



**FORT MYERS BEACH
LOCAL PLANNING AGENCY (LPA)
MINUTES**

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Florida
Tuesday, October 8, 2013

I. CALL TO ORDER

Meeting was called to order at 9:10 a.m. by Chair Zuba; other members present:

Chuck Bodenhafer
Al Durrett
John Kakatsch
Jane Plummer
Joanne Shamp
James Steele
Hank Zuba

LPA Attorney, Marilyn Miller
Staff Present: Walter Fluegel, Community Development Director (arrived at 10:00 a.m.)
Leslee Dulmer, Zoning Coordinator
Josh Overmyer, Planning Coordinator

II. PLEDGE OF ALLEGIANCE

Chair Zuba welcomed newly appointed member, Chuck Bodenhafer, to the LPA.

Mr. Bodenhafer introduced himself and offered a brief synopsis of his experience as it related to the LPA.

Chair Zuba thanked LPA Members Plummer and Kakatsch for requesting re-appointment to the LPA.

III. INVOCATION

IV. MINUTES

A. Minutes of September 17, 2013

MOTION: Ms. Shamp moved to approve the Minutes for September 17, 2013; second by Mr. Kakatsch.

Chair Zuba noted a typographical error on Page 3, first paragraph, bottom, "... venue for the enjoyment...".

VOTE: Motion approved, 7-0.

V. PUBLIC WORKSHOP

A. Noise & Entertainment Ordinance

Chair Zuba recognized a person who requested to speak because he had to leave early.

Paul Rosen, Director of the Board at Marina Village, read into the record a letter from Mr. Turnberg, President of the Board at Marina Village:

"Members of the Fort Myers Beach LPA, As President of the Board and speaking on behalf of the directors and owners of Marina Village and Harbor Condominium Association, I would like to go on record that we are concerned about the proposed ordinance changes being suggested in the Entertainment District Report. Marina Village Condominium was built 32 years ago before any of the restaurants and bars currently on San Carlos existed, and the majority of our current owners are original purchasers. We see that our building is included in the Entertainment District and would like to formally request that it be excluded from this designation. We also request that there be provisions continuing the current restrictions on outside amplified music, and that inside amplified music be directed away from open doors and nearby sleeping quarters. The current level of amplified music and hours of operation are already a disturbance. Allowing longer hours and increased decibel levels near our homes will create a hardship. During several events this past year the music was so loud that many of our owners had to leave their apartments until the music stopped later that night. Therefore, we request that there be provisions restricting the frequency of special events in order to address the extreme noise levels and the importance of safe ingress and egress to our property. We request that you take this information into consideration as you discuss this matter further. Respectfully yours, Ken Turnberg, President of the Board of Directors of Marina Village"

Jim LaRue of LaRue Planning & Management Services, Inc. gave a presentation on “Creating an Entertainment District” (Draft September 2013) (“Report”). Utilizing a PowerPoint presentation he discussed the following information related to the Report:

- How was the project initiated? – the Report represented the follow-up to the Council workshop (4/15/13) where they reviewed a presentation introducing the concept of a Entertainment District(s) with a possible application to the Town since no formalized Entertainment District currently existed.
- Advantages & Disadvantages of Entertainment Districts –
 - Advantages: formalizing a destination with different types of businesses and entertainment venues in one area; greater impact than scattered businesses/entertainment venues; attracting residents and tourists; walkability, and easier to patrol.
 - Disadvantages: area is nothing but bars, restaurants, etc., excessive noise, parking and traffic issues, too crowded, and an ‘entertainment district’ could create a negative image.
- Report Information – included information on alcohol consumption ordinance, understanding possible noise impacts to the community, control of the hours of operation for outside entertainment, special exception approvals, analyzing possible impacts to the Comprehensive Plan, and interviews of area individuals as it pertained to an ‘entertainment district’. The Report also included a proposed boundary for the Entertainment District, creation of a working Entertainment District including an implementing ordinance, and locational standards and parking requirements.
- Noise Ordinance – Report included information on the Supreme Court decision of State v. Catalano, references to free speech, decibel levels, dwelling units and distance requirements as it pertained to different types and sources of noise, review of existing regulations, hours of operation, special exception approval process, indoor and outdoor and amplified/non-amplified music, creation of overlay district as it related to meeting requirements of the Town’s Comprehensive Plan (i.e. walkability, transportation and connectivity, recreation) and as it pertained to Noise Control Ordinance 96-24.
- Suggestion – create an overlay district so it would be more ‘zoning’ and not a Comprehensive Plan category.
- Report Information – included a review of other entertainment districts, concerns of business owners within the potential Entertainment District (i.e. parking, open containers, consistency in enforcement, no public drunkenness, etc.). The proposed boundaries for the Entertainment District were displayed and reviewed on the projection screen.
- Model Ordinance (Page 22-23 of Report) – needed to show separation requirements for “consumption on premises”, maximum allowable noise levels, noise levels measured from the receiving area, maximum noise levels and hours, points of measurement, method of measurement, special regulations on loudspeakers and other outdoor devices, limitations on outdoor music and entertainment, and indoor entertainment.
- Effects of Proposed Regulations Upon Previously Approved Special Exceptions – probable ‘grandfathering’ of previously approved special exceptions; and prior special exception approvals that prohibit or limited outdoor music or entertainment, or noise limits that are more restrictive than the new regulations and noise limits applicable to the Entertainment District should be superseded by the new regulations.

