Each regular voting member shall serve for a term of two years. The planning director or designee, and city attorney or designee, shall serve in an advisory capacity.

(b) All regular voting members of the board shall have considerable experience in general business, land development, land development practices or land use issues; however, the board shall at a minimum be comprised of

- i. one registered architect registered in the state of Florida; or a member of the faculty ~~faculty~~ of a school of architecture in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of

- architecture; or a professional practicing in the fields of architectural or urban designer or professional urban planning;
- ii. one developer who has experience in developing real property; and or an attorney in good standing licensed to practice law within the United States.
- iii. one attorney licensed to practice law in the state of Florida who has considerable experience in land use and zoning issues; and
- iv. one person who has education and/or experience in historic preservation issues. For purposes of this section, the term "education and/or experience in historic preservation issues" shall be a person who meets one or more of the following criteria:
 - (1) Has earned a college degree in historic preservation;
 - (2) Is responsible for the preservation, revitalization or adaptive reuse of historic buildings; or
 - (3) Is recognized by the city commission for contributions to historic preservation, education or planning.
- (v) three persons who are citizens at large or engaged in general business in the city

(c) No person except a resident of the city, who has resided in the city for at least one year, shall be eligible for appointment to the planning board.

(d) The city commission may waive the residency requirements by a 5/7ths vote in the event a person not meeting these requirements is available to serve on the board and is exceptionally qualified by training and/or experience.

Section 2. Chapter 118, "Administration and Review Procedures," Division 3, "Design Review Board," Section 118-72, "Membership," is hereby amended as follows:

Sec. 118-72. Membership.

(a) Composition. The design review board shall be composed of seven regular members. The seven regular members shall consist of

- i. ~~two registered architects registered in the state of Florida United States;~~
- ii. ~~an registered architect registered in the state of Florida~~ or a member of the faculty of a school of architecture, urban planning or urban design in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of architecture; or a professional practicing in the fields of architectural designer or professional urban planning;
- iii. ~~one registered landscape architect registered in the state of Florida;~~
- iv. ~~one registered architect registered in the state of Florida United States,~~ or a professional practicing in the fields of architectural or urban designer; or professional urban planning; or resident with interest or background in design issues; or an attorney in good standing licensed to practice law within the United States; and
- v. two citizens at large.

One person appointed by the city manager from an eligibility list provided by the mayor's barrier free environment committee shall serve in an advisory capacity with no voting authority. The planning director, or designee and the city attorney or designee shall serve in an advisory capacity.

(b) Appointment. Design review board members shall be appointed with the concurrence of at least four members of the city commission. An eligibility list for these professional membership categories may include, but shall not be limited to, suggestions from the following professional and civic associations as listed below:

- (1) American Institute of Architects, local chapter.
- (2) American Society of Landscape Architects, local chapter.
- (3) The Miami Design Alliance.
- (4) American Planning Association, local chapter.
- (5) The Miami Design Preservation League and Dade Heritage Trust.
- (6) Other city civic, neighborhood and property owner associations.

(c) Residency and place of business. All regular members shall reside in or have their primary place of business in the county. The two citizens-at-large members and one of the registered landscape architects, registered architects, or professionals practicing in the fields of architectural or urban designers or professional urban planning shall be residents of the city.

Section 3. Chapter 118, "Administration and Review Procedures," Division 4, "Historic Preservation Board," Section 118-103, "Membership," is hereby amended as follows:

Sec. 118-103. Membership.

(a) The historic preservation board shall be composed of seven members. There shall be a member from each of the following categories:

- (1) A representative from the Miami Design Preservation League (MDPL), selected from three names nominated by such organization.
- (2) A representative from Dade Heritage Trust (DHT), selected from three names nominated by such organization.
- (3) Two at-large members who have resided in one of the City's historic districts for at least one year, and who have demonstrated interest and knowledge in architectural or urban design and the preservation of historic buildings.
- (4) An architect registered in the state of Florida with practical experience in the rehabilitation of historic structures.
- (5) An registered architect registered in the state of Florida United States, a registered landscape architect registered in the state of Florida, a professional practicing in the field of architectural or urban designer or professional urban planning, each of the foregoing with practical experience in the rehabilitation of historic structures; or an attorney at law licensed to practice in the state of Florida, or an licensed engineer licensed in the state of Florida, each of the foregoing with who has professional experience and demonstrated interest in historic preservation.
- (6) A member of the faculty of a school of architecture in the state of Florida, with academic expertise in the field of design and historic preservation or the history of architecture, with a preference for an individual with practical experience in architecture and the preservation of historic structures.

(b) All members of the board except the architect, engineer, landscape architect, professional practicing in the field of architectural or urban designer or professional urban planning and university faculty member of the board shall be residents of, the city; provided, however, that the city commission may waive this requirement by a 5/7ths vote in the event a person not meeting these residency requirements is available to serve on the board and is exceptionally qualified by training and/or experience in historic preservation matters. All

appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation.

Sec. 118-104. Appointment.

(a) Historic preservation board members shall be appointed with the concurrence of at least four members of the city commission. An eligibility list solicited from, but not limited to, the organizations listed in this section may be considered by the city commission in selecting board members:

- (1) American Institute of Architects, local chapter.
- (2) Miami Design Preservation League.
- (3) Miami Beach Chamber of Commerce.
- (4) Miami Beach Development Corporation.
- (5) Dade Heritage Trust
- (6) Florida Engineer Society, local chapter.
- (7) Any other organization deemed appropriate by the city commission.

(b) Except as provided in section 118-105, every member appointed shall serve a term of two years.

Section 4. Chapter 118, "Administration and Review Procedures," Division 5, "Board of Adjustment," Section 118-131, "Membership," is hereby amended as follows:

Sec. 118-131. Membership.

The board of adjustment shall be composed of seven voting members. Two members shall be appointed as citizens at-large and five members shall be appointed from each of the following categories (no more than one per category), namely: Law, architecture, engineering, real estate development, certified public accounting, financial consultation and general business. The members representing the professions of law, architecture, engineering and public accounting shall be duly licensed by the State of Florida; the member representing general business shall be of responsible standing in the community ~~The member representing the field of financial consultation shall be a Certified Public Accountant, Chartered Financial Analyst, Certified Financial Planner, a Chartered Financial Consultant or investment advisor registered with the Securities and Exchange Commission, or someone recognized as having similar credentials by five-sevenths vote of the City Commission.~~ Members shall be appointed for a term of two years by a five-sevenths vote of the city commission. Members of the board must be either residents of or have their principal place of business in the city.

Section 5. Repealer.

All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith be and the same are hereby repealed.

Section 6. Codification.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section" or other appropriate word.

Section 7. Severability.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 8. Effective Date.

This Ordinance shall take effect ten days following adoption.

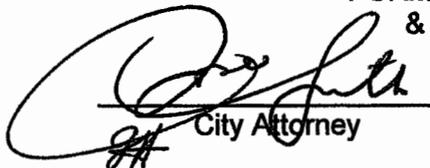
PASSED and ADOPTED this ____ day of _____, 2012.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney 3/29/12 Date

First Reading:
Second Reading:

Verified by: _____
Richard Lorber, AICP
Acting Planning Director

Underscore denotes new language.
~~Strikethrough~~ denotes deleted language.