

MINUTES
FORT MYERS BEACH
Local Planning Agency

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, FL 33931

Tuesday, September 14, 2010

I. CALL TO ORDER

Meeting was called to order at 9:00 AM by Joanne Shamp. Other members present:

Joe Kosinski
Rochelle Kay
John Kakatsch
Carleton Ryffel
Bill Van Duzer
Chuck Moorefield

LPA Attorney Marilyn Miller

Staff present: Terry Stewart, Town Manager; Melissa Zone, Zoning Manager

II. PLEDGE OF ALLEGIANCE and INVOCATION

Rochelle Kay

III. MINUTES

A. Minutes of August 24, 2010

Motion: Mr. Van Duzer moved to accept the minutes, as recorded.

Seconded by Ms. Kay;

Mr. Ryffel wished to “change the wording” for some items; so noted and recorded.

Vote: Motion passed 7-0.

IV. ADMINISTRATIVE AGENDA

A. Adoption of Resolution 2010-09 CIP FY 2011

Motion: Mr. Ryffel moved for approval.

Seconded by Mr. Kosinski;

Ms. Shamp said that this is supported in the Comp Plan and the CIP element was amended by Ordinance 09-03, and is reflective of the CIP before the board. Mr. Ryffel asked what will happen if the beach renourishment budget comes in higher than anticipated. Mr. Stewart stated that the Town’s contribution is limited by the Inter-local Agreement but that there is some funding set aside

for this possibility, so it would be determined by Council.

Motion: Mr. Ryffel amended his motion to approve with noted changes.

Second amended by Mr. Kosinski. No public comment.

Vote: Motion passed 7-0.

B. Status Report of Community Development Applications

Mr. Stewart introduced Melissa Zone who is the new Zoning Manager.

Ms. Zone addressed the meeting with a status report on up-coming land use cases. The members had copies of her list to review.

Mr. Ryffel referred to the list (specifically “the Richard case”) and said the Town needs to keep a closer watch out for letters and comments from the public regarding public hearings. Ms. Zone said she will include any correspondence received from the public in the packet of information to the members. Mr. Stewart added that they will also include a report about the number of comments and whether they were pro or con the issue. The possibility of continuance was discussed and Ms. Miller referred to Section 34-235 of the LDC and said that there are two ways to not holding this hearing, a deferral (before it is advertised) and then a continuance (once it’s been advertised). She said that the applicant would need to “show good cause” and then it is a discretionary situation. Discussion ensued about the status of this hearing.

Ms. Zone noted in the record for Special Exception and Variance for 343 Old San Carlos Blvd. and 940 3rd St., that the continuance was requested at the LPA hearing in Aug. of 2009, to be heard in January 2010. Two days before the LPA hearing, another continuance was requested to Oct. 12, 2010, which was approved by the LPA. Mr. Stewart cautioned that the LPA must be sure that the procedurally this item needs to be scheduled first on the agenda. It was suggested that the applicant be asked to submit their request for continuance in writing. More discussion ensued.

V. ADJOURN AS LPA AND RECONVENE AS THE HPB

Motion: Mr. Kakatsch moved to adjourn as LPA and Reconvene as HPB.

Seconded by Mr. Van Duzer;

Vote: Motion passed 7-0.

Ms. Kay said there was nothing new to report other than some moving forward with the vistas signs. Mr. Stewart commented that Council did be sure to include the money in the budget for signs.

Motion: Mr. Van Duzer moved to adjourn as HPB and reconvene as the LPA.

Seconded by Mr. Ryffel;

Vote: Motion passed 7-0.

VI. ADJOURN AS HPB AND RECONVENE AS THE LPA

Meeting was called to order at 9:53 AM with all members still present.

VII. LPA MEMBER ITEMS AND REPORTS

Ms. Kay asked Mr. Stewart to clarify a few comments that were brought up earlier, one being about a meeting between him and a resident regarding a rezoning issue on Santos. Mr. Stewart stated that it was about a “strange” incident wherein a resolution was approved by Council, but it seemed to be contingent upon the approval of the attorney for the applicant. He said there was no record of the attorney getting back to them so this is being investigated to be sure it was followed through or if it needs further action.

Ms. Kay reported about a “walk-ability” event she attended in Naples and said it was a learning experience and she shared some of the ideas with the board for possible future consideration for the Town.

