

MINUTES
FORT MYERS BEACH
Local Planning Agency Meeting

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

Tuesday, February 9, 2010

I. CALL TO ORDER

Meeting was called to order at 9:06 AM by Chairperson Joanne Shamp. All members were present:

Rochelle Kay
Alan Mandel
Carleton Ryffel
Charles Moorefield
Bill Van Duzer – excused absent

Staff present: LPA Attorney Anne Dalton; Community Development Director Dr. Frank Shockey.

II. PLEDGE OF ALLEGIANCE

III. INVOCATION-Ms. Kay

IV. MINUTES

A. Minutes of January 12, 2010

Motion: Mr. Ryffel moved to accept the minutes.

Seconded by Mr. Mandel;

Vote: Motion passes 5-0.

V. PUBLIC HEARINGS

A. Ordinance 09-09 Amending LDC Sec. 6-11, 34-1744 and 34-1745 (Refuse container lids and screening)—Resolution 2010-01

Ms. Shamp called for the Affidavit of Publication and Dr. Shockey confirmed that it was published in advance of the initial date of the hearing, Dec. 15, 2009 which was then continued to a time and date certain at that meeting. Ms. Dalton read the caption, for the record: Resolution of the LPA of the Town of Fort Myers Beach, Florida, resolution #2010-01, recommending an ordinance that if adopted would amend the LDC with regard to regulating screening and coverage of refuse containers within the Town of Ft. Myers Beach, and is captioned as follows: *“An ordinance amending regulations in Chapter 6 and 34 of the Town of Ft. Myers Beach LDC, providing authority, adopting amendments to Article 1, Property Maintenance Code*

of Chapter 6, which is entitled 'Maintenance Codes, Building Codes and Coastal Regulations,' adopting amendments to Division 17, entitled 'Fences, Walls and Entrance Gates,' of Article 4, entitled 'Supplemental Regulations' of Chapter 34 'Zoning Districts, Design Standards and Non-conformities,' providing for severability and providing for an effective date."

Ms. Shamp called for public comment; there was no public comment.

Ms. Dalton pointed out that a member of the ad hoc committee responsible for recommending the issues to be addressed in the ordinance is present at the meeting.

Ms. Shamp called for LPA discussion. Ms. Kay asked about the part of the rule allowing the use of vegetation to surround the containers and asked if just installing bushes would be sufficient here. Dr. Shockey explained that that the language was slightly revised and now provides that "any refuse containers that are not moveable shall be opaquely screened from view from streets and adjoining properties." In addition, the change would add to that phrase, "up to the full height of any such container above the adjacent grades." This should make it clear that bushes or shrubs need to be big enough to screen the whole container. Ms. Dalton suggested changing the "up to" to "at", which might reduce any ambiguity in the height requirements.

Mr. Ryffel opined that the proposal was not ready. He pointed out that Part B, the fifth line says "screening may also be achieved by..." and he said it is not clear as to when the screening would need to be complete if vegetation was used or if smaller plants could be planted with the expectation that they would eventually grow big enough. He also felt that the word opaque is not enough, as it doesn't state 100% opaque. In addition, he questioned the density of the plantings and asked if the plantings need to be the required height at the time of installation or at maturity. Mr. Ryffel asked the members to allow him to ask Lee Melsek, present in the audience, a question since he was on the ad hoc committee that recommended these issues be addressed. All agreed and Mr. Ryffel asked Mr. Melsek if he agreed with his opinion. Mr. Melsek stated that he would trust Dr. Shockey's expertise on this and commented that he felt that the proposed language is clear. There was discussion about the wording. Mr. Melsek stated that the committee's intention in suggesting this change was just to clear up the issue with the limit to the height of fences. He said that the existing ordinances didn't allow for high enough fences to shield dumpsters in the front yard. He said that if the fence law did not allow the fences to go up that high, the amendment needs to be made: the point of the change is to allow those who are violating the ordinance now because they have dumpsters in the front yard to increase the height of their fences and comply with this shielding requirement.

Ms. Shamp asked if the LPA had any other questions for Mr. Melsek while he was up at the podium. Mr. Moorefield asked if there are any photos of the problem areas. Mr. Melsek stated that he did have some since he had taken photos for a newsletter report he did for the Tidelines publication, and that he could locate and present them if that were desired. He mentioned one spot as an example, under the bridge near the Town's public parking lot, where the dumpster is often overflowing and very obvious.

He said he had seen about 58 sites, which he had photographed, not screened in compliance with the code for this issue. He also opined that the Town code is pretty clear inasmuch as it simply states that the dumpsters must be shielded from the public view from streets and adjoining properties. Discussion ensued about the number noncompliant sites and the availability of the photographs.

Mr. Moorefield would like to see some photos of the noncompliant sites and asked if dumpsters were actually so large as to be unscreened. Dr. Shockey referred to the packet of information where there were some diagrams of the sizes of dumpsters, and said he could attempt to get some photos for the LPA to view if they desired. He pointed out that among the types of dumpsters available from the solid waste removal company, no type was shorter than the current height limit for fences in front yards (3 ½ feet), but only one type was taller than the proposed change would allow for fences (6 feet).

Mr. Mandel stated that he is basically in favor but asked Dr. Shockey for some clarification about the language. First, in Section 1 it states that refuse containers will be opaquely screened up to the full height but then, on the next page under “front yards,” it says “not to exceed 42” except as provided in...” and gives a section number. Under “D” it says fences and or walls erected for the sole purpose of providing screening..., may exceed 42” in height, but shall not exceed 6 ft. in height.” Dr. Shockey replied that the screening requirement, which is in a property maintenance section of the code, applies generally to nonmovable refuse containers; then, the other section Mr. Mandel is quoting is under “Limitations on height and location of fences,” so this proposed change would create an exception to the limit of the height of the fence to allow it to be taller if it is for screening a dumpster that is in the front yard.

