



## **MINUTES**

**FORT MYERS BEACH  
LOCAL PLANNING AGENCY  
TOWN HALL – COUNCIL CHAMBERS  
2523 ESTERO BOULEVARD  
FORT MYERS BEACH, FLORIDA 33931  
Special Meeting  
September 13, 2011**

### **I. CALL TO ORDER**

Meeting was called to order at 9:06 a.m. by Joanne Shamp; other members present:

Rochelle Kay  
John Kakatsch  
Bill Van Duzer – excused absence  
Hank Zuba  
Tom Cameron

LPA Attorney, Marilyn Miller  
Staff Present: Walter Fluegel, Community Development Director  
Leslee Chapman, Zoning Coordinator

### **II. PLEDGE OF ALLEGIANCE**

### **III. INVOCATION – Rochelle Kay**

A moment of silence was observed for the passing of Carleton Ryffel.

### **IV. MINUTES**

#### **A. Minutes of July 12, 2011**

Ms. Kay noted the misspelling of Steve Strauss. Ms. Shamp added that Mr. Melsek's name remained misspelled, and she noted there were several instances where the motion maker and/or the second were omitted. Discussion ensued regarding errors, omissions, and inaccuracies in the Minutes of July 12, 2011; LPA Attorney Miller permitted the LPA to approve the section of the minutes pertaining to the

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Surf Club Special Exception, and the remaining sections of the Minutes would be reviewed and corrected by staff, and presented to the LPA again at their October meeting for approval.

Tina Mayfield Ekblad requested the following correction to the minutes for Surf Club Special Exception: *Mr. Ganim was spelled incorrectly; Mr. Cermak needs to be referenced on page 3 in the second to the last paragraph, it is confusing as to who made that statement, it should read Mr. Van Duzer then posed his question to the owner, Mr. Cermak he didn't think he should be held to different times when his neighbor across the street, etc....Mr. Cameron was the LPA member who made the motion.*

**MOTION:** Ms. Kay moved to accept only the portion of the July 12, 2011 minutes concerning the Surf Club Special Exception, and the remaining sections of the Minutes would be reviewed and corrected by staff, and presented to the LPA again at their October meeting for approval; second by Mr. Kakatsch.

**VOTE:** Motion passed 5-0.

## **V. PUBLIC HEARINGS**

### **A. FMBSEZ2011-0001 – La Ola Special Exception for increased outdoor seating and live music.**

Ms. Shamp opened the hearing and asked LPA Attorney Miller to swear in the witnesses.

Ms. Chapman, Zoning Coordinator, was sworn in and the Affidavit of Publication was entered into the record.

Ms. Shamp asked if any LPA member had ex-parte communication regarding FMBSEZ2011-0001; Mr. Kakatsch – none; Mr. Zuba – none; Ms. Kay – none; Mr. Cameron – none; Ms. Shamp – reported she conducted a site visit and had a short conversation with the applicant. Ms. Shamp stated the applicant offered the Town the opportunity to present their case first.

Ms. Chapman presented comments on behalf of the Town. She explained the applicant was seeking a special exception for property located at 1035 Estero Boulevard; a multi-tenant commercial building located in Times Square; and the special exception request was to amend conditions from a previous special exception (Town Resolution 04-14 which contained 8 conditions). The applicant was seeking to increase outdoor seating and offer live music. The zoning for the subject property is Downtown and the future land use is Pedestrian/Commercial. She noted the subject property was included in the Business Extension in Times Square Agreement which is a utilization of Town right-of-way (741 square feet the applicant was leasing from the Town). She reviewed the proposed site plan as submitted by the applicant. She pointed out there were some special considerations to consider for the applicant with regard to the limited size of the restaurant which does not allow indoor seating; Resolution 04-14 did

limit dining use at the site to 10 tables and 42 chairs; and limited all music to be pre-recorded. She noted there was a six foot utility easement runs the length of the property.

Ms. Chapman stated the applicant was seeking amendment to Resolution 04-14:

- Condition #3 - to expand the outdoor seating to 11 tables and 42 chairs, 6 high top tables, 14 stools, 3 moveable bars, and 11 stools for a total of 67 seats.
- Condition #7 – to allow live music in addition to pre-recorded music; and applicant has suggested hours of operation for the live music to be 3:00 p.m. to 9:00 p.m., 7-days per week.

