



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

Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, Florida
Tuesday, March 11, 2014

I. CALL TO ORDER

Meeting was called to order at 9:00 a.m. by Chair Zuba; other members present:

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

LPA Attorney, Derek Rooney
Staff Present: Walter Fluegel, Community Development Director
Josh Overmyer, Planning Coordinator

II. PLEDGE OF ALLEGIANCE

III. INVOCATION

IV. MINUTES

A. Minutes of February 11, 2014

Vice Chair Shamp reported the LPA had not received their meeting packet on time as outlined in their Policy & Procedure Manual and indicated she spoke with staff concerning the matter.

Discussion was held concerning whether or not the Members deemed they had sufficient time to adequately prepare for the meeting since their agenda packets were late.

LPA Attorney Rooney explained that if an LPA Member believed they did not have sufficient time to review the minutes or any other action on the Agenda the appropriate course of action may be to continue the item(s). He noted the Minutes could be continued to the next meeting.

Consensus approved placing the Approval of the Minutes for February 11, 2014 on the April meeting agenda.

PUBLIC HEARING

A. CMP2013-00001 Seagrape Subdivision

Vice Chair Shamp opened the Public Hearing at 9:06 a.m.

Planning Coordinator Overmyer noted the Public Hearing was duly noticed.

Vice Chair Shamp explained, in accordance with LDC Section 34-235(2)(a)(1), the LPA would request a continuation on the basis of two issues. First, the applicant had failed to post signs on the subject property (see Page 3 of the application regarding signage; she questioned if the LDC complied with the application; and she suggested to the LPA they recommend to staff to either remove the wording concerning the signage from the application or place the necessary requirements in the LDC). Secondly, the Future Land Use Map (FLUM) amendments required submittal of mailing labels and it was her understanding that surrounding property owners were not notified of the Public Hearing.

LPA Attorney Rooney explained that the application the Town was using was a 'carryover' application from Lee County; that there were no specific posting or mailing requirement in the Town's Comprehensive Plan (Comp Plan) or Land Development Code (LDC). He noted a statutory requirement that a published notice be placed in the newspaper, which was done for the subject case. He questioned if the LPA wanted to adopt some type of formal notice or posting procedure for neighboring properties.

MOTION: Ms. Plummer moved to approve that any properties that were using this application be required to notice adjoining properties within 500'; second by Mr. Bodenhafer.

Discussion was held concerning the subject application.

VOTE: Motion approved; 6-0 (Chair Zuba was excused).

Discussion continued regarding the timing of the LPA packets and the right of the LPA to request a continuance of a Public Hearing.

MOTION: Mr. Bodenhafer moved to continue CMP2013-00001, Seagrape Subdivision, until next month; second by Ms. Plummer.

Vice Chair Shamp noted that Chair Zuba and she had already requested an excused absence from the April LPA Meeting and there were other extenuating circumstances the LPA might want to consider when deciding on the continuance. She suggested continuing the matter to a date certain of May 13, 2014 when there would be a full membership of the LPA.

AMENDMENT: Motion maker amended the motion to continue CMP2013-00001, Seagrape Subdivision, until May 13, 2014; second agreed.

Planning Coordinator Overmyer questioned if the applicant agreed with the proposed date.

Vice Chair Shamp stated that the LPA fully recognized that the application began in February 2013.

Attorney Matthew Uhle, representing the applicant, explained that the applicant is required to return to Canada for 6 months a year to maintain his Canadian citizenship. Attorney Uhle also said he would be out of the country during the May 13 LPA meeting, and requested the hearing be continued to April.

LPA Attorney Rooney reported the Town would bear the cost of a continuance; and explained that the LPA should ask the Applicant if he wanted the continuance to April or a special meeting.

Vice Chair Shamp explained that the LPA would not be prepared for CMP2013-00001 before the May meeting and was willing to be flexible with the applicant.

Ms. Plummer questioned if Public Comment should be opened at this time.

LPA Attorney Rooney recommended against opening Public Comment in case additional information was available later during the applicant's presentation.

Vice Chair Shamp announced the Public could submit written comment and that they could designate someone to read the statement at the Public Hearing.

Discussion was held concerning a date certain for the continuance.

Attorney Uhle requested explained that his client would be required to fly back from Canada for the June hearing, but accepted June 10, 2014 for the continuance.

Discussion continued regarding a date certain for the continuance.

Mr. Durrett recommended the continuance be a date certain of June 10, 2014.