- Recommendations – revise the existing noise ordinance, and have an entertainment district that would have regulations that apply to the noise ordinance.

Public Comment opened.

Rob DeGennaro of Nervous Nellies recounted his business experience and explained that he felt the Town was “*opening up a hornet’s nest*”. He talked about Nervous Nellies as it related to entertainment, noise levels, fundraisers, and parties. He discussed his belief that his business has experienced inconsistencies as it related to noise level issues; and how they have changed to more of an acoustic-type of setting and limited the amount of outdoor activities in consideration of residents on nearby streets. He described his experience when he owned a business located in an entertainment district on Duvall Street in Key West. He reviewed his opinion of what comprised an entertainment district (i.e. retail, ice cream shops, cafes, etc.), and how he was looking for flexibility in an entertainment district. He told of his recent purchase of his business property and what it included (i.e. parking areas, marina, etc.), as well as his visions for the property as an old historic seaport of Fort Myers Beach with tall ships. He told of his business ownership experience on Captiva and its positive impact on the value of surrounding residential property. He stated if there was an Entertainment District, then Nervous Nellies would limit some of the things they were doing; however, he explained almost every day they were contacted by various organizations to hold fundraisers at Nervous Nellies. He reported he had no objection to the Entertainment District; however, his focus was on the music portion and open-container. He stated he objected to open-containers like in Key West. He noted his opinion that permitting needed to be streamlined.

John Richard suggested clarifying the ordinance to move the noise issue from the source to the complainer’s property line which he believed would save a lot of problems.

Public Comment closed.

Discussion ensued between LPA Members, Mr. LaRue, Town staff, and the Town Attorney regarding the presentation on “Creating an Entertainment District” (Draft September 2013) (“Report”), and the noise and entertainment ordinance:

- Ms. Plummer discussed concerns regarding noise during the nighttime; possibly shortening the timeframe for noise/music/entertainment; the current special exception process and possible changes; the potential to look at controlling the outside noise from live bands, and her opposition to enhancing open-container laws.
- Mr. Steele questioned short-term rentals at Marina Village - staff indicated the zoning at Marina Village did allow for short-term rentals and Mr. LaRue noted the Marina Village had a mixture of rental types; Method of Measurement on Page 23 – he recommended a maximum decibel limit and Town Attorney explained the intent of the Report was probably to accommodate something that might exceed it for a short period of time; current decibel levels during daytime hours – it was confirmed they existed and decibel levels were discussed, measurement from source of sound, equipment noise levels and permitted hours of operation; and the map of the Proposed Entertainment District – requested the map to be marked with existing dwelling units within the proposed district and Mr. LaRue reported it could be accomplished.

