

**MINUTES**  
**FORT MYERS BEACH**  
**Local Planning Agency Meeting**

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

**Tuesday, March 24, 2009**

**I. CALL TO ORDER**

Meeting was called to order at 10:40 AM by Chairperson Dennis Weimer. Six members present:

Dennis Weimer  
Rochelle Kay  
Alan Mandel  
Bill Van Duzer  
Joanne Shamp  
Joe Yerkes  
Evie Barnes was absent (excused).

Staff present: LPA Attorney Ann Dalton; Community Development Director Dr. Frank Shockey. Members of the community were also present.

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION-Mr. Weimer**

**IV. MINUTES**

**Motion by Mr. Van Duzer to adopt the minutes, as recorded.**

**Second: Mr. Yerkes**

Ms. Shamp corrected her original wording recorded in pg. 1, Section V;  
Motion maker and seconder so noted and accepted.

**Vote: 6-0**

**V. TOWN CAPITAL IMPROVEMENT PROGRAM (CIP) ITEMS**

Ms. Shamp reported that Mr. Janke is working with Mr. Small to get the materials to work on the CIP issues and have all of it disseminated to the LPA, and getting a presentation on the agenda.

**Motion to adjourn as LPA and reconvene as HPB: Ms. Kay**

**Second: Ms. Shamp**

**Vote: 6-0**

**VI. ADJOURN AS LPA-RECONVENE AS HPB**

**Ms. Shamp opened the meeting of the HPB at 10:47 am**

**A. HPB Hearing FMB COA2009-0001- Seven Seas Special Certificate of Appropriateness**

Ms. Dalton swore in witnesses.

Ms. Shamp asked staff for their presentation of the Affidavit of Publication or copy of legal advertisement from the newspaper of record. Dr. Shockey stated that the affidavit was not available but that the notice did appear in the News-Press on Wednesday, March 18, and he received the mailed receipt for notice he mailed to the Town Manager.

Ms. Shamp asked the applicant to present its case.

Ms. Theresa Schober addressed the meeting. She presented the project, restoration of the Seven Seas, a locally designated historic structure that is eligible for the National registry of Historic places. The Town, as applicant, is proposing to reutilize this as a community gathering place, requiring few alterations to the entire building, and this use is consistent with the prior uses historically. She cited other minor changes and some “rehabilitation” rather than replacements in other cases (she distributed copies of the changes). In addition, she distributed new floor plans and other visual aids for HPB review. Specifically, one addition was (see attachments) pointed out, having to do with an exterior ramp which was not included in the original application.

Before questions were taken, Ms. Shamp polled the HPB members for any ex-parte communications. Other than Ms. Shamp having a site visit, no one had any.

Mr. Yerkes commented on the fact that although the ramping is needed, it drastically affects the historic look and originality of the property. Ms. Schober addressed his concern and added that most are requirements of the federal ADA act. He asked if there are some plans for beautification of the property by hiding the ramps with vegetation or something. She said that vegetation will be planted but not specifically to hide the ramp. Mr. Yerkes asked if the applicant’s plan will outside landscape-cover and beautify the appearance of the ramps. Ms. Schober answered “if we’re required.” She reiterated that the ramps must be accessible and visible so that they can be used, and cannot conflict with the pathways. There is a plan in place to put vegetation that will minimize the appearance of the site overall, but no plan specific to minimize the ramping.

Mr. Weimer asked a question specific to a diagram in the packet and Ms. Schober pointed out what he needed to clarify, dealing with proposed vegetation and other plans. Mr. Mandel also referred to this diagram, regarding placement of bushes and

there was some discussion.

Ms. Shamp asked about hurricane protection changes to the structure and Ms. Schober answered her concerns, pointing out the sliding glass doors and certain “invisible” hurricane shutter attachments, the same as the other historic property protections in place on the beach. Mr. Yerkes asked if the building is flood proof. Ms. Schober said that there is no proposed dry-proofing because that would alter the historic fabric of the structure.

With no further questions for the applicant, Ms. Shamp asked for the staff presentation. For clarification, Ms. Shamp directed a question from Mr. Mandel to the Town attorney: what the HPB is approving today is just the COA for modifications to the building itself, and not relating to landscaping or other plans? Ms. Dalton agreed that restoration of the building is the only item to be considered.

Dr. Shockey addressed the meeting for the staff and summarized the request from the applicant. He reported that the staff recommendation for the property is to approve the COA and make the appropriate findings regarding the standards for consideration. The staff report and attachments were entered into the record, including electronically submitted documents provided by the applicant.