She displayed photographs of the current conditions at the subject property. She noted supporting regulations fall under Chapter 34-88 in the Land Development Codes, and she reported staff found that there were no changing conditions on the subject property; and the change was appropriate. When determining if the changes were consistent with the goals, objectives, policies, and intent, staff found that outdoor seating was strongly encouraged in the Comprehensive Plan and the Land Development Code for the Downtown. She reported staff found the use appropriate for the location; noted that the reason why the applicant was seeking a special exception was because the request involved a previous special exception thereby requiring another public hearing. She pointed out that the subject property was located in a heavily used pedestrian area and was not directly adjacent to any sensitive environmental areas.

Ms. Chapman explained that due to the location of the property it was compatible with its existing use. She noted staff's concerns pertaining to the live music request since the Town had a street performer program, so she tried to research the background of when the Times Square area was changed to a pedestrian area. She was unable to find the reason why pre-recorded music was a requirement in that area. She mentioned that there were a few businesses that had Gulf frontage that did have live outdoor music; however, any of the businesses that were located on the leased Town right-of-way property were held to the pre-recorded music requirement.

Ms. Chapman stated staff recommended approval of FMBSEZ2011-0001 with the following conditions:

1. The expanded seating area cannot exceed current Fire & Life Safety Code.
2. No bars, tables, speakers, chairs, or any other items may extend into the utility easement without written consent from the public utility company.
3. Conditions 1, 2, 4, 5, 6, and 8 of Resolution 04-14 remain in effect.
4. Non-amplified live music only; for the hours of 3:00 p.m. to 9:00 p.m., 7-days per week; and must comply with applicable Town noise ordinances.
5. Upon approval by Town Council the applicant must amend their Business Extension in Times Square Agreement to reflect the new conditions and so that Public Works has an updated site plan.

Mr. Cameron questioned if the utility easement noted by staff was underground or overhead.

Ms. Chapman stated she would verify the status of the power line.

Director Fluegel believed it was for a buried underground line.

Ms. Kay asked if FP&L had been contacted.

Ms. Chapman responded in the negative.

Ms. Kay noted it appeared the applicant was asking for something that was already in existence.

Ms. Chapman responded in the affirmative, explaining there have been tables and chairs at the site prior to Town approval; however, to her knowledge live music has not taken place as yet.

Discussion ensued concerning pre-recorded music/live music; the inconsistency of the applicant's request since all the businesses leasing the Town right-of-way were held to the standard of pre-recorded music; the applicant's offer to limit live music to 3:00 p.m. to 9:00 p.m. 7-days per week; and the staff's recommended condition concerning live music.

Mr. Kakatsch – no questions.

Mr. Zuba questioned if payments were required by the Business Extension in Times Square Agreement.

Ms. Chapman responded in the affirmative; the rate is \$2.98 per square foot. She noted the applicant was not requesting any additional space to lease.

Director Fluegel mentioned that staff was reviewing the rate structure for all of the right-of-way lease agreements.

Mr. Zuba asked if pedestrian traffic would be impeded by the live music and/or the additional seating.

Ms. Chapman responded in negative with respect to the additional seating; however, staff was uncertain as to whether or not the live music would impact pedestrian traffic; therefore, staff had included in their condition the music be non-amplified.

Mr. Zuba inquired if the lease agreement would impact the redesign of Estero Boulevard.

Ms. Chapman responded in the negative.

Mr. Zuba asked if the applicant was required to provide insurance with respect to the leased Town right-of-way property.

Director Fluegel stated it was his belief when the annual renewal of the agreement occurred the lessee was required to submit proof of insurance naming the Town as additional insured.

Ms. Chapman noted the insurance requirements in the copy of the applicant's current lease agreement (Exhibit B).

Mr. Zuba noted his concern a comment in staff's analysis: "*potentially very real impacts from this potential change in policy*". He asked if this was referring only to the live music.

Ms. Chapman responded in the affirmative.