Mr. Van Duzer asked if there was any progress with hiring a new Director of Community Development and Mr. Stewart replied that there are 6 possible candidates, and dates are being set for interviews.

Mr. Kakatsch commended Mr. Stewart for his diligence with the progress of the north end work (curbing, etc.). He also asked about the status of getting an appraisal for purchasing the municipal building. Mr. Stewart said that the appraisal was done and the owners were approached but have declined, adding that the building is not for sale. Mr. Kakatsch asked where the Seafarer’s project is currently and Mr. Stewart said the property has still not closed. Mr. Kakatsch asked if Mr. Stewart manages the library and had a few questions about their taxing rate, etc., which Mr. Stewart answered. He advised that the council has planned a “tax day” on September 21, when other local taxing agencies will have representatives participate to discuss their roles and districts.

Ms. Shamp reminded the members who are close to the end of their terms to submit their letters and be sure to attend the October 4th Council meeting. In addition, she commented about the Seafarer’s project and encouraged the LPA to read the vision in the Comp Plan and the “palm-lined street” referred to in the Plan. Ms. Shamp questioned whether the owner of that property would come through the regular LDC process, wondering if the Comp Plan precedes a county or any other plan. Mr. Stewart said that if the county would plan anything different for the property other than what is currently on the site, they would need to deal with the CPD in place for the site. This would require an amendment for the CPD and it would come before the Town and its process for action, including before the LPA. Ms. Miller agreed, referring to the sections in the Plan.

Ms. Kay asked about an Amendment 4 coming up in the next election and asked if this needs to go to Tallahassee. Mr. Stewart advised that this is an item that the LPA needs to discuss and he opines that the passing of this Amendment will “cripple” the state of Florida. He said it will increase the cost of local government in ways that cannot be imagined, including eliminating the need for an LPA since the only way things will pass would be through referendum. He said that all changes would require referendum. Mr. Ryffel added that it is “zoning by referendum” and he feels it is unconstitutional. There

was much discussion about this amendment and presenting an LPA opinion to Council. There was a consensus for the LPA to review the background information of this issue and adding it to the agenda. Mr. Ryffel will put the package together for the attorney.

Ms. Shamp said commented about beach funds and does not support it being for other projects, no matter what the economy is like, because it hurts the beach in general. Mr. Stewart said he does not think the Council will drain the whole account and staff is currently working on some of the beach renourishment problems.

Mr. Ryffel said that the answer to the problem is to do what was done sixty years ago and put in "multiple groins." There was some discussion about this.

Mr. Ryffel suggested that the county commissioners consider purchasing Bigelow Plaza and asked if Mr. Stewart has any insight into this possibility. Mr. Stewart gave a brief update as to how this was handled by the county and the current situation, but ended that it is not likely that the county will purchase this property. Discussion ensued.

VIII. LPA ATTORNEY ITEMS

Ms. Miller had nothing to report.

IX. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Mr. Stewart brought the LPA's attention to Resolution 2009-24, passed on 11/10/09, regarding the amendments involving alcohol consumption, etc. He pointed out that this has not gone to Council yet and needs to be put on their agenda, hopefully in October.

Ms. Shamp agreed and it will be added to the agenda.

X. PUBLIC COMMENT

No comment.

XI. LPA ACTION LIST REVIEW

- Resolution 2009-24 COP expansion on the beach; TBD-Shamp
- Resolution 2010-04 Amendments to Parking Regulations-2nd hearing-9/20; Kay
- Resolution 2010-09 CIP; Council Meeting 9/20-Shamp

Future Work Activities

- Shipwreck-10/12
- ROW Residential Connection; Van Duzer
- October 4th work session-LDC 613-14 10-25 Storm Water
- Sign ordinance-Ms. Miller; TBD
- Amendment 4 review; Oct. 12-Ryffel
- Post-disaster reconstruction/recovery-TBD; Ms. Miller

XII. ADJOURNMENT

Motion: Mr. Van Duzer moved to adjourn.

Seconded by Mr. Kakatsch;

Vote: Motion passes 7-0.

Meeting adjourned at 11:00 AM.

Adopted _____ with/without changes. Motion by _____
(DATE)

Vote: _____ Signature: _____

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