

Councilman Meador reported that these were double than what the County charges. Mr. Meador pointed out that they are extremely large increases and suggested some back-up as to the time expected for each activity prior to voting on this Resolution.

Councilman Shenko agreed with Councilman Meador regarding the schedule fee being too high. Mr. Shenko suggested having more information on how they relate to the County.

Vice Mayor Massucco questioned what percentage of Lee County they were looking at.

Mr. Murphy responded that they were looking at the zoning fees; pointing out that he will bring forward another fee schedule as they bring in development review.

Councilman Meador expressed a need to justify these fees.

Councilman Shenko suggested having more information before moving this forward.

V. PUBLIC HEARING: DEPARTMENT OF COMMUNITY DEVELOPMENT

A. Resolution 07-05; Evaluation and Appraisal Report

Mayor Boback opened Public Hearing, and directed Ms. Dalton to read Resolution 07-05; Evaluation and Appraisal Report.

Mr. Bill Spikowski announced that Council had reviewed this report on August 1st and authorized Mr. Spikowski to send it to the Florida Department of Community Affairs. Mr. Spikowski pointed out to Council that if they were ready to adopt the report today, they will adopt the Resolution read by Ms. Dalton which will be submitted again to Florida Department of Community Affairs as a formal report.

Mayor Boback opens public comment:

- Beverly Grady referred to the E/A.R. and that it listed Land Development Code changes. She stated Council only had to address the issues that will need amendments to their Comprehensive Plan; Ms. Grady asked if by including changes in the Land Development Code that did not require change in the Comprehensive Plan and the E.A.R., they had ramifications on those amendments.

Mayor Boback closes public comment:

Mr. Spikowski explained that the Land Development Code amendments are not suggested in the report, and that DCA only reviews the Comprehensive Plan changes proposed. Mr. Spikowski further explained these issues were included as the LPA had reviewed one of the four major issues and identified changes that should have been made. Mr. Spikowski added that Council can decide whether or not to do some of them, and they can proceed with the policy as Council formulates it.

Councilman Shenko expressed that he did not agree with everything that is in the report, but expressed the time spent by Council going through each page and therefore, is prepared to go forward with the E.R.A.

Vice Mayor Massucco also agreed with Councilman Shenko to move forward with the E.R.A.

Councilman Reynolds expressed being happy with the way it was.

MOTION: Councilman Meador made a motion to adopt Resolution 07-05 as presented to the Council. Councilman Shenko 2nd the motion.

VOTE: The motion passes 5-0.

VI. APPEALS: DEPARTMENT OF COMMUNITY DEVELOPMENT

A. MUD Appeals (MUD2006-00056 and MUD2006-20057)

- Mayor Boback directed Ms. Dalton to proceed with the reading for MUD Appeals.

Ms. Dalton announced that the following procedure will be a little different from the ordinary appeal process from the LPA, stating that usually the LPA would make a recommendation, and Council will make the final decision. Ms. Dalton reported the Comprehensive Plan and the Land Development Code set out a procedure for an appeal of MUD determinations. Ms. Dalton added that Council needs to see whether or not the LPA used the proper standards to the facts of this case, and that Council can either accept or reject what the LPA has done. Ms. Dalton also reported that no additional facts are allowed to be submitted by the applicant or by staff.

Mayor Boback asked if any Council members had any ex-parte communication with the property owners or any other person regarding this case.

Councilman Meador responded he had no ex-parte communications.

Councilman Shenko responded he had no ex-parte communications.

Vice Mayor Massucco responded he had no ex-parte communications.

Councilman Reynolds responded that he had visited the property.

Mayor Boback responded he had visited the property, but had no communications.

Mayor Boback opens public comment:

- Henry Rothenberg reports that he lives across the street from the property in question, and reports that there is no downside to the property stating that it would enhance the neighborhood.
- Beverly Grady with Roetzel & Andress, representing Mike and Evie Barnes. 239 Driftwood Lane, lots 14 and 15 in the Flamingo Park Subdivision. Ms. Grady requested that Council look at the provision on ownership in the Comprehensive Plan which establishes there is a unit on each lot, and recognize the interpretation of the code provisions does not apply to this situation. Ms. Grady reported that there is a structure on each lot.