- Mr. Bodenhafer noted concerns regarding enforceability for staff (i.e. sale of alcoholic beverages incidental to sale of food, etc.) and Mr. LaRue pointed out that the wording used regarding ‘sale of alcoholic beverages incidental to sale of food’ was per State statute; ‘grandfathering’ – suggested addressing what would happen if a business changed and how they would need to comply with the Entertainment District regulations; and discussed his opinion regarding ‘permitting’ within an entertainment district, and concurred that permitting needed to be streamlined.
- SHAMP: “Thank you, um, first of all, uh, with regard to the communities that you; well, let me say I agree with the concept of an overlay because, uh, throughout the Town in our regulations; and many of the complaints have been regarding a level playing field; and I think the district provides that concept of a level playing field, a cult pattern of various special exceptions, um, is not really the proper way to govern or regulate. However, I feel that, uh, not grandfathering, you know not allowing grandfathering of exceptions, defeats the purpose of a level playing field. And I think that if you create reasonable, um, hours and create reasonable decibel levels, uh, it may be one hour this direction or that direction for someone a change in their current regulations, but, or current special exception, but, um, it would be minimal, a minimal change. There’s not a lot going on a 2 AM on Fort Myers Beach, so if it gets pulled back to 1 AM I suspect it’s very insignificant and I see no purpose of doing an overlay if you don’t say “this is how it is,” it’s like the sign ordinance—you can’t do it and then have all these special exceptions, you either have it or you don’t, so, um. Secondly, I, I, take somewhat of a different, uh, feeling about this short-term, long-term, etcetera. To me, any unit that has a bed in it is at some point a sleeping unit (laughs). Most people pack pajamas, some don’t, you can go on a chemically induced bender, but, you know after 48 hours you’re going to sleep; everybody, human beings need to sleep, and if you didn’t need to you wouldn’t have rented a unit. You didn’t get it for the kitchen, ok, so, to me it makes no difference if you rented the darn place for three days or three months, or you’ve lived here 30 years, you’re sleeping there and we need to respect that human beings cannot function without sleep. And I know when I go on the road, we just went recently on a long trip, and the one place we could not sleep, the darn air conditioner came on every 15 minutes—we finally set it at some ridiculous temperature so it’d stay there all night and like tripled up the blankets and that way it didn’t like come off and on at least, but, um, this concept of you know, a maximum noise every 15 minutes or something is ridiculous, you are better off when things are consistent. Say whatever that level is that it stays level you’re used to it and it becomes white noise to your brain. So, I too, object with this, the concept of the, uh this momentary.

Now as far as the decibel levels themselves, I’m not an expert in sound, I did notice you know, that the Town’s that you selected to look at don’t mean a hill of beans to me. Orlando and Wilmington—Wilmington isn’t a year-round destination it gets too darn cold so people aren’t putting up with this year-round. We put up with this 24, 24-7 and 12 months a year. When you look at, um, uh, Ocean City, it’s interesting they would have our similar climate, they are putting this, putting up with this 12 months a year and you’re saying they’re too restrictive. Well, there’s probably a reason why they’re more restrictive because people are there all the time partying. And I, too, like Jane, moved to this island because I like the restaurants, I like the businesses, I like the bars, my kids like to stay up late and go out late, so um, I want this district to succeed—don’t misunderstand—but, um, I also want the sense of community to succeed too. We have a wonderful sense of community—funky, vibrant—very different, oceanic? bubbles is what makes

this place special. I noticed that in, um, for instance in Naples, and I know they're stuffy-yeah, Naples is stuffy-but, um, you know for their indoor entertainment they definitely have all doors and windows to remain closed during performances. I mean that's how they control it, and they have a very vibrant 5th Avenue—I bet they're earning a lot of money on 5th Avenue in Naples. Um, and their hours of outdoor live entertainment are determined by City Council but their, uh, 10 PM, only til 10 PM Sunday through Wednesday and then midnight Thursday through Sunday. This is just, and then, um, what was interesting though they have a very, um, they use 25 feet from the property line for measuring it. My concern about where to measure this from is how does the owner know if they're exceeding it?—they certainly can't go up to the top floor of the Marina Towers and see how many decibels it is there for the receiver or each property line around them. If it's their property line, or 25 feet from their property line, they can have a sound meter, they have some way of knowing if they're being excessive or not. I mean how do you regulate yourself, um, compared to somebody else who's receiving it?—I think you need to be able to regulate yourself.

