

**1. Requested Motion:**

**Meeting Date: April 19, 2010**

Move Ordinance 10-06, amending Chapters 6 and 34 of the Land Development Code, to second hearing at the Town Council meeting of May 3, 2010.

**Why the action is necessary:**

Town Council initiated these LDC amendments on May 18, 2009.

**What the action accomplishes:**

Allows Town Council to consider amending the LDC for specific purposes detailed below.

**2. Agenda:**

Consent  
 Administrative

**3. Requirement/Purpose:**

Resolution  
 Ordinance  
 Other

**4. Submitter of Information:**

Council  
 Town Staff  
 Town Attorney

**5. Background:**

Following recommendations by an ad hoc committee, on May 18, 2009, the Town Council voted to initiate amendments to LDC Chapters 6 and 34 to (1) require that refuse containers have lids; and (2) allow an exception to limitations on the heights of fences to allow fences up to six feet tall where necessary to screen refuse containers from view in front yards. The LPA held hearings on the draft ordinance, which would so amend the LDC, on December 15, 2009 and February 9, 2010, and passed LPA Resolution 2010-01, recommending adoption of the Ordinance, by a vote of 4-1 at the February meeting. Ordinances that amend the LDC require an introduction and two public hearings.

Enclosures:

Ordinance 10-06 draft  
February 9, 2010 LPA minutes



**6. Alternative Action:**

Do not pass Ordinance; direct that options be prepared to consider changes to Ordinance language

**7. Management Recommendations:**

Move ordinance to second hearing on May 5, 2010.

**8. Recommended Approval:**

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Cultural Resources Director	Town Clerk
						

**9. Council Action:**

Approved    Denied    Deferred    Other

RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE  
TOWN OF FORT MYERS BEACH, FLORIDA  
RESOLUTION NUMBER 2010-01

WHEREAS, the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the Local Planning Agency is statutorily responsible under Chapter 163, Florida Statutes, and the Town of Fort Myers Land Development Code (LDC) Section 34-120 for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council with regard thereto and performing such other reviews as are requested by the Town Council; and

WHEREAS, following proper notice and as required under Florida Statute and the LDC, the LPA conducted a public hearing on December 15, 2009, and February 9, 2010 to consider a proposed Town Ordinance amending the LDC with regard to storage and removal of refuse and specifically addressing changes in regulations for refuse containers within the Town of Fort Myers Beach, Florida, specifically Section 6-11 (Refuse Containers) and Section 34-1744 (Location and Height of fences and walls) of the LDC; and

WHEREAS, the LPA considered the report and other information provided by the Town Ad Hoc Committee on Refuse Containers at the aforesaid hearing; and

WHEREAS, a copy of said proposed Ordinance (which is currently unnumbered) is attached hereto as Exhibit A and is hereby incorporated by reference.

NOW THEREFORE BE IT RESOLVED, that the LPA **recommends** that the Town Council of the Town of Fort Myers Beach **approve** and adopt a Town Ordinance amending the LDC with regard to regulating screening and coverage of refuse containers within the Town of Fort Myers Beach, Florida, as set forth with specificity below and in the unnumbered Ordinance which is attached as Exhibit "A".

1. With regard to LDC Section 6-11 (Refuse Containers) the LPA **recommends** recommend that the deletions be made and the following language be added:  
Sec. 6-11. Refuse containers

- (a) Refuse containers shall not be moved to the street more than 24 hours prior to scheduled curbside collections nor remain there more than 24 hours after scheduled collections.
- (b) Any refuse containers that are not movable in accordance with subsection (a) shall be opaquely screened from view from streets and adjoining properties at the full height of each such container above the adjacent grade. This screening may be achieved by landscaping or by virtue of the location of the container on the site. Screening may also be achieved by walls or opaque fencing provided the wall or fence does not exceed the maximum height permitted for the location (see §§ 34-1171 et seq. and 34-1744). ). ~~If the nonmovable refuse container would be visible above the allowable height, it must be replaced with a shorter container.~~

(c) Any refuse container not located within a roofed enclosure must have a lid that renders the interior of the container inaccessible to animals.

