

EXHIBIT A-1

PAIN MANAGEMENT CLINICS A SUBCOMMITTEE OF THE LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)

MINUTES OF THE MARCH 21, 2011 SUBCOMMITTEE MEETING

Prepared by Zona Case, Zoning Technician

On Monday, **March 21, 2011**, the Pain Management Clinics Subcommittee met at the Vista Center, Room VC-1E-58 Conference Room, at 2300 North Jog Road, West Palm Beach, Florida.

Second meeting of the Pain Management Clinics Subcommittee for Amendment Round 2011-01.

A. Call to Order

The meeting was called to order at 2:10 p.m. There were not enough subcommittee members present to form a quorum. The meeting was conducted informally.

The participants introduced themselves.

1. Roll Call/Introduction

Those in attendance were asked to introduce themselves.

Subcommittee Members: Lori Vinikoor.

Interested Parties: Lt. Bruce Hannan, Captain Eric Coleman, Tenna Wiles, Paul Dorling, Bert Schillinger and Thomas Lanahan.

County Staff: Bob Banks, William Cross, Zona Case, and Kenny Wilson; Barbara Alterman was present for a portion of the meeting.

2. Additions, Substitutions and Deletions to Agenda

Mr. Cross noted changes to the March 2, 2011 Minutes, suggested for Item C-3, by Tom Lanahan after the Draft Minutes had been circulated.

3. Motion to Adopt Agenda

N/A. No quorum.

B. Goals of Zoning in Progress (ZIP)

1. Focus – Dispensing

Mr. Cross reiterated that in addition to the original task of developing a comprehensive approach to regulating pain clinics, dispensing physicians and pharmacies, the BCC had requested that staff take interim action to address new concerns with how pharmacies dispense Schedule II Controlled Substances. Specifically, the BCC had directed that staff develop a Moratorium on new pharmacies. However, due to time constraints and public notice requirements that would result in the moratorium preceeding the full Ordinance by only a few weeks, staff was proposing a Zoning in Progress (ZIP) as a stop gap measure. He indicated that the ZIP would be modeled on the provisions of several existing or proposed Ordinances developed by Delray Beach, Boynton Beach and Greenacres, among others.

2. Timeframe – pending adoption of Ordinance

Mr. Banks explained that a ZIP would prevent the issuance of new permits pending adoption of a new Ordinance, the language can be more restrictive, but not less, and the passage does not require a Public Hearing. It is typical, Mr. Banks said, to have most of the language in the Ordinance done before applying for a ZIP.

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Mr. Cross told members that the goal is to have the ZIP passed at the March 31, 2011 BCC Zoning Hearing. He noted that if any subcommittee members or interested parties wanted to attend, there was no time certain, but the meeting would commence at 9:30 a.m.

3. Applicability – new businesses only?

Mr. Cross questioned whether limiting the sale of Schedule II controlled substances to no more than 15 percent of all prescriptions filled by a pharmacy in a thirty day period, as stated in the Delray Beach, Boynton Beach and Greenacres Ordinances, could be enforced for existing pharmacies. Mr. Banks said that he would check to find out if it is enforceable for issue of permit.

C. REVIEW OF DRAFT ZIP (EXHIBIT B)

1. General Comments

Mr. Cross referred members to the draft of the proposed language for the ZIP as outlined in Exhibit B and indicated that this document will be presented to the BCC with a cover letter outlining the authority and intent.

2. Specific Questions for Subcommittee

- Who maintains records on licensed pharmacists or pharmacies?
In replying to this question, Lt. Hannan said he would get that information for the subcommittee and suggested that it would be helpful for Palm Beach County to have its own database with public access. Ms. Wiles expressed dissatisfaction about the absence of a State prescription drug database and said that Dave Aaronberg and the Senate strongly supports it. Mr. Cross said PBC will take the most fitting language from the Delray Beach and Boynton Beach Ordinances and wait until the 18th of April to see if any changes are made at the State level.
- Regulation of wholesaling?
Mr. Cross suggested that the representatives of the PBC Pharmacy Association may be able to provide information on what standards apply to wholesalers.
- Any special considerations for hospitals or medical centers?
Mr. Cross questioned whether a pharmacy in a hospital is subject to different rules compared to one not affiliated with a hospital. A discussion followed in which members made the following points:
 - Mr. Schillinger explained the difference between a pharmacy in a hospital and one not affiliated with a hospital, and Mr. Banks added that in his view, a pharmacy in a hospital should not be regulated because they do not sell to the public, they sell to hospitalized patients.
 - Ms. Vinikoor said that different rules are applied to hospital pharmacies and questioned whether non-patients can get a private prescription filled in a hospital pharmacy. Mr. Lanahan said that in the case of the JFK Hospital, the pharmacy is for in-patient supply only and it is partially linked to Walgreens which delivers prescriptions.
 - Mr. Dorling pointed out that prescription sales of controlled substances may be higher than 15 percent if a pharmacy is associated with a hospital with cancer patients.