AMENDMENT: Motion maker amended the motion to continue CMP2013-00001, Seagrape Subdivision, until June 10, 2014 at 9:00 a.m.; second agreed.

VOTE: Motion approved; 6-0 (Chair Zuba was excused).

Vice Chair Shamp closed the Public Hearing at 9:22 a.m.

Mr. Plummer questioned the notification of adjoining property owners to the subject property.

LPA Attorney Rooney reported it was his understanding that the LPA direction was a recommendation to the Town Council that they either change the land development codes to make a notice provision of 500' to neighboring property owners and posting for small-scale amendments; and alternatively, if the Town Council did not add that condition then it would be removed from the application.

Discussion ensued concerning posting the subject property by staff; availability of signage from the Town; whether or not staff had posted properties in the past; and the subject application and the use mailing labels.

Vice Chair Shamp stated it was the intent of the LPA that the public was noticed.

Discussion ensued regarding past small-scale amendments and public notice.

Planning Coordinator Overmyer reported that there was sufficient time before the June meeting that staff would prepare and mail notice to the adjoining property owners within 500' of the subject property.

B. DCI2013-0002 Matanzas Inn CPD Amendment

Vice Chair Shamp opened the Public Hearing at 9:27 a.m.

Planning Coordinator Overmyer noted the Public Hearing was duly noticed.

Discussion was held concerning whether or not the Members deemed they had sufficient time to adequately prepare for the Public Hearing since their agenda packets were late.

LPA Attorney Rooney swore in the witnesses.

MOTION: Mr. Kakatsch moved to continue DCI2013-00002, Matanzas Inn CPD Amendment, until a date certain of June 10, 2014 at 9:00 a.m.

Gerald Murphy, planning consultant from Murphy Planning, representing the applicant, requested a date certain of May 13, 2014.

AMENDMENT: Motion maker amended the motion to a date certain of May 13, 2014; second by Ms. Plummer.

Vice Chair Champ noted there would not be a full membership of the LPA at the May meeting.

AMENDMENT: Motion maker amended the motion to a date certain of June 10, 2014; second agreed.

VOTE: Motion approved; 6-0 (Chair Zuba was excused).

Vice Chair Champ announced the Public could submit written comment and that they could designate someone to read the statement at the Public Hearing.

Public Hearing closed at 9:31 a.m.

C. Ordinance 14-XX – Outdoor Display

Vice Chair Champ opened the Public Hearing at 9:32 a.m.

Planning Coordinator Overmyer noted the Public Hearing was duly noticed.

Discussion was held concerning whether or not the Members deemed they had sufficient time to adequately prepare for the Public Hearing since their agenda packets were late.

MOTION: Ms. Plummer moved to continue Ordinance 14-XX – Outdoor Display, until a date certain of June 10, 2014 at 9:00 a.m.; second by Mr. Durrett.

LPA Attorney Rooney asked if the LPA would have a quorum in April and May; and if not, suggested the meeting(s) should be cancelled now.

Discussion was held.

Community Development Director Fluegel reported staff was prepared to bring forth a setback variance for 30 Gulf Beach Road in April. He added that the LPA was required to have a minimum of eight meetings per year per the code.

VOTE: Motion approved; 6-0 (Chair Zuba was excused).

Public Hearing closed at 9:37 a.m.

i. Workshop Discussion of FEMA 50% Rule

Discussion was held concerning whether or not the Members deemed they had sufficient time to adequately prepare for the discussion since their agenda packets were late; and regarding a date certain to continue the discussion of the FEMA 50% Rule.

Consensus approved continuing the discussion of the FEMA 50% Rule to a date when the members were available for a workshop.

Planning Coordinator Overmyer requested each LPA member email him their calendar through the June meeting so he might coordinate a workshop for discussion of the FEMA 50% Rule.

ii. Discussion/Adoption of LPA Special Meeting Recommendations

Vice Chair Champ reported she had composed the letter to the Interim Town Manager and staff outlining the recommendations from the Special Meeting, and indicated the LPA would continue the discussion/adoption of the LPA Special Meeting Recommendations to a future meeting.

Planning Coordinator Overmyer reported he just received the draft minutes of the Special Meeting.

Vice Chair Champ requested Planning Coordinator Overmyer forward the draft minutes to the LPA; and they could compare the minutes against her draft letter.

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

VOTE: Motion approved; 6-0 (Chair Zuba was excused).

Adjourn as LPA at 9:40 a.m. and Reconvened as Historic Preservation Board

Planning Coordinator Overmyer reported the Chapter 22 amendment would be introduced at the Council Meeting on May 5, 2014 with a tentative adoption date of May 19, 2014.