2. With regard to LDC Section 34-1744 (Location and height of fences and walls), the LPA **recommends** that the following underlined language be added to Section 34-1744(c)(1):

“(1) *Front yards.* Any fence or wall located in a front yard (between a street right-of-way or easement and the minimum required street setback or build-to line) shall not exceed 42 inches in height, except as provided in subsection 34-1744(c)(4)d. below. This division does not excuse any fence or wall from compliance with any lesser height required to meet vehicle visibility requirements (see § 34-3131) at traffic access points.”

3. With regard to LDC Section 34-1744 (Location and height of fences and walls), the LPA **recommends** that the following language be added as a new section 34-1744 (c) (4)d:

“ d. *Screening of refuse containers.* On sites where the location and configuration of existing structures and vehicle use areas prevent the placement of refuse containers outside the front yard, fences and/or walls erected for the sole purpose of providing reasonable screening of refuse containers located in a front yard may exceed 42 inches in height, but shall not exceed six feet in height.”

4. With regard to LDC Section 34-1745 (Buffer for commercial uses), the LPA **recommends** the following modification to existing language be made:

Sec. 34-1745. Buffer for commercial uses.

Some land uses are required to provide perimeter buffers in accordance with §§ 34-3005 or 10-416. Where buffers are required by other provisions of this code, this division will not be interpreted to restrict the height, location, or other features of required buffers.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Ryffel and seconded by LPA Member Mandel and upon being put to a vote, the result was as follows:

Joanne Shamp, Chair	Aye	Bill Van Duzer, Vice Chair	Absent
Rochelle Kay, Member	Aye	Alan Mandel, Member	Aye
Carleton Ryffel, Member	Aye	Chuck Moorefield, Member	Nay

DULY PASSED AND ADOPTED THIS 9th day of February, 2010.

LPA of the Town of Fort Myers Beach

By: Joanne K. Shamp  
Joanne Shamp, LPA Chair

Approved as to legal sufficiency:

By: \_\_\_\_\_  
Anne Dalton, Esquire  
LPA Attorney

ATTEST:

By: Michelle Mayher  
Michelle Mayher, Town Clerk

Exhibit A

Town of Fort Myers Beach  
ORDINANCE NO. 10-xx

AN ORDINANCE AMENDING REGULATIONS IN CHAPTER SIX AND THIRTY-FOUR OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; ADOPTING AMENDMENTS TO ARTICLE I (PROPERTY MAINTENANCE CODE) OF CHAPTER SIX WHICH IS ENTITLED MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS; ADOPTING AMENDMENTS TO DIVISION 17 (ENTITLED FENCES, WALLS AND ENTRANCE GATES) OF ARTICLE IV (ENTITLED SUPPLEMENTAL REGULATIONS) OF CHAPTER 34 (ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

***Section 1. Authority.*** This Ordinance is enacted pursuant to the provisions of Chapter 95-494 Laws of Florida, Chapters 163 and 166, Florida Statutes, and other applicable provisions of law.

***Section 2. Adoption of Amendments to Chapter Six of the Town of Fort Myers Beach Land Development Code.***

Chapter Six of the Town of Fort Myers Beach Land Development Code is entitled "Maintenance Codes, Building Codes and Coastal Regulations." Article I of Chapter Six is hereby amended as set forth herein. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strikethroughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. The specific language is as follows:

Sec. 6-11. Refuse containers

- (d) Refuse containers shall not be moved to the street more than 24 hours prior to scheduled curbside collections nor remain there more than 24 hours after scheduled collections.
- (e) Any refuse containers that are not movable in accordance with subsection (a) shall be opaquely screened from view from streets and adjoining properties at the full height of any such container above the adjacent grade. This screening may be achieved by landscaping or by virtue of the location of the container on the site. Screening may also be achieved by walls or opaque fencing provided the wall or fence does not exceed the maximum height permitted for the location (see §§ 34-1171 et seq. and 34-1744). ~~If the nonmovable refuse container would be visible above the allowable height, it must be replaced with a shorter container.~~
- (f) Any refuse container not located within a roofed enclosure must have a lid that renders the interior of the container inaccessible to animals.