Ms. Shamp said she approves of the simple wording, noting that it “gets to the point” perfectly and that the wording is clear. In section “B” Ms. Kay’s point about “up to the full height” and Ms. Dalton’s suggestion of, perhaps, “at the full height” are well taken and to be considered for clarity. She opined that the proposal is complete and ready for moving forward.

Motion: Mr. Ryffel moved to approve the resolution, as follows:

Therefore be it resolved that the LPA recommends that the Town Council of the Town of Ft. Myers Beach approve: under #1, ‘with regard to the LDC Sec. 611 LPA, the LPA recommends that the deletions be made;’ under #2, ‘with regard to LDC Sec. 34-1744, the LPA recommends that the following underlined language be added to the Sec. 34-01744c1;’ under #3, ‘with regard to LDC Sec. 34-1745, the LPA recommends the following modification: (as worded in the draft resolution).’

Discussion here as to the wording “up to the full height” or “at the full height” and the consensus of the members preferred “at the full height.” Mr. Ryffel agreed to amend his motion to reflect the change.

Seconded by Mr. Mandel;

Vote: Motion passed 4-1, with Mr. Moorefield opposing (Mr. Van Duzer still absent).

Hearing closed.

VI. ADJOURN- LPA, RECONVENE AS HPB

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

Seconded by Mr. Mandel;

Vote: Motion passes 5-0.

Ms. Kay called the HPB meeting to order at 9:35AM and advised that the program to put up the first 3 plaques on Jan. 19, 2010 went very well, however only one actually got hung so far. Some plaques need to be reordered due to misprinted wording and discrepancies in the dates.

VII. HPB MEMBER ITEMS OR REPORTS

A. Discussion of the 2010 budget

Ms. Kay said that the report is still not ready yet. Dr. Shockey said that one of the members had been preparing some documentation for discussion and presentation to the LPA, and that if this were transmitted to him he could make it available to all for discussion at the next meeting.

Ms. Kay said she has been unable to connect with Ms. Schober so she doesn't know if she has gotten anywhere with grants Ms. Schober had suggested might be available to fund some of the HPB's initiatives.

Ms. Shamp said she has a copy of what was originally prepared for the budget and she would get it to Dr. Shockey.

Ms. Kay was also unsure as to the date of the next HAC meeting. Dr. Shockey volunteered to schedule the meeting and notify everyone. The date for the next HAC meeting will be set tentatively at the March HPB meeting.

Motion: Ms. Shamp moved to adjourn the HPB and reconvene as the LPA.

Seconded by Mr. Ryffel;

Vote: Motion passes 5-0.

Meeting adjourned at 9:40 AM.

VIII. ADJOURN AS HPB- RECONVENE AS LPA

Ms. Shamp reconvened the LPA at 9:42 AM, all five members still present.

IX. LPA MEMBER ITEMS AND REPORTS

Mr. Moorefield – nothing to report.

Mr. Mandel – nothing to report.

Mr. Ryffel – nothing to report.

Ms. Kay – nothing to report.

Ms. Shamp – reported that someone gave her photos of the newspaper boxes that sit in the right-of-way and she distributed them for the members to consider when this issue comes up. She asked if there are standards in the LDC regarding this and Dr.

Shockey responded that there was some portion of the LDC that addresses this but was not immediately familiar with what limitations there may be. He will research this in the meantime. Ms. Shamp also welcomed the new Town manager and looks forward to the LPA working closely with him.

Mr. Van Duzer – absent.

X. LPA ATTORNEY ITEMS

Nothing to report.

XI. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Dr. Shockey reported that the Town has now hired a new Town Manager and said that one of the things he is becoming acquainted with is relationships with Town consultants so this may slow the process of items in the Action List that had been referred to consultants by prior Town Managers.

XII. LPA ACTION ITEMS

Resolutions to Town Council:

- Animal Control-long term – Ms. Kay: Town Council Hearing, February 16, 2010 at 6:30 PM
- Gulfview/ Vacation, continuation- Dr. Shockey reported that the Council passed the vacation ordinance so now these can be moved forward. He said the vacation petition is now required to be heard by the LPA under the vacation ordinance, and should be in the next few months; TBD
- Pink Shell- Ms. Shamp reported that this is now complete, though it went to the Town Council as a much smaller request than it was initially. Most noteworthy was the trash compactor item to be put in the center of the Bayside property instead of near the property lines of neighbors.
- Alcoholic beverages-COP expansion on the beach-presentation to Council – Feb. 16; Ms. Kay
- LPA membership – March 1 meeting; Ms. Shamp
- Resolution 2010-01 – March 1 meeting; Ms. Shamp

Continued LPA hearings:

- Shipwreck – continued to Oct. 12, 2010

Future Work Activities:

- Present ROW resolution to Council-TBD
- Storm Water-still pending; Dr. Shockey/Kay/Van Duzer-TBD
- HPB budget-March meeting; Ms. Kay
- Next meeting will be moved to March 23 at 9:00 AM.

XIII. PUBLIC COMMENT

None.

XIV. ADJOURNMENT

Motion: Mr. Mandel moved to adjourn.

Seconded by Ms. Kay;
Vote: Motion passes 5-0.

Adjourned at 10:02 AM.

Next meeting March 23, 2010 at 9:00 AM

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

Vote: _____
Joanne Shamp, LPA Chair

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