In Naples they also, um, incorporate in the sound—and once again, I don't know that much about noise—I do know that um, hertz is the, um, vibration—the frequency of vibration, so 500 hertz is 500 oscillations in a minute. Whereas, um, your, um, uh, decibels then is the, uh, a different measurement. And then interestingly enough, I notice in their ordinance they talk about the hertz, the, and then they increase and decrease the decibels according to the hertz. Now I understand that's very complicated but what it means is that there definitely is a difference. When you're playing nice, acoustic music compared to Metallica let's say, there's a different kind of feeling from the music at the same decibel. We've all had a kind of music that we like its changed our heart rate at the same volume. It doesn't matter, you know, to me when you play country western my heart like shuts down (laughs)—I don't like it, but, but, you know that's just me. But, you know taking offense is not just about, you know, the decibel level; it's the type of music and that's a problem too. When you raise the volume of what they play at one place compared to what they play at another place it offends different people in different ways. Um so at any rate, I, I, have some concerns about keeping the measurement at the property line, about raising it very much and I will make one other comment and this is in um, when you look at Bonita their stuff is really nebulous; they just, they call the sheriff and we do have an extensive ordinance but it doesn't come up under MuniCode, but, um, the other place that comes up was, um Sanibel. And of course once again, sleepy, but you know what Sanibel earns more money per year than we do (laughs). And on Sanibel they measure at the real property line where it's created and um, in the residential zone any public space or institutional zone, um, it's, you know in their restrictive hours up til 10 PM let's say, it's 66, uh, decibels and during the night it's, overnight its 60 and in the commercial zone they go only as high as 72 and in the quiet time, 65.

Uh, let me see if there was any other comment before I turn over, um, I do think that the district boundary goes a little far south, um I know that when we did things, uh, uh, for instance for the Beached Whale when we did ours the Beacon Hotel says it's already—and I love the Beached Whale, I love the Beached Whale—but, um, the Beacon Motel said you know they have people who are leaving that have reserved for several days and they're leaving because they can't tolerate the sound and we didn't even put the porch outside yet, they didn't put their porch outside yet. And the fact is their comprehensive plan it discusses on, in page, uh, 423, it discusses the importance of transient tourist housing and says that the Town has to ensure

policies and regulations that do not inadvertently contribute to the displacement of existing hotels and motels. And I think that's really important, it's not just Marina Towers, but there's a lot of, there's Sands Motel, there's a lot of hotels and motels as soon as you start down the Boulevard. I personally would not extend beyond Crescent Street, even Crescent Street itself in the comprehensive plan is viewed as a live-work area where people who want to work in the downtown district right there could live there, so I'm concerned about, I would not necessarily accept the boundary the way it is, and also, if you think about the development on Palermo and that canal that goes down there that just sends the music down the canal to some of our, what's becoming some of the most high-priced real estate on our island. We certainly don't want to discourage people from building \$2 million houses on the island either you know, we've got people who can't afford to rent month-to-month and we've got people who are building multimillion dollar houses—that's the beauty of this island. All of them should be able to get a good night's sleep, no matter where they're living. And then finally sorry, um, let me see, I think that's all. And I'd like to commend both Nervous Nellie's and John Richard, I do think that they're, they to try to be, um, good business owners and very community-minded and um, it's good to see them here and concerned and try to um, balance their business interests and not just overrun the uh, interests of the residents and the people around as well, so...

- Mr. Durrett stated that *“about 95% of what you [Ms. Shamp] said I would like to just ditto”*. He added that he believed the two items that needed to be regulated were 1) alcohol - (open containers) and walking up and down the street with alcohol should not be permitted; and 2) noise – after 9:00 p.m. and noise that carries across the street and to keep in mind the Town has a lot of residents. He noted his view that the overlay was good, but to keep in mind there were people who lived and slept in that area.
- Mr. Kakatsch expressed his agreement with Vice Chair Shamp and Mr. Durrett and had concerns regarding enforcement.
- Chair Zuba noted Mr. LaRue had indicated he spoke with the LCSO and questioned the level of enforcement; Mr. LaRue explained his understanding that there were not that many issues now as there had been in the past; staff noted that the manner in which the current ordinance was written was difficult to enforce, and staff explained how they wanted to look at making the enforcement more effective and easier (i.e. regulatory tools).

Discussion ensued regarding the noise ordinance; enforcement, regulatory tools, use of Code Enforcement; and necessary revisions to the current ordinance in order to improve enforceability.

Discussion continued between LPA Members, Mr. LaRue, Town staff, and the Town Attorney regarding the presentation on “Creating an Entertainment District” (Draft September 2013) (“Report”), and the noise and entertainment ordinance:

- Chair Zuba stated he supported not trying to make a difference between long-term and short-term rentals; that open containers should be regulated and not allowed; and there should be a consistency for hours of operation and noise levels. He added that the overlay district was a good concept, but should focus on where there was best pedestrian access.