***Section 3. Adoption of Amendments to Article IV of Chapter Thirty-four of the Town of Fort Myers Beach Land Development Code.*** Chapter Thirty-four of the Town of Fort Myers Beach Land Development Code is entitled "Zoning Districts, Design Standards,

and Nonconformities.” Article I of Chapter Six is hereby amended as set forth herein. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strikethroughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. The specific language is as follows:

Section 34-1744 Location and Height of Fences and Walls

....

(c)(4)(d)Screening of refuse containers. On sites where the location and configuration of existing structures and vehicle use areas prevent the placement of refuse containers outside the front yard, fences and/or walls erected for the sole purpose of providing reasonable screening of refuse containers located in a front yard may exceed 42 inches in height, but shall not exceed six feet in height.

Section 4. Adoption of Amendments to Article IV of Chapter Thirty-four of the Town of Fort Myers Beach Land Development Code. Chapter Thirty-four of the Town of Fort Myers Beach Land Development Code is entitled “Zoning Districts, Design Standards, and Nonconformities.” Article I of Chapter Six is hereby amended as set forth herein. Entirely new language is indicated with underlining. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs. The specific language is as follow:

Sec. 34-1745. Buffer for commercial uses.

Some land uses are required to provide perimeter buffers in accordance with §§ 34-3005 or 10-416. Where buffers are required by other provisions of this code, this division will not be interpreted to restrict the height, location, or other features of required buffers.

**Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.**

**Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption.**

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member \_\_\_\_\_ and seconded by \_\_\_\_\_ and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor	_____	Herb Acken, Vice Mayor	_____
Tom Babcock	_____	Jo List	_____
Bob Raymond	_____		

**DULY PASSED AND ENACTED by the Council of the Town of Fort Myers Beach, Florida, this \_\_\_\_\_th day of \_\_\_\_\_, 2010.**

ATTEST:

TOWN OF FORT MYERS BEACH

\_\_\_\_\_ BY: \_\_\_\_\_

Michelle D. Mayher, Town Clerk

Larry Kiker, Mayor

Approved as to legal sufficiency by:

\_\_\_\_\_

Anne Dalton, Esquire, Town Attorney

Town Attorney

Town of Fort Myers Beach  
ORDINANCE NO. 10-06

AN ORDINANCE AMENDING REGULATIONS IN CHAPTER SIX AND THIRTY-FOUR OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; ADOPTING AMENDMENTS TO SECTION 6-11 (REFUSE CONTAINERS) OF ARTICLE I (PROPERTY MAINTENANCE CODE) OF CHAPTER SIX WHICH IS ENTITLED MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS; ADOPTING AMENDMENTS TO SECTION 34-1744 (LOCATION AND HEIGHT OF FENCES AND WALLS) AND SECTION 34-1745 (BUFFER FOR COMMERCIAL USES) OF DIVISION 17 (ENTITLED FENCES, WALLS AND ENTRANCE GATES) OF ARTICLE IV (ENTITLED SUPPLEMENTAL REGULATIONS) OF CHAPTER 34 (ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494 Laws of Florida, Chapters 163 and 166, Florida Statutes, and other applicable provisions of law.

Section 2. Adoption of Amendments to Chapter Six of the Town of Fort Myers Beach Land Development Code. Chapter Six of the Town of Fort Myers Beach Land Development Code is entitled "Maintenance Codes, Building Codes and Coastal Regulations." Article I of Chapter Six is hereby amended as set forth in **ATTACHMENT "A"**, attached hereto and incorporated herein by reference. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is either omitted entirely or is shown without underlining or ~~strike-throughs~~.

Section 3. Adoption of Amendments to Article IV of Chapter Thirty-four of the Town of Fort Myers Beach Land Development Code. Chapter Thirty-four of the Town of Fort Myers Beach Land Development Code is entitled "Zoning Districts, Design Standards, and Nonconformities." Article IV of Chapter Thirty-four is hereby amended as set forth in **ATTACHMENT "B"**, attached hereto and incorporated herein by reference. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strike-throughs~~. Existing language being retained is either omitted entirely or is shown without underlining or ~~strike-throughs~~.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.



Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member \_\_\_\_\_ and seconded by \_\_\_\_\_ and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor \_\_\_\_\_  
Bob Raymond, Vice Mayor \_\_\_\_\_  
Tom Babcock \_\_\_\_\_

Alan Mandel \_\_\_\_\_  
Jo List \_\_\_\_\_

DULY PASSED AND ENACTED by the Council of the Town of Fort Myers Beach, Florida, this \_\_\_\_\_th day of \_\_\_\_\_, 2010.

ATTEST:

TOWN OF FORT MYERS BEACH

\_\_\_\_\_  
Michelle D. Mayher, Town Clerk

BY: \_\_\_\_\_  
Larry Kiker, Mayor

Approved as to legal sufficiency by:

\_\_\_\_\_

Anne Dalton, Esquire, Town Attorney

Town Attorney

DRAFT

Ordinance 10-06  
Attachment A

Sec. 6-11. Refuse containers

- (a) Refuse containers shall not be moved to the street more than 24 hours prior to scheduled curbside collections nor remain there more than 24 hours after scheduled collections.
- (b) ~~Any~~ Each refuse containers that ~~is~~ are not movable in accordance with subsection (a) shall be opaquely screened from view from streets and adjoining properties, at the full height of such container above the adjacent grade. This screening may be achieved by landscaping or by virtue of the location of the container on the site. Screening may also be achieved by walls or opaque fencing provided the wall or fence does not exceed the maximum height permitted for the location (see §§ 34-1171 et seq. and 34-1744). ~~If the nonmovable refuse container would be visible above the allowable height, it must be replaced with a shorter container.~~
- (c) Any refuse container not located within a roofed enclosure must have a lid that renders the interior of the container inaccessible to animals.

Ordinance 10-06  
Attachment B

Sec. 34-1744 Location and height of fences and walls

- (a) *Setbacks*. [No changes]
- (b) *Height*. The maximum height for fences and walls, measured from the existing elevation of the abutting property, is illustrated in Figure 34-29 and described as follows:

[No changes to Figure 34-29]

- (1) *Front yards*. Any fence or wall located in a front yard (between a street right-of-way or easement and the minimum required street setback or build-to line) shall not exceed 42 inches in height, except as provided in subsection 34-1744(c)(4) below. ~~except~~ This division does not excuse any fence or wall from compliance with anywhere a lesser height is required to meet vehicle visibility requirements (see § 34-3131) at traffic access points.

- (2) *Side and rear yards.* Any fence or wall located in a side or rear yard shall not exceed six feet in height.
- a. For purposes of this requirement, the side yard does not include any portion of the lot between a street and the minimum required street setback or build-to line.
  - b. Where a side yard or rear yard slopes downward from the street, a fence may be up to seven feet above the elevation of the abutting property to avoid unnecessary variations in the height of a fence.
- (3) *Near water bodies.* Within 25 feet of a body of water, those portions of a fence that exceed 42 inches in height cannot be more than 25% opaque (as viewed from perpendicular to the fence).
- (4) *Exceptions:*
- a. *Architectural features.* Fences and walls may include occasional architectural features such as columns, posts, gates, and arbors at a height not exceeding 84 inches. All such features must be visually compatible with the fence or wall design.
  - b. *Administrative setback variances.* Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268.
  - c. *Enclosure of high-voltage transformers.* See § 34-1748.
  - d. *Screening of refuse containers.* On sites where the location and configuration of existing structures and vehicle use areas prevent the placement of refuse containers outside the front yard, fences and/or walls erected for the sole purpose of providing reasonable screening of refuse containers located in a front yard may exceed 42 inches in height, but must not exceed six feet in height.

Sec. 34-1745. Buffer for commercial uses.

Some land uses are required to provide perimeter buffers in accordance with §§ 34-3005 or 10-416. Where buffers are required by other provisions of this code, this division will not be interpreted to restrict the height, location, or other features of required buffers.

**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 3/23/2010 with/without changes. Motion by Ryfel / Kay seconds  
(DATE)

Vote: 5-0  
Joanne K. Shamp  
Joanne Shamp, LPA Chair

- End of document