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- Ms. Vinikoor questioned “Accessory pharmacy” in Exhibit B, Part 2, and was of the opinion that the language might have to be excluded taking into account people with cancer.
 - Ms. Wiles suggested that a hospital be consulted before including the term “Accessory Pharmacy.”
 - After a brief discussion Ms. Vinikoor suggested that Accessory Pharmacy be entirely excluded.
- Clarify need to regulate physicians (recognizing both existing F.S. and current changes proposed in 2011 legislative session)?

Ms. Vinikoor referred to Part 3 of Exhibit B, Medical or Dental Office, and commented on the current Code. She suggested that “chiropracist” be changed to “podiatrist.” Mr. Cross indicated that this change had already been included in the previous Round of Amendments, which will be published in Supplement 10.

Ms. Vinikoor also questioned the existing Code text under Part 3 of Exhibit B, Art. 4.B.1.A.83, Medical or Dental Office “A pain management clinic shall not be considered a medical or dental office.” Mr. Banks explained that this language was part of the Moratorium on Pain Management Clinics, which would be superceded by the proposed Ordinance scheduled for adoption in August. When regulation of pharmacies as opposed to pain clinics becomes effective, the definition will be deleted from the Code. Mr. Dorling expressed the view that the definition should be medical office. Ms. Vinikoor said that in keeping with the new law passed in October 2010, Pain Management Clinics are required to have a doctor on the premises.

Mr. Cross referred to Part 4 of Exhibit B, Personal Services and explained that this is an attempt at clarification as this use can include the sales of weight loss and like products.

Mr. Banks said that State law mandates that physicians cannot dispense more than 72 hours of narcotic prescriptions sales. Captain Coleman suggested that the 72 hour limitation be kept. Mr. Banks further said that if the limitation is a State regulation it can be retained but he is of the opinion that it should be ommitted. He went on to say that the changes being proposed are not intended to regulate doctors’ offices but to go after rogue pharmacies and pharmacies that dispense more than 15 percent of Schedule II Controlled Substances. If the State changes the law PBC can regulate it. Mr. Wilson said that the status of the 72 hour rule is still in limbo, and it would be better to leave the County’s 72 hour rule on the books. If or when the State makes it law, then the County can adjust the rule then.

- Clarify if there is a need to regulate Schedule III and IV?
The 15 percent cap to limit the percentage of Schedule II Controlled Substances sold in relation to the number of other prescriptions sold at each pharmacy within a 30 day period was discussed and Lt. Hannan expressed the opinion that the cap could be lowered to 10 percent as Palm Beach County should be on the threshold of zero tolerance.

Mr. Schillinger suggested that care be taken in defining 15 percent, depending on how many prescriptions are written for a patient, one or many. Ms. Vinikoor said she was concerned about doctors writing, for example, 20 prescriptions when fewer could be written, so that a pharmacy can have more prescriptions per month. Mr. Wilson was of the view that if the doctor writes the prescription it would not be right

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for PBC to cross the line and determine how many prescriptions should be written. Mr. Dorling suggested that for Schedule II drugs three or more prescriptions should be written.

- Clarify need to require licensed pharmacist (see also F.S.)?
Mr. Cross stated that having a licensed pharmacist is already a requirement. Mr. Dorling stated that is the reason why the Delray Beach Ordinance has a definition for Pharmacy.

3. Other considerations?

There were no other suggestions or considerations.

D. REFINING SCOPE OF ZIP FOR INCLUSION IN FINAL ORDINANCE

1. Applicability – apply retroactively to existing dispensers

Mr. Banks said that he would check to find out if it is enforceable.

2. Other suggestions?considerations

There were no other suggestions or considerations

E. NEXT MEETING DATE AND TOPICS

1. Monday, April 18, 2011

2. Review of Ordinance

F. PUBLIC COMMENT

No additional public comments were heard.

G. ADJOURN

Meeting adjourned 3:45 p.m.