

MINUTES
FORT MYERS BEACH
Local Planning Agency

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

Tuesday, March 8, 2011

I. CALL TO ORDER

Meeting was called to order at 9:03 AM by Chairperson Joanne Shamp. Other members present:

Bill Van Duzer
Joe Kosinski-late
John Kakatsch
Hank Zuba
Rochelle Kay
Carleton Ryffel

LPA Attorney Marilyn Miller

Staff present: Community Development Director Walter Fluegel, Tina Ekblad, Planning Coordinator; and Keith Laakkonen, Environmental Coordinator

II. PLEDGE OF ALLEGIANCE and INVOCATION

Ms. Kay

III. MINUTES

A. Minutes of February 8, 2011

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

Seconded by Ms. Kay;

A few name spelling corrections were noted.

Vote: Motion passed 6-0.

IV. PUBLIC HEARING

Ms. Shamp opened the hearing for Ordinance 11-02 Flood Management, acknowledging the Affidavit of Publication of Legal Advertisement and asking Ms. Miller to read the caption: *“An ordinance of the Town of Fort Myers Beach amending the floodplain regulations and references to the Federal Flood Insurance Study and Flood Insurance Rate Maps in the LDC, adopting amendments to Article 4, Floodplain Regulations of Chapter 6 of the LDC, titled ‘Maintenance Codes, Building Codes and Coastal Regulations,’ and which provides article 4 Floodplain Regulations, Division 1, providing authority, providing for conflicts, severability and establishing an effective date.”*

Ms. Ekblad referred to information she had forwarded to each member regarding a visit

from Florida Division of Emergency Management and the results of that visit. This ordinance addresses some of the federal regulations missing from the Town ordinance and helps to clarify certain other parts.

There were a few questions regarding clarification of wording and identification of personnel involved with brief discussion.

Ms. Shamp asked for public comment; there were no comments. Ms. Shamp welcomed further discussion and comments.

Motion: Mr. Ryffel moved to approve the ordinance.

Seconded by Mr. Kakatsch;

Vote: Motion passed 6-0.

Hearing closed at 9:18 AM.

V. ADMINISTRATIVE AGENDA

A. EAR Presentation

Ms. Ekblad offered a PowerPoint presentation about the EAR (Evaluation and Appraisal Report) and said it is the foundation to revise the Comprehensive Plan, required by the Department of Community Affairs every seven years. She said it is also required that the Town have “Scoping” meetings, which are used to determine the scope of review for the report, and must be completed a year prior to the adoption date. Adoption date for the Town is April 2012 and, she said, the LPA is required to hold at least one public hearing prior to making recommendations to Council. Ms. Ekblad continued with the presentation and pointed out items in the handouts.

Mr. Fluegel asked that the LPA review and offer their opinions and views about this ordinance. He added that they need to do a series of public workshops and asked for their help in reaching many different stakeholders for their input.

Ms. Shamp asked how definite is the “due by” date and Ms. Ekblad explained that she has constant communication with the DCA and, as long as they are working on this plan, the time limit has some flexibility. Ms. Shamp said that perhaps the HAC and the HAB could look at the historic preservation element of the Comp Plan and Mr. Fluegel agreed. Mr. Ryffel asked if the scope can be changed once they’ve had the scoping meetings. Mr. Fluegel said that it should be an ongoing communication.

Ms. Shamp asked for an explanation of the scoping meeting process since their first meeting is scheduled for April. Ms. Ekblad said she will bring the main discussion points to the LPA before the meeting so they have the time to prepare their comments, but they need to bring other issues regarding this to the meetings to add to the discussion. Mr. Fluegel added that there will likely be surveys distributed and hopefully an informational section on the website for input from the public. He added that there is a possibility that LPA members can be invited to join staff at their meetings and workshops with stakeholders and Ms. Shamp was in agreement with

this.

B. Parasailing Ordinance

Ms. Shamp noted that this is not a hearing but just an introduction of the ordinance that will go to hearing in the future.

Ms. Miller advised the LPA that this came up in the fall when a vendor at Seafarer's had to move because of the pending sale of the property. It was discovered then that there is some ambiguity in the wording of Sec. 27-55. She said that Council then interpreted the original meaning of "non-conforming parasail" and decided that any existing parasail business (conforming or not), could move their license to a new conforming location as their intent was not to put an existing business out of business by not allowing the transfer of license. Ms. Miller yielded to Mr. Laakkonen to give further explanation. He said that originally there was intent to cap the licenses at a certain number and this system has worked well for the Town for several years but the wording is confusing as it stands. There is a reference to Sec. 27-54e, which does not exist, so this will be removed from the ordinance but otherwise, he insisted, nothing else changes in the ordinance. There was discussion about the cap number of licenses and conforming locations, which was explained to be any location not within 500 ft. of another parasail vendor.

Public Comment:

Dory Smith, owner Paradise Parasail, Inc., read her statement regarding specific areas of the Sec. 27-55, availability of the parasail licenses (see statement) to the board. Basically she is concerned about the effect that the revision of the ordinance would have on the number of licenses issued, especially in terms of "co-location" of parasailing and personal watercraft businesses.

Ms. Shamp asked the attorney if the proposed revisions address Ms. Smith's concerns and asked if the subject of "co-location" is being dealt with fairly. Mr. Laakkonen said that there is nothing that would need to be revised to "encourage the spirit of co-location" which is a "good thing." Ms. Miller said there will be a review of the language to be sure that they clarify to encourage this and Ms. Shamp confirmed a consensus of the members in agreement with this.