Director Fluegel discussed the concerns of amplified music because the street performers were not permitted to be amplified, and how this could impact the Times Square area in general. He suggested the LPA and Town Council may want to consider these policies in the future. He noted all of the applicant's interior space was for the kitchen, so he was entirely reliant on the outside on ways to enhance and make his business successful. He described the ways the applicant has enhanced and developed the outside area; the possible use of food cart and the current Town code's definition of a food cart; and FEMA constraints as it pertained to elevation in Times Square.

Ms. Shamp noted her site visit and concerns regarding the lease agreement, #11, "*all utility easements and rights-of-way must be kept clear at all times*", and suggested staff may need to re-write the business extension regulations for Times Square. She mentioned that the carts were a creative way of creating business space, but asked if the one near the fixed fence to the left crossed the right-of-way or was it moveable. She recommended the addition of 'all rights-of-way and easements should be kept clear at all times and any items placed there should be moveable'.

Director Fluegel noted he understood Ms. Shamp's concerns and explained that the majority of what was seen at the subject site was within the applicant's property line and the tables extend out into the Town's right-of-way per the extension agreement; however, there was a fine line then where the pedestrian right-of-way begins which must remain free and clear.

Discussion ensued concerning the use of moveable carts as it pertained to the rights-of-way; and items that may not extend in to the utility easement such as but not limited to bars, tables, and chairs.

Ms. Shamp mentioned her frustration with regard to the continual presentation of applications to the LPA that involved hours and conditions for music which were contrary to what the Town Council previously approved.

Discussion ensued regarding the hours of operation for music; and the public utility easement.

Mr. Thomas List, Applicant and Owner of La Ola, reported that the electrical was in the back of the subject property; he discussed how he operated some of his other businesses in Europe as it pertained to live music and he stated the music was "smooth" and it would not be a 'rock concert'; he requested the LPA give him the opportunity to demonstrate the non-amplified music and the Town could even test the decibel levels; and he indicated on the overhead screen where the live music would be positioned on the subject site.

Public comment was opened and then closed, without comments from the public.

Mr. List was recognized again, and he pointed out on the overhead screen that the items he indicated were all moveable, and the awnings were removable.

Mr. Zuba asked the Applicant if he had discussed the special exception request with any of his neighbors.

Mr. List stated he spoke with (*inaudible*) who had no comments, and with the owner of Pete's Time Out *who told him it would be perfect if he could do something*. He stated he spoke with Local Color and another neighbor both of whom had no objections. He explained his request for music at those particular times was because many people start to leave the beach between 4:00-5:00 p.m. and he hoped they would be able to catch the people to keep them on the beach longer; and he didn't want to keep the music playing too late at night because he did not want to disturb near-by residents.

Ms. Kay asked where did the applicant store the tables and chairs if there was a hurricane since there was no inside storage area.

Mr. List reported he rented two storage rooms at a facility over the bridge.

With no further comment from the applicant or staff, Ms. Shamp closed the public comment portion of the hearing and opened the meeting for LPA discussion.

Ms. Kay noted that most of her questions had already been asked and were answered; Mr. Kakatsch reported he was at the subject site twice, and it appeared the Applicant has done a good job, and he recommended approval; Ms. Shamp noted her concern regarding the music and recommend that the Town needed to establish an ordinance regarding music and noise; and she explained why she could not support live music on-site since codes did not permit it at this time.

Director Fluegel clarified that staff was recommending non-amplified live music.

Mr. Kakatsch asked how close was the nearest residential house or unit to the subject property.

Director Fluegel reported the nearest would probably be on Crescent, quite a distance away behind the 7-Eleven on North Estero Boulevard. He discussed the street performer program and noted they were not permitted to be amplified.

**MOTION: Mr. Zuba moved to approve Resolution 2011-011 concerning La Ola Restaurant with the recommendations of staff, conditions of approval as outlined, and the recommended Findings and Conclusions;**

- 1. Changing conditions do not exist that make the approval inappropriate;**
- 2. that the requested special exception as conditioned is consistent with the Comp Plan;**
- 3. the requested special exception as conditioned meets or exceeds performance and locational standards;**

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4. the requested special exception as conditioned will protect and conserve the environmentally critical areas;
5. the requested special exception as conditioned will be compatible with existing and planned uses and will not cause damage or hazard; and
6. the requested special exception as conditioned will be in compliance with general applicable zoning conditions.

