

MINUTES
FORT MYERS BEACH
Local Planning Agency

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

Tuesday, January 11, 2011

I. CALL TO ORDER

Meeting was called to order at 9:13 AM by Chairperson Joanne Shamp. Other members present:

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

LPA Attorney Marilyn Miller

Staff present: Community Development Director Walter Fluegal, Tina Ekblad, Planning Coordinator, Leslie Chapman, Zoning Coordinator, and Keith Laakkonen, Environmental Sciences Coordinator

II. PLEDGE OF ALLEGIANCE and INVOCATION

Ms. Kay

III. MINUTES

A. Minutes of November 12, 2010

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

Seconded by Mr. Zuba;

A few name spelling corrections were noted and corrected.

Vote: Motion passed 5-0.

IV. PUBLIC HEARINGS

A. Special Exception-Surf Club FMB SEZ2010-0005

The attorney swore witnesses and Affidavit of Publication of Public Hearing was noted. The chair polled the members for any ex-parte communications. Mr. Van Duzer stated that he knows both of the property owners but has had no communications regarding this item. Ms. Shamp had a site visit only and all other members had no communications.

Presentation by applicant:

Mr. Gene Whitley addressed the LPA on behalf of the applicant. He referred to the staff report, agreeing with the bulk of it and pointing out to the members that staff has recommended approval. He explained that the applicant is asking for permission to install a deck where the retention area is located now so that patrons can enjoy food and drink outside, as well as smoking.

Mr. Van Duzer asked what the operating hours would be for the proposed deck and applicant said that although they would keep the same hours, there are no plans for music or entertainment outside.

Ms. Kay asked for clarification as to the exact location of the deck and pointed out that there was mention of “there could be music until about 9:00 PM” but applicant reiterated that there are no plans for that now.

Mr. Ryffel pointed out that the staff is recommending the consumption on premises until 10:00 PM and asked if the applicant understands that; applicant acknowledged that he does.

Mr. Zuba asked if the handicapped access points are controlled and how. Mr. Whitley said there is a 10 ft. opening in the deck, which is adjacent to the sidewalk used to enter the front door.

Ms. Shamp pointed out the staff recommendation on pg. 6 regarding music “from 11:00 AM to 9:00 PM of each day.” She also asked a question about the exact location of the deck and applicant gave more specific details and said that the deck is meant to be pervious and will not hinder drainage.

Presentation by staff:

Tina Ekblad, Planning Coordinator, addressed the meeting on behalf of staff and gave a brief history of the property, which was the Waffle House site and had been approved by the county in 1998. The applicant purchased this property in April of 2009 and is asking for a special exception for consumption on premises outdoors, which is required due to the fact that the property is within 500 ft. of a dwelling under separate ownership. Ms. Ekblad confirmed that the staff recommended approval with certain conditions regarding timing and any music/entertainment. For the record, she read a letter addressed to Mr. Fluegel from George Gannon, owner of the Beacon Motel, dated January 10, 2011 (attached):

“...the above special exception request for outdoor service of alcohol...presents a serious issue of late night alcohol service, music and loud noise to the overnight guests of the motel. Presently there is loud music coming from the Lani Kai, which interferes with our guest’s ability to sleep at night.” The letter goes on to explain that the writer could not be at the hearing but wants his *“serious concerns known (to the*

Town)...and request that should the Agency consider any approval, that conditions be imposed controlling loud music, noise and time curfews.”

Mr. Zuba asked why the application process takes so long. Mr. Fluegal responded that the process is getting better but has basically taken such time due to many changes in personnel and staff assignments. He also asked if there was a landscape plan for the property and suggested that, in the future, all applications of this nature include one due to the obvious impact on the area. Mr. Fluegal agreed.

Mr. Ryffel asked if any type of state permits were required and it was agreed that there were no requirements for any. He also questioned the 10:00 PM time limit, wondering how that time was picked. Ms. Ekblad answered and said it is only a starting point for discussion. Mr. Ryffel asked if there was a difference between being on that side of Estero Blvd. and being on the beach side. Ms. Ekblad said she thinks there is, at least in this situation since there is a residential community close by and it is on a canal.