Mayor Boback closes public comment:

Councilman Reynolds read Exhibit A. and expressed that the owner has the right to use both the lots as an individual lot.

Councilman Meador agreed with Councilman Reynolds comments, and added the proper interpretation is the one Ms. Grady read. Mr. Meador also pointed out that the intention of the Land Development Code and Comprehensive Plan is about density, not increasing density.

Councilman Shenko referred to Exhibit A, which Councilman Reynolds had read, was prepared by Ms. Grady. Mr. Shenko points out that they are talking about density, not increasing the density.

Although, Vice Mayor Massucco expresses that Councilman Shenko and Councilman Meador did have a strong argument regarding this provision; Vice Mayor Massucco could only base his decision on the information he has in front of him, due to the encroachment onto the second lot it would not qualify for the Single Family Resident Provision.

Mayor Boback also acknowledges that there are two trailers on two lots with a small encroachment on the second lot. Mayor Boback expresses

that it is not properly addressed but adds that they may need to look at to change in the future in order to avoid running into this again.

Ms. Dalton suggested the following language:
Resolution of Town Council of Fort Myers Beach Florida;
Resolution 07-06, Section 1-A. Suggesting for it to read as follows:

The LPA did not properly apply the standard set forth in paragraph three; Section E; Single Family Residence of Chapter 15 of the plan. The LPA interpretation is erroneous because the intention of the relevant Comprehensive Plan Provisions is to prevent increases in density, rather than to address encroachments. It is the interpretation of the Town Council that this is an encroachment and therefore, not addressed by this section. It is not an increase in density. Ms. Dalton also added that this language would be tracked into the subparagraph B, that the LPA did not properly apply the standards for the same reasons.

Ms. Dalton further read on Section Two, Qualification of Minimum Use Determination (MUD); as a result of the determination set forth in Section One, above. The Town Council states the subject property does qualify for a Minimum Use Determination. The Town Council hereby overrules the determination by the LPA.

MOTION: Councilman Meador made a motion to adopt Resolution 07-06 with the selections and additional language set forth by Ms. Dalton. Councilman Reynolds 2nd the motion.

Discussion:

Vice Mayor Massucco expressed that normally he would not go against the LPA however, pointed out the argument used would not probably hold. Vice Mayor Massucco was more inclined to favor the argument his colleagues presented, stating this is new material which they have not gone through.

Councilman Reynolds added that this would be an improvement to the area, as there will be no increase in density.

Councilman Meador commented that the Section was all about density, stating currently there are two units, which will be replaced by two units. Mr. Meador used the example if there were one house and they wanted to replace it with two houses, the LPA would have been correct.

Councilman Shenko concurred with Councilman Meador.

Mayor Boback had no further comments.

VOTE: The motion passes 5-0.

VII. OTHER PROCEEDINGS

A. Fort Myers Beach Fire Control District Station 32 relocation to 121 Lennell Road.

- Chief Mike Becker announced their attempts regarding relocation to the south end of the beach, and asked Council for direction to proceed forward.

Vice Mayor Massucco responded that he had no objections regarding moving Mr. Becker's request forward.

Councilman Reynolds commented to Mr. Becker of having all the plans worked out and complete and expressed being in favor of the request.

Councilman Meador had no comments or questions.

Councilman Shenko pointed out that this could have been done administratively, but expressed appreciation for having it brought forward to Council. Councilman Shenko expressed being in favor of endorsing the project.

Mayor Boback questioned Mr. Becker as to the length of time it would take for the projects completion.

- Mr. Becker responded 9 to 12 months for station 32 off the island.

B. Request by the Historic Preservation Board

Mayor Boback announced the Historic Preservation Board presented a Resolution to Council however; there was really no need for it.

Mayor Boback directed Ms. Dalton to proceed.

Ms. Dalton reported the LPA and the Historic Preservation Board is run by the same members. She reports the HPB has presented a Resolution HPB 2006-04 requesting for Town Council to allocate the amount of \$5,000.00 within this fiscal year for use by the Historic Preservation Board. Ms. Dalton reported a breakdown of the expenses.

\$500.00 would be for a website regarding historic resources within the Town.

\$2,000.00 would be for brochures regarding historic resources within the Town.