Chair Zuba explained that the presentation was a draft session and not a decision point, and asked for final comments from the LPA.

Mr. Bodenhafer explained that he mentioned earlier he was in favor of ‘grandfathering’ which was predicated upon the fact that the Town would be “*in an issue or have and issue*” with some businesses; otherwise, if it were possible, he would be in favor of having all the businesses operating the same.

Town Attorney Miller noted accommodations were needed for existing businesses.

Discussion was held concerning property rights and hours for music/entertainment.

Mr. LaRue explained that after they reviewed special exceptions the Town already granted he noticed the hours were fairly consistent.

Mr. Durrett discussed how the permitting process needed to be addressed to make it easier; however, if a band requested a permit for an outside event, the Town did need to know about the event.

Recessed at 10:30 a.m. – Reconvened at 10:40 a.m.

Chair Zuba recognized Council Member Andre in the audience.

Council Member Andre recounted his four and a half year experience with a ‘noisy neighbor’. He reported the LCSO would no longer come out with a noise meter on a complaint; and discussed an Appellate Court decision regarding noise ordinances.

Town Attorney Miller reviewed the portion of the State law that was struck down [State v. Catalano] as it pertained to ‘boom boxes’ emanating from vehicles.

Council Member Andre read the following: “*If an ordinance is just trying to regulate music and not other kinds of noise, then likely this ruling will have an impact on it*”.

Town Attorney Miller explained there could not be regulations specific to just music.

Discussion was held concerning enforceability of noise regulations.

Town Attorney Miller reported she would contact the LCSO concerning enforcement.

Discussion ensued regarding noise, types of noise, and enforceability.

B. Outdoor Display Ordinance

Zoning Coordinator Dulmer told of a prior workshop regarding outdoor displays and the discussions on the pertinent sections of the zoning code, proliferation of outdoor displays used and lack of permits, the lack of clarity as to what was permitted and where, and staff's work with a group of retail merchants to determine changes the merchants wanted to occur. She noted that the draft ordinance included the changes suggested; and indicated the group of retail merchants were present.

Community Development Director Fluegel gave an overview of the draft ordinance and how it reflected what staff heard at meetings with retail merchants and the LPA representative. He summarized how outdoor displays would no longer be allowed on patios, but allowed on porches; what was allowed on porches; the types of displays and merchandise allowed; and the definition of an enclosed merchandise area.

Mr. Durrett reported he was asked to represent the LPA and sit in on the meetings with the retail merchants; and mentioned how he felt the ordinance was related more to the Times Square area. He explained his belief there should be one ordinance dealing with this issue for the entire Town.

Community Development Director Fluegel explained that if everyone, including Council, was looking to apply the draft ordinance Island-wide then staff would have to change their approach slightly.

Vice Chair Champ reported she liked the proposed amendments. She explained that she did not want expansion into 'commercial boulevard zoning' which might create an incentive to expand into the residential areas, and that Santini Plaza should be dealt with in its own way. She commented that she liked the definitions.

Public Comment opened.

Joanie Hermanson, business owner, explained the significance of an outside table and 'spinners' to her business in order to attract customers.

Community Development Director Fluegel noted that in the draft ordinance Mr. Hermanson's area would be considered a patio and outdoor displays would not be allowed.

John Richard, business owner, noted Ms. Hermanson's comments; addressed how her building was situated; and suggested if the property owner wanted to improve the building they could construct a porch. He discussed his views on the potential for redevelopment at Helmrick Plaza as it pertained to the proposed amendments. He noted his belief that the proposed resolution should be for the Times Square area.

Robin Thurston, representing 1010 Estero Boulevard, described the history of her business and vendors; and reported she had always been permitted, but beginning in February she had begun to get notices of non-compliance. She stated she attended workshops about outdoor displays; however, she was not a member of the retail merchants' workshop group. She discussed her belief that the proposed draft amendments would hurt the retail businesses; and reported she was asked to tear down her kiosks and shut down the business.

Attorney Grady stated she represented Mitch Krohn of the Teeki Hut and that they did support the revisions to the resolution, and they did believe the change promoted more investment in the downtown area. She requested the draft resolution move forward to Council since it dealt with outdoor display.

Mr. Durrett commented that he felt the other districts would not be talked about for a long time; and that the amendments needed to address all districts.