Ms. Shamp asked if staff looked at the retention concerns there. Mr. Fluegal said he did have staff look at it immediately and all agreed that there were no problems. Ms. Shamp noted that there could be some buffering options in the landscape plan as part of the conditions to help in modifying the noise.

Ms. Kay reminded that the LPA had been trying to do away with specific hours for specific businesses to the point where there would be a unified code of opening and closing. She pointed out that, legally the applicant can be open until 2:00 AM and wondered if their focus is now going back to restricting these things. Mr. Fluegal commented that he is not aware of any uniform conditions in the Code, other than the absolutes of 2:00 AM to 7:00 AM rules, and said that while reviewing this particular application, it became obvious that more sensitivity was in order because of the location being at the end of a residential canal in a residential area. He added that this is exactly the purpose of the process, to be aware of certain special exception needs. Ms. Kay is still concerned about consistency in the future and Mr. Fluegal agreed, adding that there still needs to be a case-by-case review for fairness.

Mr. Kakatsch asked how is the deck accessed and how does the applicant control who goes in and out. Mr. Fluegal answered and said he understood there was an opening near the front door, and that is the staff recommendation (see diagram being referred to).

Mr. Van Duzer agreed with the staff report and is satisfied. Ms. Shamp asked for the percentage of food to alcohol served, which is 49% alcohol and 51% food.

Motion: Mr. Van Duzer moved to approve the special exception, with stipulated conditions #2 (sales service and consumption of alcoholic beverages) and #4 (music and entertainment), as recommended by staff.

Seconded by Mr. Ryffel;

Ms. Kay added that speakers be directed towards Estero Blvd., if used, and a landscaping plan includes buffering and Mr. Van Duzer amended his motion to include these.

Vote: Motion passed 6-0.

Ms. Shamp realized that she neglected to ask for public comment and, before closing, did so. Mr. David Easterbrook did the drawings for the deck and addressed the meeting. He said that he designed the deck specifically with the view and location in mind. He said that a buffering landscape plan would block the view and that the proposed handrail would also not be attractive; he doesn't see the need for these things. Ms. Shamp said that this will come up in the permitting process and that would be when to bring it up. Mr. Zuba suggested a "living fence" of sorts.

Mr. James Bailey addressed the meeting as said he resides within 500 ft. of the subject. He fully supported the LPA's decision.
Hearing closed at 9:58 AM.

B. Raking Ordinance-Chapter 14 LDC

Staff presented Affidavit of Publication of Public Hearing and the attorney read the caption for the record, Section 14-1 through 6. Mr. Keith Laakkonen presented the draft information on behalf of the staff and gave a brief history of the origin. He said that as it exists now, the LDC requires mechanical beach rakers to get a permit from the Town of FMB; however, due to vagueness in the code no such permits have actually been issued by the Town. The issues at hand include defining the wrack line and regulations regarding proximity of raking, etc. to that line, allowing for 1 raker to rake several properties without needing additional permits, setting specific time frames, etc. MRTF had been tasked with looking into this more than a year ago and has held several workshops and public meetings to clarify terms.

The board decided to open the floor to comment before their discussion.

Public comment:

Bill Perry addressed the meeting as the main beach raker and gave a history of how the raking regulations came to be. He said that the LDC regulations were basically taken from the DEP's regulations when it was decided that the DEP would no longer be involved locally. Later, that changed and the DEP did regulate, requiring permits for beach raking. Dr. Shockey had decided the Town should again regulate the raking but Mr. Perry opined that this is not necessary when the DEP already regulates raking. He said it is excess paperwork and an unfair tax on the waterfront property owners being charged for a permit that they get from the state for free. He said that every year he rakes each property on the entire beach, taking a staff member with him and photographing his work; this, he says is enough for the DEP. He explained that the process he has been using for the past few years has satisfied the DEP and is well documented. Mr. Perry does not understand why the Town needs to charge the property owners for a permit when they pay him to rake the beach; he believes they feel that they are providing a service to the community, especially when the public