MOTION: Mr. Kakatsch moved to adjourn as the HPA and reconvene as the LPA; second by Ms. Plummer.

VOTE: Motion approved; 6-0 (Chair Zuba was excused).

Adjourn as Historic Preservation Board at 9:43 a.m. and Reconvened as the LPA

V. LPA MEMBER ITEMS AND REPORTS

Ms. Plummer – reminded everyone to vote today.

Mr. Bodenhafer – no items or reports.

Mr. Kakatsch – urged staff and Town Council to avoid a lawsuit in the future on the “Palermo situation”.

Mr. Steele – described his displeasure with the inability to hear the scheduled Public Hearings today due to not receiving the meeting information on time.

Vice Chair Shamp – described her displeasure with the inability to hear the scheduled Public Hearings today due to not receiving the meeting information on time.

Mr. Durrett – described his displeasure with the inability to hear the scheduled Public Hearings today due to not receiving the meeting information on time.

Chair Zuba – was excused.

VI. LPA ATTORNEY ITEMS

LPA Attorney Rooney – reported he conferred with Community Development Director Fluegel regarding the posting notice and was made aware the Town did not post property for variances, special exceptions, and rezonings; therefore, the Town did not have the signs. He questioned if the LPA wanted to remove the posting requirements and not the mailing requirements or, alternatively, would the LPA recommend posting all properties that come in for land use changes.

Discussion ensued concerning posting properties; past practices; utilizing Lee County staff; Town code; public notice and posting properties; and public notice by mailing.

MOTION: Mr. Bodenhafer moved to recommend to Council to include posting and mailing up to 500’ for small-scale, rezoning, special exception, and variance; second by Ms. Plummer.

VOTE: Motion approved; 6-0 (Chair Zuba was excused).

LPA Attorney Rooney – reported, at the request of Council, he would arrange for speaker to offer a presentation about the Sunshine Law, comprehensive planning, the quasi-judicial process, proper considerations for testimony, and public input. He indicated he was hoping to include Bonita Springs and Lee County at the presentation. He asked if the LPA was interested in attending the presentation.

Vice Chair Shamp responded in the affirmative.

Community Development Director Fluegel announced the local APA Chapter was offering a land use forum on May 16th at Palmetto Pines Country Club in Cape Coral.

Vice Chair Shamp requested the informational presentation described by the LPA Attorney be recorded and DVD copies be available to future LPA members.

Town Attorney Rooney asked if the LPA had topics they would like to see addressed at the presentation to forward them to him.

Vice Chair Shamp requested TDRs should be included in the informational presentation.

VII. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Community Development Director Fluegel – no items or reports.

Planning Coordinator Overmyer requested the LPA keep their packet information until the June meeting.

Vice Chair Shamp requested staff clearly indicates [in the information they were holding onto from today's continued cases] when there were "no changes" in their information prior to the June meeting.

VIII. LPA ACTION ITEM LIST REVIEW

No discussion.

IX. ITEMS FOR NEXT MONTH'S AGENDA

Discussion was held regarding whether or not there would be a quorum for the April and/or May meetings.

Mr. Kakatsch noted the need for the discussion by the LPA regarding obstructions in the rights-of-way.

LPA Attorney Rooney reviewed Council's action at their last meeting concerning obstructions in the rights-of-way.

MOTION: Mr. Durrett moved to cancel the April LPA Meeting; second by Mr. Bodenhafer.

Discussion continued regarding whether or not to cancel the April LPA Meeting.

Consensus agreed not to cancel the April LPA Meeting.

LPA Attorney Rooney questioned if the LPA was amenable to changing the quorum requirements to five members.

Vice Chair Shamp indicated the LPA was comfortable with looking at that issue.

X. PUBLIC COMMENT

Public Comment opened.

Tracey Gore, resident, reported she had unanswered questions from staff regarding the Seagrape Subdivision. She suggested more information or description regarding agenda items for the benefit of the public.

Public Comment closed.

Discussion was held regarding the amount of notice to the LPA as it pertained to the meeting agenda packets.

LPA Attorney Rooney suggested a discussion of the LPA Policy & Procedures at a workshop.

XI. ADJOURNMENT

MOTION: Motion by Mr. Kakatsch; seconded by Mr. Steele to adjourn.

VOTE: Motion approved; 6-0 (Chair Zuba was excused).

Meeting adjourned at 10:12 a.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Signature

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