Attorney Grady suggested that the LPA may want to understand the Council's reaction to at least the Times Square area which might be beneficial to determine changes to other districts.

Discussion ensued regarding changes for other districts and whether or not to address them all at once.

Chair Zuba recognized Council Member Andre in the audience.

Council Member Andre reported Council passed the 90-day extension for all permits because outdoor display permits were due October 1st.

Vice Chair Shamp noted that the proposed amendments were for a very specific section of the LDC (Section 34-678). She suggested the LPA could place on their work schedule next the Code section that related to Santini Plaza.

Zoning Coordinator Dulmer mentioned not to speak of only Times Square and Santini Plaza and that the draft resolution dealt with outdoor displays contained within the Downtown Zoning District. She offered to display photos showing the difference between patio and porch displays.

Community Development Director Fluegel explained why the proposed amendments came to fruition (i.e. during 'season' last year the Town did a major Code sweep of outdoor displays, working with the retail merchants who voiced frustration). He added that the retail merchants group worked very hard and came up with the recommended amendments.

Keri Weeg, Island Sandpaper, mentioned she had a business in Times Square at one point and complimented two existing businesses with outdoor display and hoped they could remain.

Doug Loccisano, owner of a sunglass kiosk in Times Square, requested an extension of a few years for businesses that would not be permitted under the proposed amendments so those businesses could find another location.

Public Comment closed.

Discussion continued between LPA Members, Town staff, and the Town Attorney regarding the draft resolution amending the outdoor display regulations in the Land Development Code; current cost of outdoor display permits (\$200); permitted merchandise and types of outdoor displays on Page 6 should reflect subsection (f) and not (d); how the LPA needed to decide on what they believed would be best in

Times Square; how attempts should be made to make it easier for small businesses to stay in business; and future workshops with the retail merchants and with the LPA.

Town Attorney Miller noted the business that did not have a fixed indoor location in Times Square was not legal and non-conforming. She added that the Town has not able to find anything that the business was ever legally permitted.

Mr. Durrett recommended that the LPA hold off on this matter until after the stakeholders met again and talked about it further, and to figure out a way to keep everybody in business instead of eliminating businesses.

MOTION: Mr. Durrett moved to table LPA Resolution 2013-014; second by Mr. Kakatsch.

Discussion was held concerning tabling the motion.

VOTE: Motion approved, 6-1; Chair Zuba dissenting.

Mr. Bodenhafer requested to advertise the upcoming stakeholders' workshop so that all of the LPA could attend the meeting if they wished.

Town Attorney Miller reminded the LPA since the matter was tabled that in order to discuss it again they would have to 'remove it from the table' or continue it to a date certain.

MOTION: Ms. Shamp moved to remove LPA Resolution 2013-014 from the table and continue it to the November LPA meeting; second by Mr. Steele.

VOTE: Motion approved, 7-0.

MOTION: Mr. Kakatsch moved to adjourn as the LPA and reconvene as the Historic Preservation Board; second by Mr. Bodenhafer.

VOTE: Motion approved; 7-0.

C. Workshop – Historic Preservation

**Adjourn as LPA and reconvened as Historic Preservation Board
at 11:22 a.m.**

Ms. Shamp reviewed the HPB Ad Hoc Committee Report on Historic Preservation Process, and noted the document was prepared in a manner so it could be moved forward to Council. She reviewed items in the Report as follows:

- Page 34 of the Report as it pertained to recommended revisions to the LDC in relation to historic preservation;

- Use of the terms historically ‘designated’ and ‘significant’;
- Historic Preservation Guides from the State and Lee County, and how information was used from those guides in the Town’s historic preservation regulations;
- Importance of following State preservation requirements in order to obtain a designation for the National Register;
- Page 35 of the Report as it pertained to empowering the Historic Preservation Board to determine the category of historical importance of a historic resource and designate those of the highest importance;
- Page 29 – picture of the plaque used for historic recognition/designation in the Town;
- Work towards preserving structures, cottage-style design, and to create historic districts as noted in the Comp Plan;
- Forms that followed the land development code as it pertained to historic designation;
- CH-1 Historic Designation Category and the creation of additional categories – CHI2, Historic Recognition; CHI3 – Historic Significance; and CHI4 – Historic Interest;
- Establishment of four FMB Historic Districts – FMBHD1, Early Bayside Cottage District; FMBHD2 – Core Historic Village; FMBHD3 – Core Beachfront Cottage District; and FMBHD4 – South Beachfront Cottage District;
- Page 38, Revision to Section 22-75, Historic Districts and Categories of Historic Importance;
- Page 37, Revision to Section 22-74, Powers and Duties;
- Page 36, Historic Resource – changed significant to highly important;
- Page 23, Plaque Agreement;
- Two different applications, articles to inform residents of the program on Page 50, other ways to inform residents of the program on Pages 48-49, and the program brochure;
- Steps used to identify old buildings/structures on the Island;
- Pages 7-10, list of historic properties; properties constructed prior to 1963;
- Page 51, reviewed questions to consider by the HPB.