uses the beach. Mr. Perry said that he objects to a decision by MRTF at the most recent of several meetings he attended, to restrict his hours of raking and not allow it after sunset or before sunrise. He said this restricts his access to bare beach before people and children arrive. He added that he constantly polls the property owners and has never had a complaint about raking in the evenings. He added that he would certainly not object to the Town requiring him to have lighting and insurance after dusk but cannot go along with not being allowed to do this at night at all. He is against the issuing of permits for raking by the Town but agrees with the regulation of the actual tractor and requiring a license or permit to engage in that business in the beach.

Larry Crossman, owner Estero Island Beach Villas, said that he does not agree with restricting raking to daytime only and sees no problem with Mr. Perry's raking at night. He is pleased with Perry's services and his conscientious work.

Kenneth Edge from the Dolphin Watch Condo Assn. spoke on behalf of himself and a few other residents in the audience from the same association. He added that he was also representing a few in the room from Island Shores. He said the county sent them a letter back in October which asked them to sign a temporary construction permit for the beach renourishment project. As an incentive for doing so, those signing would receive benefits of the vegetation plan of FMB. He said that this meant the signers would maintain existing raking abilities and could continue to rake as they did in the past, with no additional cost. Mr. Edge said he had conversations with a few people at the county level who assured him that this would be the case and under the 15 pg. Beach Management Plan, it states the same thing. He feels that they were "duped" since now the Town wants to charge these residents for raking and said he and the others are very upset and concerned about this.

Jeff Werner, Chairman of MRTF, addressed the meeting and referred to Section 14-1c of the LDC, which he read part of, "*any mechanical beach raking requires a permit from the Town.*" He added that there was no actual system in place for this so staff asked MRTF to develop a permit and process for this purpose to be added to the LDC. He said that after public meetings MRTF found that it is dangerous to rake after dark. Moreover, there is illegal raking taking place in the area of Leonardo Arms and MRTF feels that this permitting process will allow the Town to enforce illegal beach raking.

Toby ???, ??? Park Beach Club, said that he believes that the beach has been raked in the dark and the light for at least 25 years and nothing bad has happened. He said that the attractiveness of the beach depends on raking, especially for tourists, and he believes that birds will nest when the beach is clear and clean. He feels that just considering the amount of beach that needs to be raked, there needs to be raking at different times. He sees no sense in predicting the future and guessing that there *may* be a problem when for 25 years there has been no problem.

Dan Hughes, President of Smuggler's Cove Condo Assn., said that he feels that the

permitting issue would not be an issue if the state was enforcing their permit requirements. He said that the state overrides the local, of course and feels that a permit is not a prerequisite to enforcing the other provisions of the code. He added that it is not a good time to impose additional fees on the residents in this economy.

George Reppetti, President of Island's End Condo Assn., said that there is no need for more government intrusion into the rights of property owners on the island. He said that he is worried that if the Town has the authority to deny Mr. Perry from cleaning his beach that he might have a problem due to his opposition to the bird sanctuary. He said that when he rakes his beach, he gets more business and all of the money comes back to the community. He said there were visitors to his beach last year who complained about not being able to walk in the grassy mess that is Castle Beach and Carlos Point. He said that those people said that the birds (terns) were coming down and attacking people on the beach.

Artis Chester stated that she is a "private property owner" and does not need a permit to take care of her own property and doesn't want the Town to step in and tell her how to do it. She said Mr. Perry maintains her property and has increased its worth with his services. She wants no part of the extra taxes.