Second by Mr. Kakatsch.

Discussion was held concerning live music in the 'back bay area'.

VOTE: Motion passed 5-0.

The hearing on FMBSEZ2011-0001 was closed at 10:08 a.m.

Recessed at 10:08 a.m. – Reconvened at 10:15 a.m.

**B. FMBVAR2008-0003 – Diamond Head Sign Variance**

Ms. Shamp opened the hearing and asked LPA Attorney Miller to swear in the witnesses.

Ms. Chapman, Zoning Coordinator, was sworn in and the Affidavit of Publication was entered into the record.

Ms. Shamp asked if any LPA member had any ex-parte communication regarding FMBVAR2008-0003; Mr. Zuba – site visit; Mr. Kakatsch – site visit; Ms. Kay – none; Ms. Shamp – site visit; Mr. Cameron – none.

Ms. Chapman presented comments on behalf of the Town. She explained the application was for the Diamond Head Beach Resort and Spa and the requested variation was from the sign ordinance - Section 30-153 (b) and 30-154(c) of Chapter 30 of the land development code. She discussed some specific site conditions when reviewing the case: 1) at the time of development of the site Lee County required a subsurface drainage system at the site, so the property had to be raised approximately two feet which caused a grade change, and because of this the building code required a fence where the grade was changed; 2) the sign on the location was approved prior to 1999 and must come into compliance by the end of this year (she displayed a photograph of the existing sign and explained the current definition would consider this sign to be a pole sign which is prohibited); 3) and she reviewed how the current sign did not meet the requirements of Section 30-153(b) or 30-154(c). She discussed the applicant's request to modify the height of the sign; keep the existing sign face; and two businesses were located at this site. She stated that staff recommended that the finding of the elevation difference between the parking lot surface and the adjacent roadway was an exceptional condition and it justified a variance, and the conditions were not the result of actions created by the applicant. The variance, if granted, would be the minimum variance that would relief the burden for the applicant; and she noted this was where staff's recommendation differed slightly from the applicant's request – the height from the top of

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the fence should be the five feet. She stated staff recommended treating the top of the fence as ‘zero’ elevation; and to allow a sign that would measure five feet from the top of the fence; staff recommended that granting the variance would not be injurious to the neighborhood; she pointed out that the two foot grade change was unique to this situation; and she reported staff recommended approval of the variance with the following conditions:

1. The approval does not exempt the subject property, Diamond Head Beach Resort & Spa, from applying for and getting approved sign permits to modify their sign to what they have requested or what LPA recommends and what Council finds as the appropriate size;
2. the height of the sign measures from the elevation of the existing grade of the elevated parking lot to the highest point on the sign must not exceed eight feet six inches (8.6”);
3. construction or remodeling the sign must comply with all applicable codes, regulations, etc.; and
4. if the building on the subject property is removed or replaced, then this variance would expire within 30 days.

Mr. Zuba addressed the uniqueness of the subject property as it pertained to the grade the County had imposed.

Director Fluegel reviewed the density of the subject site and the requirement to store water on-site.

Mr. Zuba questioned if there was any foot candle power change with the new sign.

Ms. Chapman explained she was unsure, and that was why staff included the condition that they would have to get a face change permit and comply with building codes.

Mr. Kakatsch asked for clarification that the five feet started at the top of the fence.

Ms. Chapman responded in the affirmative.

Ms. Kay – no questions.

Mr. Cameron – no questions.

Ms. Shamp noted the sign and dimension depicted and the large white space; she questioned that no sign type was permitted on the base.

Ms. Chapman responded in the affirmative.

Ms. Shamp questioned vegetative requirements around the base for aesthetic purposes.

Ms. Chapman took note of this potential requirement, and stated the LPA could add that as a condition.

Discussion was held regarding signage, double-faced signs, and monument signs.