Discussion ensued concerning questions and those questions listed on Page 51 of the Report prepared by Ms. Shamp:

- Did the LPA like the categories of importance accepting as an overall concept? (Show of hands – 7 ayes)
- Did the LPA like defining the historic districts as an overall concept? (Show of hands – 7 ayes)
- What fee should be charged to the property owner for the CHI determination process and plaque? (Show of hands – 7 ayes; but keep the fee as low as possible)
- How should plaques be presented? At HPB meetings? (Show of hands – 7 ayes)
- Should there be a prescribed location for plaques on structures? Should they be visible from the street? (Visible to the street if possible, notable from the street – ground mounted)

Ms. Shamp explained how the HPB needed to finalize the information and prepare it for introduction and a public hearing. She distributed information regarding how to designate a historic district (i.e. identify all structures in the district and state whether they may be contributing or non-contributing).

Discussion was held concerning moving forward with the information.

MOTION: Ms. Kakatsch moved to adjourn as Historic Preservation Board and reconvene as the LPA; second by Mr. Steele.

VOTE: Motion approved; 7-0.

Adjourn as Historic Preservation Board and reconvene as the LPA

Adjourn as Historic Preservation Board and reconvene as the LPA – No Action Taken

VI. LPA MEMBER ITEMS AND REPORTS

Town Attorney Miller opened the floor for nominations for LPA Chair.

Mr. Durrett nominated Mr. Zuba.

Town Attorney Miller called for other nominations three times; seeing none, she closed the floor for nominations. She called for a vote for Mr. Zuba as LPA Chair.

VOTE: Approved; 7-0.

Town Attorney Miller opened the floor for nominations for LPA Vice Chair.

Ms. Plummer nominated Ms. Shamp.

Town Attorney Miller called for other nominations three times; seeing none, she closed the floor for nominations. She called for a vote for Ms. Shamp as LPA Vice Chair.

VOTE: Approved; 7-0.

Discussion was held concerning the organization/election that was needed for the Historic Preservation Board.

Ms. Plummer explained she would like to see someone else become interested in serving as Chair of the HPB.

Town Attorney Miller opened the floor for nominations as Chair of the HPB.

Ms. Plummer nominated Ms. Shamp as Chair.

Town Attorney Miller called for other nominations three times; seeing none, she closed the floor for nominations. She called for a vote for Ms. Shamp as HPB Chair.

VOTE: Approved; 7-0.

Town Attorney Miller opened the floor for nominations as Vice Chair of the HPB.

Ms. Shamp nominated Mr. Kakatsch for Vice Chair of the HPB.

Town Attorney Miller called for other nominations three times; seeing none, she closed the floor for nominations. She called for a vote for Mr. Kakatsch as HPB Vice Chair.

VOTE: Approved; 7-0.

Discussion was held concerning HPB representatives to serve on the HAC; Chair Shamp and Vice Chair Kakatsch and Mr. Bodenhafer and Mr. Durrett would represent the HPB on the HAC.

VOTE: Approved; 7-0.

Vice Chair Shamp – no report.

Mr. Durrett – noted there had been concern with things that happen in Times Square for noise; and questioned what would happen if events were held on the beach in Times Square instead.

Zoning Coordinator Dulmer pointed out there would be more DEP permitting issues at the very least.

Discussion ensued regarding what could happen and potential obstacles if events were conducted on the beach.

Mr. Kakatsch – discussed the Art Walk in downtown Fort Myers and the Davis Art Center as the focal point.

Mr. Bodenhafer – suggested utilizing Crescent Beach Park for an ‘art walk-type’ of event.

Mr. Steele – no report.