Lauralee Saderfield, Pres. of Castle Beach Condo Assn., stated that she is next to Carlos Point and very much involved in the bird issue. She said she has "an issue" with the Town wanting to step in and charge residents who have been working with the Town to maintain the beach is not proper. She said she is in favor of allowing the raking to continue as it is going now, praising Perry's services. She believes the Town will ruin the cooperation that they have now between the Town and the beach residents who are trying to accommodate the birds and the other issues.

Ray Murphy said that he only wants to address the night time raking and said it is a great service, out of turtle season. He also praised Mr. Perry's reputation and his services and supports Perry's need to tend to the beach at all hours when people are not around.

Sherrie Addias wished to address private property rights. She said that although she applauds the Town's efforts to generate revenue, she doesn't agree with doing that by taxing the "already strapped" property owners. She alluded to other possible extra taxes/charges that may come about if the Town is allowed to institute this process and finds it unfair to charge residents for things that they already do to keep the property in good condition.

Public comment closed. Ms. Shamp asked for staff comments.

Mr. Laakkonen clarified that the DEP regulations only cover turtle season and not the rest of the year. He referred to earlier comments dealing with comments by DEP that they would not regulate raking and said that if that does happen in the future, this would give them a set of rules to protect the beach. He said this is not a new

regulation and it has been on the books for some time. He said that this set of rules will have no effect on the north end for those who signed the easement agreements. Mr. Laakkonen agreed that the comments regarding the birds are correct and a very unique situation exists on the south end. The nighttime raking came up as a safety issue and liability was considered. He pointed out that he gives an option for night raking in the recommendations allowing for inspections of the lighting, etc. on the tractors to be sure they are safe.

LPA discussion:

Ms. Shamp thanked the public for their involvement and concern. She referred to LDC Sec. 34-12, the objectives of Town Planning and the creation of the LPA were to further the welfare of the citizens of the Town and to “promote a better, more helpful, convenient and efficient environment...” She said that this does create an additional layer of government, however, protection of the environment is valuable and they need to find a balance. On the other hand, she said, the island has been gaining more and more beachfront since Hurricane Charlie alone. She said that Lee County actually expects that the property owners maintain their beaches and read a quote from Lee Co. Parks and Rec: *“the county considers that owners of private beachfront property be responsible for raking the beach behind their homes. They are responsible for gathering up all raked beach debris and hauling it off the beach. If the debris is algae or other vegetation, that debris can be set out for horticultural or curbside pickup.”* She gave more examples of this expectation throughout the state for coastal communities and said that there is no doubt that raking should be controlled by the Town during turtle season but that the DEP also regulates raking outside of the season. Marco Island staff rakes the beaches, Long Boat Key rakes as needed, and there were more examples but she said that “we are the economic engine for Lee County and for SWFL” and there needs to be a balance between environmental interests and commercial interests. Ms. Shamp said there is no doubt that raking must be controlled during raking season but the DEP also controls it after turtle season and they allow hand-raking by property owners. She read a note from the previous Environmental Services Director, from August 2007, which specifically stated that FDEP mandates that *“maintenance done by hand outside of nesting season is exempt.”* FL Statute 161.241 says that *“possession of sea oats is illegal unless it is by the property owner, or permission of the owner.”*

Ms. Shamp showed photos of properties of her property and the surrounding lots, showing the different results of raking an un-raked beach area. She continued to be adamant that raking is a maintenance right as well as a service that she provides to the Town and all beach visitors. She referred to the LDC wherein it regulates what trees you can have on your own private property and wondered if permits would also be needed for tree cutters every time they cut trees. In addition, she pointed out the same concern with regard to the fertilizer ordinance and said that she feels very strongly about private property rights. Ms. Shamp also agrees that the only reason the Town was brought into this was “because the FDEP stopped doing its job” but it has since started doing its job again and has regulations for raking. She suggested revised

wording of the ordinance to be “any mechanical beach raking requires a permit from the FDEP,” and not from the Town. She also expressed concern with Section 14-6 Ab “under normal circumstances, the raking of the wrack line is prohibited; no mechanical or hand raking may take place seaward of the wrack line or within 10 ft. landward.” She said that as a property owner, she is allowed to hand rake and that term should not be in that section. Ms. Shamp was emotional in expressing her concern for the safety of children who may be hurt by a raking machine or other equipment because the workers are restricted to daytime hours when the beaches are full. She pressed on that FMB is not only a family and tourist beach but an environmental sanctuary, needing to protect nature as well as generate economic/revenue streams, while still protecting property rights of its residents. Her comments drew applause from the room.