VI. ADJOURN AS LPA AND RECONVENE AS THE HPB

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

Seconded by Mr. Kakatsch;

Vote: Motion passed 7-0.

Meeting commenced at 10:00 AM and Ms. Kay stated that the presentation of the historic cottage plaque went well, lasting about 20 minutes, and they now have a regular program for addressing these.

The HAC met on Feb. 15 and it was mostly covered the presentation program to be able to follow in future presentations. The next one will be the Pink Shell, with the

Mound House possibly after that. The vista signage project will be addressed and Ms. Ekblad will research grants for this project. She said the next meeting is March 22.

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

Seconded by Mr. Zuba;

Vote: Motion passed 7-0.

VII. ADJOURN AS HPB AND RECONVENE AS THE LPA

Meeting was reconvened at 10:08 AM, with the same members still present.

VIII. LPA MEMBER ITEMS AND REPORTS

Ms. Shamp and Mr. Van Duzer wished Mr. Kosinski luck in the election and thanked him for his service to the LPA.

Ms. Kay asked when the rental item will come before them and Ms. Miller said they are meeting about it today. She also asked about the signs at the Lani Kai and the Holiday Inn. Mr. Fluegel said the Holiday Inn came in with a permit which the Town denied since it didn't meet the criteria for the landmark designation but they are in talks about what is permitted and what is not.

Mr. Zuba asked Mr. Fluegel for the analysis of the Nature Conservancy report on water quality in Estero Bay that he asked for last month, especially since Mr. Laakkonen is present; Mr. Fluegel apologized and said he forgot but "will get that for you." He also asked about rental units and if the proposal will include inspections, as well as why this issue would come to the LPA. Mr. Fluegel explained the LDC involvement and the Chapter 34 items which come to the LPA. Mr. Zuba feels that this is important and should come before the LPA. Mr. Fluegel pointed out that the LDC is specific about things that come to the LPA and what authority they would have in this area.

Mr. Kakatsch commended the Town for the "great job on the north end" and he encouraged them to continue that work to the south end. He asked about the status of some buildings across from the Newton Park saying that they are unoccupied and have been in terrible shape for quite some time. He wondered what they can do to address this as there are homeless people sleeping around there and it is unattractive as well as unhealthy to the beach. He also commented about the lack of bike paths and the fact that this is a safety concern too.

Mr. Fluegel said that he will try to deal with these properties through code enforcement and Ms. Miller will also check into this. He also talked about the situation with the bike paths and sidewalks and said that he has begun checking into school grants and funding for some of this. Discussion ensued about this and possible funding avenues.

Mr. Van Duzer said that there are no pedestrian sidewalks on the beach as they were actually put in as bike paths years ago.

Ms. Shamp commented on what Mr. Zuba brought up earlier and say that the role of the LPA is to be supportive and assist the Council, providing an additional review for LDC

regulations, ordinances, etc. to be sure they are fully vetted and feels that the rental unit issue should be reviewed by the LPA, especially as stated in LDC Sec. 34-121.1 wherein it states “prepare recommendations for changes to boundaries of various zoning districts or the regulations applicable thereto.” She feels that the rental issue is certainly one that is a regulation within specific zoning districts where short term rentals are allowed and an attempt to skirt the LPA by researching whether an ordinance needs to be heard by them diminishes the intent of their function.

IX. LPA ATTORNEY ITEMS

Ms. Miller had nothing to report.

X. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Mr. Fluegel responded to Ms. Shamp and said “in no way, shape or form is staff trying to skirt the LPA” as they are required to follow the code and are directed by Council. He added that he must follow the advice of the attorney and if something is supposed to be reviewed by the LPA, it will be brought to them.

XI. PUBLIC COMMENT

Mr. Melsick commented about Seafarer’s and said it is “the island’s biggest slum” and it needs to be torn down. He said that the LPA should demand that the county remove its slum at the beach and he has no knowledge of any negotiations for the sale of the property by the county.

He asked that the LPA insist that the county to “retake its right-of ways” along Estero Blvd. and maintain them since the Town needs the property to progress on any of its projects.

XII. LPA ACTION LIST REVIEW

Resolutions to Town Council

- Special exceptions-Surf Club and Mermaid Lounge-Van Duzer/Kay
- Shipwreck-Continued at LPA request-May 10, 2011
- Sign ordinance-goes to Council on April 18; Kay/Kakatsch
- 216 Connecticut-April 4; Kay/Kakatsch
- Flood plane-April 4; Kay/Kakatsch
- Parasail, jet ski ordinances-April meeting

Future Work Activities

- ROW Residential Connection; Van Duzer-TBD
Ms. Shamp explained that this has been dragging on for a long time and going back and forth and believes that the ROW maps should be updated by now. She said this was a top priority before. Mr. Fluegel said was not aware of the new maps but said that he will check into this. Mr. Ryffel added that this was a very important issue and has gone too long without the attention it needs.
- LDC 613-14 10-255 Storm Water-TBD
- Post-disaster reconstruction/recovery-TBD; Ms. Miller

- IPMC (code enforcement clean-up) possibly April
- COP ordinance

Ms. Shamp reminded the members to continue to read their copies of the LDC.

XIII. ADJOURNMENT

Motion: Mr. Van Duzer moved to adjourn.

Seconded by Ms. Kay;

Vote: Motion passes 7-0.

Meeting adjourned at 11:04 AM.

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

Vote: _____ Signature: _____

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