Mr. Neil Hopgood, Applicant and General Manager of Diamond Head Beach Resort & Spa, stated that the Diamond Resort had applied for a variance in 2008 and intends to fully comply with the Town's code for monument signs. He reviewed the hardship the business had experienced due to the grade/elevation. He mentioned they were trying to reduce cost by re-using the cap of the sign, and that they had obtained a permit to reface the sign in 2009. He stated they agreed with staff's recommendation of five feet above the sight-line of the fence; and requested a variance on height from grade and size of sign to use existing cap of current sign to alleviate the aesthetic clutter of 2-3 monument signs as well as the cost to complete.

Discussion was held concerning the height of the sign; the wording of the proposed sign; and Mr. Hopgood stated the sign's foot candle would not change, and that they had no problem with using bushes to improve the aesthetics at the white wall.

Public comment was opened and then closed, without comments from the public. With no further comment from the applicant or staff, Ms. Shamp closed the public comment portion of the hearing and opened the meeting for LPA discussion.

Discussion ensued regarding the white wall at the base of the sign; the sign ordinance; staff's recommendations; the uniqueness of the subject property; and the purpose of the sign.

**MOTION: Mr. Cameron moved that the LPA recommend to the Town Council approval of the applicant's request for a variance from Sections 30-153(b) and 30-154(c) of the LDC with any approval subject to the following conditions:**

- 1. Recommending conditions subject to the variance is not exempt the subject property from the LDC Section 30-55 permit requirements for signs;**
- 2. the height of the sign measured from the elevation of the existing grade of the elevated parking lot to the highest point of the sign must not exceed 8'6";**

Discussion was held regarding the height as requested by the Applicant.

LPA Attorney Miller suggested the Town obtain the square footage of the triangular portion, and then the height would be the 8'6" plus the triangular portion, so it could go up an additional two feet one inch.

**Motion maker clarified #2 as follows: the height of the sign measured from the elevation of the existing grade of the elevated parking lot to the highest point of the sign must not exceed 8'6" plus the triangular portion (as stated by the LPA Attorney).**

- 3. the remodeling of the sign must comply with all applicable codes and regulations including building codes and lighting standards;**
- 4. if the principal building on the subject property is removed or replaced, then the sign allowed by this variance would be removed within 30 days of the issuance of the demolition permit for the principal building, or within 30 days of the expiration of the federal, state, county, and local declaration of disaster, whichever conditions apply and whichever comes first; and**

5. placement of signage in conjunction with redevelopment must comply with all regulations in effect at the time of permitting.

**Recommended Findings and Conclusion:** in accordance with the regulations in LDC Section 34-84 and 34-87 regarding consideration of eligibility for a Variance the LPA recommends that the Town Council make the following Findings and Conclusions:

- There are exceptions, extraordinary conditions or circumstances that are inherent to the property in question, or
- the request is not a *de minimis* variance;
- the conditions justifying the variance are not the result of actions of the applicant taken after the adoption of regulation in question;
- the variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation to the property in question;
- the granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
- the conditions or circumstances of the specific piece of property for which the variance is sought are not general or recurrent in nature as to make it more reasonable and practical to amend the regulation in question.

**Second by Mr. Zuba.**

Ms. Shamp discussed the basis for not supporting the motion due to the extra two feet, one inch in height. She asked if the motion maker would add in wording about vegetation.

Mr. Cameron believed it would be in the Applicant's best interest to place some bushes around the white base.

Discussion ensued regarding the vegetation and the appearance of the monument sign base.

Director Fluegel noted a provision in the code and the LPA could require landscaping so that there was no more than 18 inches of exposed structure.

**Motion maker amended the motion to include "landscaping to comply with code" as an addition to #3.**

**Second agreed.**

Ms. Kay discussed her belief that approving the extra two feet, one inch was setting precedent and not in keeping with the sign ordinance.

Discussion ensued regarding the sign ordinance; the proposed sign dimensions; and proposed wording on the sign.

**VOTE: 3-2; Ms. Kay and Ms. Shamp dissenting.**

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The hearing on FMBVAR2008-0003 was closed at 11:07 a.m.