Mr. Yerkes asked if the HPB could expect that there would be another plan for landscaping or if this is not required. Dr. Shockey felt that this is a possibility, depending on future choices about how to operate the site, but said the applicant is not required to do so. Mr. Yerkes also asked if there were any operational plan policies for hurricane preparation to avoid the valuable items from being lost. Dr. Shockey said he knew of none but could research what other coastal towns have done.

Ms. Shamp asked for public comment; there being none, public comment was closed.

Ms. Schober addressed Mr. Yerkes’s concerns and said she didn’t know exactly what the internal contents of the structure would be but offered an example of the approach the Town has taken at the Mound House. Artifact cases are individually humidified, for example, and the cases can be removed, as well as the signage. She gave other examples of the plan for protection of the artifacts.

With no further comments or discussion, Mr. Weimer stated that he was ready to make a motion.

**Motion by Mr. Weimer:** Regarding HPB 2009-08 (page 205); *“now therefore it is resolved by the Historic Preservation Board of the Town of Ft. Myers Beach as follows: the HPB approves, under the Findings of Fact and Conclusions of Law,*

- 1. the property will be used for historic purposes;*
- 2. the historic character of the subject property will be retained; the removal of historic materials or alteration that characterize the property will be avoided;*

3. *the subject property will be recognized as a physical record of its time, place and use and changes that create a false sense will not be undertaken;*
4. *most properties change over time...will be retained;*
5. *distinctive features will be preserved;*
6. *-deteriorated historic features will be repaired, when severity of deterioration requires replacement, the new feature match the old when possible and replacement of missing features will be substantiated by documentary pictorial evidence;*
7. *chemical or physical treatment will not be used, surface cleaning, if appropriate, will be undertaken using the gentlest possible means;*
8. *significant archeological resources affected by the project will be protected; if such resources are disturbed, mitigation measures will be undertaken;*
9. *will additions will not destroy historic materials and the new work will be differentiated from the old and compatible with the mass;*
10. *new additions...will be undertaken in such a manner that if removed in the future the environment would be unimpaired;*
11. *the proposed alteration will meet specific guidelines of the designating resolution specifically” and so on.*

**Second by Mr. Mandel;**

**Vote: 6-0, with Ms. Barnes absent.**

Ms. Shamp closed the hearing and asked for a motion to adjourn.

**Motion to Adjourn as HPB/Reconvene as LPA by Mr. Weimer;**

**Second by Ms. Kay;**

**Vote: 6-0**

## **VII. ADJOURN AS HPB-RECONVENE AS LPA**

Mr. Weimer reconvened the LPA meeting at 11:24 AM.

## **VIII. PUBLIC HEARING**

### **A. Ordinance 09-XX Amending LDC Lodging Regulations**

The staff and LPA attorney requested a continuance for this hearing. Mr. Weimer asked for a motion to continue.

**Motion by Mr. Van Duzer to continue to a date to be determined;**

**Second by Mr. Yerkes;**

**Vote: 6-0, with Ms. Barnes absent.**

### **B. DCI 2006-0001 and DCI 2006-0002 White Sands, Captiva Villas and Bayside CPD Zoning Amendments**

Mr. Weimer asked staff for their presentation of the Affidavit of Publication or copy

of legal advertisement from the newspaper of record. Dr. Shockey stated that the affidavit was not yet available but that the notice did appear in the News-Press on Wednesday, March 18<sup>th</sup>.

Mr. Weimer polled the LPA members for any ex-parte communications. Mr. Yerkes stated he did not but disclosed that his company employs Roetzel & Andress as their primary attorneys. Mr. Van Duzer mentioned a phone call from a member of the public, commenting on the request. Ms. Shamp had a site visit. Mr. Weimer stated that he has had some ex parte communications. The LPA attorney swore in witnesses.

Beverly Grady, Roetzel & Andress addressed the LPA on behalf of Pink Shell in its request for modifications to the zoning plan. Ms. Grady stated that they have eleven revisions and she also introduced Robert Mulhere, Planner with RWA, and Bill Waichulis, Regional Manager of Pink Shell.