Mr. Ryffel handed out some photos as he said this ordinance is a “duplication of effort” and he would not vote for it. He also agreed that restricting raking after dark is ridiculous, pointing out that holes in the sand dug by beachgoers are a much more serious problem. Mr. Ryffel went on to agree with many of Ms. Shamp’s comments and added that the ordinance should be reworded at some point.

Mr. Zuba expressed a desire to learn more about precedence as far as other towns and what they experience with these policies before he would decide on this ordinance.

Mr. Van Duzer wondered why this is actually before the LPA since the state had decided to oversee this and agrees with Mr. Ryffel that this is a duplication of efforts. He believes that the raker (business owner) should be responsible for the licensing, liability insurance and other permitting needed, not the Town.

Mr. Kakatsch agreed with all of the comments in that there is no need for more regulation. He asked about the Town liability in the case of the holes dug in the sand. Ms. Miller gave general explanation of the limited liability for this.

Ms. Kay was not aware that the state had issued permits and asked if it is a year-round permit. Mr. Laakkonen said it is year round but the conditions that apply to it are only during turtle season and the rest of the year is not regulated. Raking by hand is regulated but mechanical is not regulated by the state. There was discussion about the raking and how it affects the wrack line. Mr. Laakkonen gave some details about the wrack line and how it is vital to the health of the beach and life of the wildlife. Ms. Kay would like to see this not changed in the LDC and wondered why there couldn’t be regulation without permitting. Ms. Miller answered that this would require the property owner to be liability then instead of the raker.

Ms. Shamp again said that beach raking is an important issue and should be part of the LDC, although she personally does not support the present ordinance. She approves of the proposed definition of “wrack” but feels that there is still conflicting opinion of it and a great deal of confusion.

Mr. Fluegal commented that hearing all of the input today helped him realize what concerns are more important than others to property owners and where the priorities lie. Basically, this section of the code either needs to be fixed or eliminated and he wants to fix it. Ms. Miller pointed out that the document is marked “draft” and it had been advertised as a public hearing, which is the only way to get public input. She asked for LPA opinion as which way to proceed.

Mr. Zuba asked if a motion to table this would be appropriate at this point, with direction to staff to clarify some issues before any action. Mr. Kakatsch asked why the Town is not providing the raking service in an organized regulation if it is such an important need. There was discussion about the option of the Town taking over the raking, using a contractor. Mr. Laakkonen said that cities of Naples and Marco do rake their own beaches and places like Sanibel and Captiva do not allow raking at all.

Mr. Ryffel opined that this is a “hot button” to push and said that “people have property rights and why do they have to allow a Town tractor to ride on their property,” adding that “that’s just as bad as getting these easements...” (inaudible due to applause). He feels it should be left to private business.

Ms. Shamp asked for a consensus as to the action to be taken in this matter. No members were ready to vote for the present option to be passed. Mr. Zuba wanted more information and recommended that, in its present form, the LPA not pass it. Mr. Ryffel agreed and said they need to recommend to Council that it needs to be redrafted and again taken to MRTF.

Motion: Mr. Zuba moved that the LPA reject the draft amendment to the LDC Section 14-1 through 14-6, as it is currently written.