**Recessed at 11:08 a.m. – Reconvened at 11:13 a.m.**

## **VI. ADMINISTRATIVE AGENDA**

Ms. Shamp noted a change in the agenda – a new resolution, the Carlton Ryffel Resolution, would be discussed first and then the Consumption on Premises agenda item.

### **A. Carlton Ryffel Resolution**

Ms. Shamp explained that she prepared the resolution in honor of Carlton Ryffel based on the LPA format in the procedure manual. She expressed the LPA's sorrow at the sudden passing of fellow LPA member, Carlton Ryffel. She noted that the LPA would like to honor Mr. Ryffel and his expertise he brought to the Board through this resolution.

Director Fluegel reported that Council also expressed their desire to honor Mr. Ryffel and to possibly do a joint memorialization of him. He reported that he also reached out to Lee County and a dear friend of Mr. Ryffel, Wayne Daltry. He reviewed some options the LPA may want to consider to honor Mr. Ryffel such as but not limited to a joint resolution from the LPA, Council, and possibly the BOCC, or a standalone resolution from the LPA; the Board could nominate Mr. Ryffel for the Mayor John Mulholland Stewardship Award; or a tree planting in a County Park or the Town's Bay Oaks. He recounted how Mr. Ryffel cared about the community and was instrumental as it pertained to the creation of the Town of Fort Myers Beach. He noted that Mr. Ryffel was a great personal friend and a mentor and advisor.

Discussion ensued as to an appropriate and fitting memorial for Mr. Ryffel; Mr. Zuba noted he favored the nomination for the Mulholland Award; Ms. Shamp agreed and noted Mr. Ryffel's very protective nature of the beach, how he was always cognizant of the environment, and noted that he also served with the County's LPA; Mr. Kakatsch suggested, in addition to the LPA's resolution, to do something at the north end of the beach, possibly at the turnaround area, since Mr. Ryffel live nearby and was very involved with that area, and wondered if they could name that after him; Mr. Cameron mentioned he heard there was a possibility the southern tip of the beach would be changed to *Mulholland Point* and the name change process involved some type of federal procedures, therefore he wanted to alert the LPA these additional steps might be required if they name the turnaround area after Mr. Ryffel; Ms. Shamp recounted how in conversations with Mr. Ryffel he had conveyed to her his desire for an American flag to be placed in Crescent Park and she discussed options such as but not limited to naming the pole, or raising the first flag in his honor and present it to Mr. Ryffel's family.

Director Fluegel stated staff would work on all of these ideas, the concept of a joint resolution with the BOCC, and added the LPA could prepare their own resolution as well.

**MOTION: Mr. Cameron moved to direct staff to nominate Carlton Ryffel for the Mayor John**

**Mulholland Award and proceed with the nomination to be included in the next award cycle, and staff should work on the other efforts mentioned in concert with the nomination; seconded by Mr. Kakatsch.**

Ms. Shamp noted for the record that the LPA was already working on a resolution and also honored Mr. Ryffel at the today's meeting.

**VOTE: Motion passed 5-0.**

### **B. Consumption on Premises Update**

Director Fluegel reviewed the COP timeline as it pertained to alcohol consumption, sales, and service which showed the development of the County ordinances and approvals, and Town ordinances and adoption of the Town's Comprehensive Plan. He explained that how some Town approvals were site specific and had were done by special exception or special permit. He reported more details and information would be included in the final report and staff was working to complete it and at that point it would be forwarded for legal review/determination. He described the detail and amount of work involved with the report and noted it was staff's objective to present a final report to the LPA in October for discussion.

Discussion ensued and Ms. Shamp thanked the staff for their hard work on this item and requested as much lead time as possible to review the report prior to the meeting; Mr. Cameron discussed the number of COP in the EC Zoning Districts and permits for Top of the Mast; LPA Attorney Miller noted the daunting task of finding public records pre-incorporation, as well as with ABT and the County; Mr. Cameron discussed his desire to obtain an aerial view of the licensed premises where they are licensed to serve alcohol on the property and where the EC Zoning District line was at Top of the Mast; LPA Attorney Miller explained the legal differences between using a GIS map versus a survey; Director Fluegel reviewed highlights of the topics in the report that the LPA would be analyzing such as but not limited to boundary lines as it pertained to where alcohol could be served, and the lack of a regulatory framework and using special exceptions.