\$2,000.00 would be for plaques regarding historic resources within the Town.

\$500.00 would be an estimate to engrave the historic plaques.

Mayor Boback opens public comment:

- Pat Smith requested an explanation by the HPB as to why they needed this money, and what they will be using it for.

Mayor Boback closes public comment:

Councilman Meador expressed he was not in favor of this request, pointing out that there is already an existing website for the Town.

Councilman Reynolds agreed with Council members, stating that they could have more use of the historic tree.

Mayor Boback also agreed with Council members questioning why they need two websites, and adds if the HPB needed a plaque, they can come address the Council and request it as needed. Mayor Boback expressed he was not in favor of the Historic Preservation Boards' request.

MOTION: Councilman Reynolds made a motion to reject Resolution HPB 2006-04 regarding the Historic Preservation Board of Fort Myers Beach Florida. Councilman Shenko 2nd the motion.

Ms. Dalton pointed out to Councilman Reynolds to amend the Resolution to state they will not allocate the funds.

AMENDED MOTION: Councilman Reynolds amended his motion not to approve the funds as requested for the Historic Preservation Board. Councilman Shenko amended his 2nd.

VOTE: The motion passes 5-0.

VIII. MAYOR AND COUNCIL MEMBER ITEMS AND REPORTS

Vice Mayor Massucco reiterated a comment he made regarding FEMA assisting a Town and developing an emergency plan. Vice Mayor Massucco expresses he had no intentions to offend Mr. Melsek or anyone else. Vice Mayor Massucco commended Mr. Murphy for completing a process & examination to become an ASFPM Certified Flood Plain Manager. Vice Mayor Massucco reported he was requested to put on the

agenda by a citizens group P.A.P.O, in order for them to make a presentation regarding the Comprehensive Plan.

Councilman Reynolds expressed that he did not have any problem regarding the issue Vice Mayor Massucco was referring to. Councilman Reynolds referred to a letter regarding save their off leash pets.

Councilman Meador thanked Mr. Melsek for assisting them with their Disaster Preparedness Plan.

Councilman Shenko shared his thanks to Mr. Melsek. Mr. Shenko expressed that having someone from FEMA assisting them is exemplary and they have done an excellent job.

Mayor Boback also expressed his thanks to Mr. Melsek stating that they would not be as far or anywhere near without his direction. Mayor Boback also referred to a letter of valued adjustment board real property petition.

IX. TOWN MANAGER REPORTS

Mr. Sallee requested that he would like to hold a workshop on January 29th regarding a special assessment. Mr. Sallee also referred to the Public Works Services Inc, and have some house keeping items regarding merging the operations back under the city's umbrella. Mr. Sallee asked for a consensus to hold the workshop on Monday January 29th at 4:00.

Councilman Meador was in favor.
Councilman Shenko responded he would be available.
Councilman Reynolds commended Mr. Sallee for his efforts as a Town Manager.

X. ATTORNEY ITEMS AND REPORTS

Ms. Dalton requested an Executive Session regarding Straub versus Town of Fort Myers Beach on January 22nd at 6:00 to discuss litigation strategies etc.

Ms. Dalton announced the Charter calls for Roll Call Voting for Ordinances or upon specific request by a Council member and shall be recorded in the minutes voted by Ayes and Nays. Ms. Dalton requested that Council strictly comply with the Charter and go forward with a Roll Call Vote in effect at the next meeting.

XI. FINAL PUBLIC COMMENT: Public comment at this time is heard on any item and/or issue of concern.

Mayor Boback opens public comment:

- No public comment was given.

Mayor Boback closes public comment:

XII. ADJOURNMENT

MOTION: Councilman Meador made a motion to adjourn. Councilman Shenko 2nd the motion.

VOTE: The motion passes 5-0.

Mayor Boback adjourned the meeting at 5:30 PM

NEXT MEETING: January 22, 2006 at 6:30 PM.

NOTE: This meeting is televised live on Comcast Channel 11.

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that a verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based. Please note: Agendas will be available on the Friday prior to this meeting at www.fmbeach.org.

Respectfully submitted,
Debbie Cardoso


Town Clerk


Date Approved

w/addendum

ADDENDUM TO TOWN COUNCIL MINUTES

January 16, 2007

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