Seconded by Mr. Van Duzer;

Mr. Zuba revised his motion to reject the ordinance as currently written and advise staff to include the following elements in any proposal in the future: insurance regarding any beach raking by machine; some description of various option precedence that exist in area communities that have addressed this issue; the hours of operation. Ms. Shamp added removal of the term “or hand-raking in Sec. 14-6a (b) ;” and in Sec. 14-6c change to read “any beach mechanical raking requires a permit from the FDEP” and not the Town; consideration that no Town permit be required; Sec. 14-6e needs clarification, regarding fines. Mr. Ryffel suggested striking the time restrictions after dark, outside turtle season. All agreed that it then return to the LPA for review/approval.

Motion maker and seconder agree to revisions;

Vote: Motion passed 6-0.

Hearing closed at 11:35 AM.

Short recess until 11:47 AM.

C. Hearing FMB SEZ2010-0003 Mermaid Lounge and Liquors

The attorney swore in witnesses and noted existence of the Affidavit of Publication of

Public Hearing. Members were polled for any ex-parte communications with Ms. Shamp only having a site visit.

Applicant Scott Van Sella addressed the members and referred to paperwork sent to staff prior to the meeting, which shows the proposed addition to the rear of the property, including a handicapped access ramp, restrooms, a tiki hut and a small kitchen.

Mr. Ryffel asked if the deck is level or elevated and was told it is off the ground. Ms. Shamp asked if there was currently music outside, other than special events. Applicant replied that special events are the only time when there is music, so far.

Mr. Fluegal spoke for the staff and commented for the record that his wife is the insurance agent for the applicant's homeowner's policy but that it has no bearing on the issue. He turned the floor over to Ms. Leslie Chapman, new Zoning Coordinator, who began by making a correction in the staff report on pg. 3, last paragraph; the use should be bar/cocktail lounge use. She stated that the property is within 500 ft. of an adjoining property under separate ownership and the request is for outdoor consumption on premises in the downtown district. She showed photos and gave details of the request as it refers to the regulations.

Mr. Van Duzer noted that time references for music or outdoor entertainment in the recommendation be changed from 11:00 AM to 9:00 PM instead of 10:00 PM. The applicant said he's like it to remain at 10:00 PM but the staff recommends the earlier time due to the business location.

Mr. Kakatsch asked about a beach house in front of the building and was told it is a rental, which the applicant owns. He suggested that the speakers be turned away from properties.

Ms. Kay noted that this is further expansion of consumption on the beach and asked if the deck is surrounded by wall on 3 sides. The applicant said that is correct and only the beach side is open.

Mr. Ryffel asked why these time restrictions are can't just be the same as all the other businesses there. He said this is an "intensive area" and that's where the music should be.

Mr. Zuba asked for clarification as to the location of the fencing. Mr. Fluegal answered that it is just for the deck area and Mr. Zuba asked for more details regarding lighting, landscaping, etc. The applicant explained using his visual display and there was discussion about the parking area landscaping.

Ms. Shamp commented that the plan looks nice and will improve the property. She reminded that the letter previously read into the record (see pg. 2) from Mr. Gannon, is also noted for this case too.

Mr. Kakatsch asked if the beach house was part of the commercial area. The applicant said that it is but that they obtain proper permitting for special occasions.

Public comment was opened; same was closed with no comments.
LPA discussion:

Approval as it is conditioned would allow outdoor entertainment until 10:00 PM and the applicant asked if it could be 11:00 PM on Friday and Saturday nights only.
Discussion ensued about the time restrictions.

Motion: Mr. Van Duzer moved to approve the staff recommendation, specifically, #1-the area of the subject property used for outdoor consumption must be confined entirely to proposed deck and tiki hut shown on survey and referenced as Exhibit A; the area will be enclosed with a 42” railing across the beach side only, except for access points further delineating the outdoor consumption area from other outdoor areas; #2-sales, service and consumption of alcoholic beverages must not begin earlier than 9:00 AM and must end no later than 2:00AM each day; #3-music or other audible entertainment prohibited before 10:00AM and after 10:00PM on Sunday through Thursday nights and 11:00AM to 11:00PM on Friday and Saturday nights, and all outdoor seating areas must comply with all Town noise Ordinances; #4-provide the Town with a copy of the state permit for construction within the CCI.