Ms. Shamp suggested staff give the LPA each section of the report as it becomes available.

Mr. Kakatsch requested staff research to determine consumption on the beach policy at Sanibel, Captiva, Bonita Springs, Vanderbilt Beach, Naples, and Marco Island.

Director Fluegel reported he had researched those areas and the problem was none of them had the same situation as Fort Myers Beach where you have a property bifurcated by two different zoning districts.

LPA Attorney Miller stated she pulled up Sanibel's open container law on her laptop and reported they prohibit an open container on *any public street or right-of-way including any bicycle path, any public parking lot, the public fishing pier, the public boat ramp facility*". She explained the Town's code says

*“semi-public parking lot, public street, parkway, sidewalk, and beach”*; however staff would research the other locations as requested by Mr. Kakatsch.

Ms. Shamp discussed the Town’s decision to create an environmentally critical zone and questioned the basis for the EC Zone.

Mr. Fluegel explained that based upon conversations and reviewing minutes, it appeared it was a way of cutting the density in half for every property fronting along the beach. He reviewed the type of information that would be included in the final report.

Ms. Shamp questioned if the LPA would receive information on the EC line at the north end of the beach.

LPA Attorney noted that there could be different standards for those properties since the State leases property to private entities.

Discussion ensued regarding State property, leasing State property, and public beaches; zoning districts/boundaries; the EC line; and how these might pertain to alcohol consumption.

Ms. Shamp noted the need to appoint a Vice Chair.

Mr. Kakatsch nominated Mr. Van Duzer.

Ms. Shamp explained why Mr. Van Duzer would probably turn down the nomination; she noted the appointment may be for only one meeting, since in October they would reorganize.

**MOTION: Mr. Cameron nominated Mr. Zuba as the LPA Vice Chair; second by Mr. Kakatsch.**

**VOTE: 5-0.**

**MOTION: Mr. Zuba moved to adjourn as the LPA and reconvene as the Historic Preservation Board; second by Mr. Cameron.**

**VOTE: 5-0.**

**ADJOURN AS LOCAL PLANNING AGENCY AND RECONVENE AS HISTORIC  
PRESERVATION BOARD  
12:03 P.M.**

Ms. Kay reported HAC held a meeting on July 26, 2011 where they discussed the Smith Cottage presentation; there would be another presentation at the Episcopal Church on September 29, 2011; a history of the church was well documented by the HAC; there was a discussion at the July meeting

regarding the plaques and it was decided to continue to use the same type of plaque; another discussion at the July meeting dealt with a list of properties of historic significance compiled by the HAC; also vista signs were discussed, Planning Coordinator Ekblad presented information on the signage, and it appeared the group favored to use the sloped-panel free standing signs. She questioned if the Council had included funding for the signs in the budget.

Director Fluegel reported at the preliminary budget meeting there was \$10,000 allocated for the Vista Sign Program, and possibly \$2,000 for the plaques.

Ms. Kay mentioned the expense and work involved for the vista signs. She stated at the July meeting there were questions concerning the Mound House such as but not limited to staffing, a new historian, the consolidation of Parks & Recreation and Cultural Resources, and a discussion was held on the purpose of the Newton House. She requested staff to research and confirm whether or not there were plans for a Mound House historian.

Discussion ensued regarding a historian for the Mound House.

## **VII. HISTORIC PRESERVATION**

No items to report.

**MOTION: Ms. Shamp moved to adjourn the HPB at 12:12 p.m. and reconvene as the LPA; second by Mr. Kakatsch.**

**VOTE: 5-0.**

### **HISTORIC PRESERVATION BOARD ADJOURNED AND RECONVENED AS THE LOCAL PLANNING AGENCY 12:12 P.M.**

## **VIII. LPA MEMBER ITEMS AND REPORTS**

Mr. Cameron – no items or report.

Mr. Kakatsch – no items or report.

Mr. Zuba – no items or report.

Ms. Kay – requested clarification that the Town Clerk had contacted the Municipal Code Corporation concerning the cost to codify the Land Development Code since years ago the land development codes were not included in the codification.