Ms. Plummer – recounted her experience at the Aloha Festival in Hawaii; and the former ‘music in the park event’ in Times Square.

Chair Zuba – questioned the status of the CRA, Seafarer’s property, and Estero Boulevard.

Community Development Director Fluegel reported the Town’s consultant on the CRA had a change in the Project Manager, and they planned to come before Council with a presentation in November.

Town Attorney Miller reported she spoke with the Town’s consultant and a representative from the State’s Special District Reporting about the Fort Myers Beach CRA. She explained the State’s Special District Reporting representative felt he did not have sufficient documentation to show the CRA was properly established. She reported she had documentation for the original creation of Estero Island CRA

by Lee County, and a resolution by the Council after the Town's incorporation stating that the Council did not consent to the County disbanding the CRA. She added that there was no evidence that the County took any formal action. She explained her opinion that there was sufficient evidence that the CRA existed and that she informed the State's Special District Reporting representative that she would prepare an ordinance for the Town Council to adopt which would reaffirm that the CRA does exist. She added that she was working to have the proposed ordinance ready for introduction at the next Council meeting.

Ms. Plummer – reported that she received a call from the Sea Gypsy business that stated their flood insurance went from \$2,500 per year to \$51,000; that the owner of the Sea Gypsy called the legislator who wrote the NFIP bill about the increase and the legislator informed the Sea Gypsy that she didn't mean for that to happen. She discussed foreseeable problems with the flood insurance rates for the Island both commercial and residential.

Town Attorney Miller reported that Representative Radel introduced a bill last week to request a delay of one year for the implementation of the increased FEMA flood insurance rates until it could be studied.

Ms. Plummer – reported she received many phone calls regarding how a pool/structure got permitted on Palermo Circle.

Community Development Director Fluegel reported there was no height restriction in the code for a pool.

Ms. Plummer – asked why there was no variance issued for the pool/structure; and questioned the status of a stop work order for the subject property.

Community Development Director Fluegel addressed two issues:

1. As the email the LPA received related to correspondence from a former Town employee, he responded at the Town Manager's direction to the Mayor and Council, and suggested the LPA did not want to go forward with the matter of a former employee.
2. Staff was concerned regarding elevated pools; worked with the Town Attorney on the matter; saw no height restriction that applied to pools, so the contractor came in and built the pool in accordance with the plans and in accordance with what was in the Code. In the abundance of caution staff was concerned and went to Council, and they were directed to investigate it further and to prepare language to amend the Code.

Town Attorney Miller read from the Code Section 34-1173(b) regarding an accessory building or structure that can be erected as part of the principal building or may be connected to it by roofed porch or patio, breezeway or similar structure, or they may be completely detached. She noted that when it was detached then it required a 5' setback and no variance.

Community Development Director Fluegel indicated when the subject property owner had built the pool/structure he had attached it and now he would have to 'cut it'.

Town Attorney Miller explained the pool was an accessory structure that required a 5' setback. She noted the Code needed to be changed if the Council wanted a different setback.

Ms. Plummer – explained that she has served for two years on the LPA and it was her belief that the LPA had not heard one variance.

Discussion was held concerning variances that the LPA did hear during the past two years.

VII. LPA ATTORNEY ITEMS

LPA Attorney Miller – no items or report.

VIII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Community Development Director Fluegel mentioned that staff had not installed any of the historic designation signs.

Mr. Kakatsch asked if the Town had someone in charge of culverts/drainage.

Community Development Director Fluegel responded it was Public Works.

Mr. Kakatsch noted that help was needed for properties on Dakota and Oak Ridge Avenues as it pertained to drainage issues.

Community Development Director Fluegel reported staff was in the process of initiating a dialog with a consultant to look into creating some incentives for elevation in the Comp Plan and Land Development Code.

Mr. Kakatsch questioned the status of Estero Boulevard improvements.

Town Attorney Miller expressed her belief that the County was hoping to start construction by the Fall of 2014.

IX. LPA ACTION ITEM LIST REVIEW

No discussion.

X. ITEMS FOR NEXT MONTH'S AGENDA

No discussion.

XI. PUBLIC COMMENT

None.

XII. ADJOURNMENT

MOTION: Motion by Mr. Kakatsch, seconded by Ms. Shamp to adjourn.

VOTE: Motion approved, 7-0.

Meeting adjourned at 12:31 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Signature

End of document.

DRAFT