Seconded by Mr. Kakatsch;

Ms. Kay again stated that she is not happy with further expansion of alcohol on the beach.

Vote: Motion passed 6-0.

Motion: Mr. Zuba moved to request that the applicant provide the Town with a landscape plan with emphasis on addressing Estero Blvd. frontage.

Seconded by Ms.Kay;

Mr. Fluegal commented that this is a mitigation measure for the granting of the exception for the DL plan.

Vote: Motion passed 6-0.

Hearing closed at 12:21PM.

Motion: Mr. Ryffel moved to break for lunch.

Seconded by Mr. Zuba;

Vote: Motion passed 6-0

Lunch recess 12:22 PM.
Reconvene at 12:50 PM.

D. Sign Ordinance

Staff provided a copy of the Affidavit of Publication of Public Hearing. Mr. Van Duzer commented that this should not be at the public hearing level for today, as indicated in the minutes. Ms. Shamp agreed and referred to Mr. Fluegal who explained that Town Council directed the sign ordinance focus on only constitutional issues at this point. Council wanted this done immediately so that enforcement can commence now. Ms. Shamp said that the LPA appreciates Council's input and direction but that they are not pleased with their insistence on holding a public hearing on this one meeting sooner than they had planned. She added that she is very pleased with the format used by Ms. Miller in presenting this ordinance.

Ms. Miller gave a brief overview of the document where there were strike outs, etc. Again, members were reminded that they were dealing today only with issues of constitutionality. Mr. Fluegal gave options for moving forward and making the ordinance enforceable.

Ms. Shamp suggested going over the document page by page and asking for comments; Mr. Ryffel and the other members agreed (refer to the draft). Mr. Zuba asked what the budget is for enforcement and what has been the experience in terms of costs. Mr. Fluegal replied that Council directed him to "do this and enforce it," which he said the Town will do within current budgetary restraints, adding that there will be no proposal asking for more code enforcement officers, although he is still working on how to do all of this. He said that one area they are working on is more cooperation and working with property owners to help them comply rather than just imposing fines. More discussion ensued regarding code compliance with signs.

Ms. Kay asked how this code can be enforced if there are not to be fines. Ms. Miller added that there is a process that there are notices and other actions before the fines are actually imposed.

The group began the review and nothing was noted until page 4 where a question was raised about the identification sign and there was discussion about the use of terms for this type of sign.

Page 5: parasite sign; there was a question as to the definition; it is prohibited.

Page 7 there was an elimination of a paragraph and Ms. Miller explained why this was taken out. There was discussion about "sandwich board signs" and how this should be handled.

Page 12-"posted property" signs were discussed and compared to "incidental" signs.

Page 13-Ms. Kay questioned the size restrictions here and Ms. Miller explained that this regards "free speech" signs and where they are allowed. Mr. Ryffel disagreed with some of these sizes and Ms. Miller agreed that this needs to be revised, defining it as a "No Parking" sign. More discussion took place here.

Page 17-ID sign needs to have a permit attached on the upper right corner.

Pgs. 18-20-scratched out.

Page 21-Ms. Shamp was not happy with the proposed change in the description of the role of the LPA as pertains to the HPB and signs here. More discussion took place

about historically significant signs and the involvement of the LPA/HPB in this process. All agreed that the role of the Council should only be hearing appeals after the decision of the LPA/HPB, and that Council not have the final say. There was a unanimous consensus that the process should remain the same as it was, with no change.

Page 23-Mr. Van Duzer questioned the measurement of sign heights and feels there needs to be an area for special exemption status. All other pages were reviewed and there were a few other comments to be considered in the recommendations to Council, including addressing the bench signs.

Motion: Mr. Ryffel moved to approval of Sec. 30-1 Sign Ordinance, as amended by the LPA attorney with changes noted from LPA discussion.
Seconded by Mr. Kakatsch;
Vote: Motion passed 6-0.