Director Fluegel explained that the land development codes were not on Municode as the other Town ordinances were, and they now wanted to include them to make them more accessible.

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Discussion was held regarding search features of the code on Municode on the Internet.

Ms. Shamp asked who was in charge of maintenance on the north end where the planters were located.

Director Fluegel stated there was a maintenance contract in the works for that location.

Ms. Shamp noted a Joint Meeting of the LPA and Town Council had not occurred in quite some time, and she recommended having one schedule one as outlined in their procedural manual.

**MOTION: Ms. Kay moved to direct staff to work to schedule a joint workshop with Town Council; second by Mr. Kakatsch.**

Ms. Shamp suggested holding the meeting in November, and Mr. Kakatsch suggested placing the item on the LPA October agenda so that they may create and finalize an agenda for the Joint Meeting; and Ms. Shamp requested the LPA forward suggested topics for the Joint Meeting to Director Fluegel,

**VOTE: Motion passed 5-0.**

Ms. Kay discussed her concerns regarding the Downtown District as it related to parking problems such as the cost of parking and reduced parking as compared to the 'back bay' area.

Director Fluegel suggested a discussion on that topic as it related to Comprehensive Plan; he wondered if there was a way to incentivize parking; and raised the question of whether or not it should be a public initiative. He suggested after the COP was completed the LPA may want to discuss the topic in a workshop.

## **IX. LPA ATTORNEY ITEMS**

No items to report.

## **X. COMMUNITY DEVELOPMENT DIRECTOR ITEMS**

Director Fluegel reported he received information today from the Board of Realtors that the median prices for sales of single-family residents and condos are increasing, but the more significant was that overall For Sale inventory was down substantially. He explained how his department liked to track this information as it related to deferred maintenance issues; and he discussed the increase in building permits over 2009 and the Town's agreement structure with Lee County for permitting fees.

Mr. Kakatsch complimented the Town on the beautiful bridge and painting, and did they intend to power wash the posts under the bridge.

Director Fluegel stated he would investigate the matter.

Mr. Kakatsch discussed his view regarding the purchase of a Town Hall.

LPA Attorney Miller stated there would be a referendum question on the next Council agenda.

Mr. Kakatsch addressed the fence installed around the proposed Sea Farer's Mall parking area.

Director Fluegel gave a quick update; he noted the Town Manager and he met with County staff regarding the Sea Farer's and discussed the possibility of a parking lot. He noted the County's intent was for a surface parking lot. He reported Town staff recommended an amendment to that CPD zoning which would require a public hearing before the LPA and Town Council.

Discussion ensued concerning a traffic study for the subject property.

## **XI. LPA ACTION ITEM LIST REVIEW**

- Surf Club to Council on September 26<sup>th</sup> or October 3<sup>rd</sup>
- Mr. Kakatsch would represent the LPA when the Surf Club appeared on the Council agenda; and staff would keep Mr. Kakatsch informed of the hearing date
- Holiday Inn sign – Staff noted the applicant withdrew and submitted a sign permit application that complies with the new code
- Add on two LPA Resolutions from today
- Discussion on the rights-of-way on Estero Boulevard; Director Fluegel explained that he would have to 'pull the reigns' in on this due to the work being done on the COP
- IPMC – Fluegel
- EAR Update – LaRue update on 2 visioning sessions
- Post-disaster reconstruction/recovery – TBD; LPA Attorney Miller
- Beach raking – TBD
- **PAL PWB Ordinance** – TBD
- Connecticut Street

## **XII. ITEMS FOR NEXT MONTH'S AGENDA**

- COP
- IPMC
- Potential special exception and/or variance applications

## **XIII. PUBLIC COMMENT**

No comment.

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**XIV. ADJOURNMENT**

**MOTION: Motion by Mr. Kakatsch, seconded by Ms. Kay to adjourn.**

**VOTE: Motion approved 5-0**

Meeting adjourned at 12:35 p.m.

Adopted \_\_\_\_\_ With/Without changes. Motion by \_\_\_\_\_

Vote: \_\_\_\_\_

\_\_\_\_\_  
Signature

- End of document.