Hearing closed at 2:12 PM.

V. ADJOURN AS LPA AND RECONVENE AS THE HPB

Motion: Mr. Van moved to adjourn as LPA and Reconvene as HPB.
Seconded by Mr. Zuba;
Vote: Motion passed 6-0.

Meeting commenced at 2:13 PM. Ms. Kay stated that she and Mr. Fleugal met with HAC and discussed parking and the signs. Mr. Fluegal suggested February for the next designation it would be Carter Cottage; if so, staff would work on the list of invitees.

Mr. Fluegal discussed more permanent types of monument plaques and there was discussion about researching grants for this purpose as well as vista signs.

Ms. Kay polled the members for opinions as to scheduling the charettes. She said they have use of the Newton House for this purpose. The consensus was they be held after tourist season, perhaps planning during the off-season.

Motion: Ms. Kay moved to adjourn as HPB and reconvene as the LPA.
Seconded by Mr. Van Duzer;
Vote: Motion passed 6-0.

VI. ADJOURN AS HPB AND RECONVENE AS THE LPA

Meeting was reconvened at 2:25 PM, with the same members still present.

VII. LPA MEMBER ITEMS AND REPORTS

Mr. Kakatsch said he read the Sandpaper and wants the LPA to make a recommendation to the mayor regarding the library. Ms. Kay reminded that the library is a separate tax area and she feels it is not within their scope of responsibility to do so. Mr. Kakatsch read an excerpt from the paper which indicates that the Town attorney recommended discussions between the Town and the library. Ms. Miller said there is an item on the

upcoming work session regarding this; Jim Humphrey has done a memo about certain requirements that apply to different tax districts, according to the FL Statutes and this applies to any cooperation between libraries and their districts, etc. She added that although the library is technically in a separate district, there is some responsibility to local agencies and this will be discussed at the Council meeting. Ms. Shamp said that this is really out of the boundaries of the LPA.

Ms. Kay asked if there is a rental fee for outsiders to use the pool, etc. and there was brief discussion about that.

Mr. Ryffel asked for excused absence for the next meeting as he will be out of town.

VIII. LPA ATTORNEY ITEMS

Ms. Miller had nothing to report.

IX. COMMUNITY DEVELOPMENT DIRECTOR ITEMS

Mr. Fluegal gave had a few items to add to the LPA Action list. The Council rejected the LPA's recommendation that COP's on the beach should be further restricted as directed staff to create an ordinance to address this but he wasn't sure when this will be done. Ms. Shamp advised that when it does come before the LPA, they will need a very thorough presentation with all needed information. Brief discussion ensued about the process.

There is some work being done on the various beach ordinances like Jet Ski and other rental businesses there and parasailing is at the top. Mr. Fluegal said that the Code Enforcement ordinance also needs strengthening. Ms. Shamp noted that many of the topics are controversial and asked if they will have some preparation in the form of workshops, hearings, etc. Mr. Fluegal agreed and said that most will have workshops but that some of the non-controversial ones may just come to the LPA with a Public Hearing.

X. LPA ACTION LIST REVIEW

- Special exceptions-Surf Club and Mermaid Lounge-Van Duzer/Kay
- Beach raking TBD

Future Work Activities

- Shipwreck-Continued at LPA request-May 10, 2011
- ROW Residential Connection; Van Duzer-TBD
- LDC 613-14 10-25 Storm Water-TBD
- Parasail, jet ski ordinances-TBD; Fluegal
- Sign ordinance-Ms. Miller; TBD
- Post-disaster reconstruction/recovery-TBD; Ms. Miller

XI. PUBLIC COMMENT

No comment.

XII. ADJOURNMENT

Motion: Mr. Kakatsch moved to adjourn.

Seconded by Mr. Ryffel;

Vote: Motion passes 6-0.

Meeting adjourned at 2:53 PM. Next meeting February 8, 2011.

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

Vote: _____ Signature: _____

- End of document