Ms. Grady said that her client wanted to review the original requests they submitted (referring to the staff report page 12). Ms. Grady referred to her chart of the applicant's eleven requests for modification:

- to replace the tennis courts with parking, adding forty-two parking spaces, and the plan includes landscaping for buffering.
- clarification of the plans, showing the location of the boat ramp and pedestrian walkway.
- 3& 4 deals with if there are any changes in the right-of-way size between Captiva Villas and the Bayside, the applicant would just like the ability to amend administratively to reflect that change to match the Master Plan.  
#5-refers to the alternate landscape betterment plan.
- #6 and #7- commercial restaurant's retail personal services to eliminate a restriction that was in some places regarding guests of Pink Shell only, or regarding external advertisement.
- #8- staff thought a uniform sign package would be a good idea.
- #9- a roll-off container to be replaced by a trash compacter.
- #10 – add additional valet parking.
- #11- show some gates on the property to restrict access.

Ms. Grady said that her firm took the staff's conditions from their report and then reflected where they had a question, comment, etc., and she passed out copies of that marked up version of the report. She pointed out that, beyond the eleven requests, which were modifications to twenty-five years of approvals, this will show them that this new set of conditions repeals all prior approval that have been granted over the last twenty-five years. She said the applicant has questions and concerns regarding these and wondered where Pink Shell would be if staff's conditions are adopted. Her examples were the ability to rebuild and some other things. Mr. Weimer interrupted to say that the LPA could not accept any new documents and Ms. Grady agreed to read these points, basically saying that the applicant received a staff report that contained far more than the application requested. She said that the document she is referencing is due to the staff report and shows their concerns about the repeal of

every approval Pink Shell ever had. Mr. Weimer directed the question of allowing the document to the attorney, who said it would be more expeditious so that the applicant and Dr. Shockey and Ms. Dalton could review the issues in the document. Ms. Grady said that the applicant requested a meeting when they received the report and were told to go to the LPA for any changes. Dr. Shockey stated that some of these issues could be discussed in a recess but also thought that there would be a fundamental disagreement about the rights conferred by planned development zoning. Ms. Dalton commented on Ms. Grady's earlier statement that this is "unique rule," and said that it is not, as she serves on a Fort Myers board and they have the same rule regarding presentation of documents.

Mr. Weimer asked for the LPA approval to allow for a short break to review the document Ms. Grady is going to read from, as it is quite lengthy. Mr. Yerkes expressed his concern in allowing this, after hearing Dr. Shockey caution that there is clearly a fundamental difference, and did not feel comfortable to deal with this at the present. He said that these passed deviations are wide-reaching and staff seems to have taken a logical direction to achieve the goal from a planning standpoint. Ms. Shamp added that she is also not comfortable in receiving this document as it is not accepted practice to do so. Mr. Mandel felt that if this is significant, he would like a chance to read the applicant's document before she reads it to the board and he still wanted the chance to have staff and the applicant meet briefly to see if this could be addressed easily or need time for a longer hearing. Mr. Van Duzer suggested a recess to give the parties a chance to review this and if no common ground can be found, continue the hearing.

Mr. Weimer asked if the applicant would agree to a forty minute break to review and discuss the options, and probably allow public comment today because there are so many members of the public present. Mr. Yerkes agreed to this suggestion and Ms. Shamp asked if public comment can be allowed today and again at a continuance of the hearing at a later meeting; Ms. Dalton stated that this is permissible. Mr. Weimer then announced that the applicant should continue with her presentation and then they would take public comment before any staff presentation. Ms. Grady agreed but discussed it with her client, adding that the applicant's planner can do just a brief presentation on what their application was and what they are requesting. She introduced Mr. Robert Mulhere, expert in land use planning.

Mr. Mulharre addressed the LPA, giving a brief background of his qualifications. He read from a handout and said that one of the substantive concerns with the staff report as relates to the use is the parking calculation and the methodology which was used to prepare that. He referred to the LDC, wherein it defines subordinate commercial uses, to hotel/motel/multi-family, which allows for up to 10 % of the gross sq. ft. of the principal use to be dedicated to the subordinate personal uses including small retail and restaurant. He pointed out that the 10% does not require any additional parking and referred to the calculations of the staff report and the difference in his calculations. In addition, he added that he has also reviewed all of the requests, with respect to compliance with the Comp. Plan, as well as with the LDC, and he feels

there is nothing that would be inconsistent with the Comp Plan.

Ms. Grady added that as part of the application, 75% of the unit owners of Captiva Villas and White Sands support the application. She feels that their requests are an improvement and will be an asset to the beach and to Pink Shell.

Mr. Weimer asked for LPA questions and he asked the planner about the number of parking spaces per square foot of restaurant and commercial area, asking how many per thousand. Mr. Mulharre said it was 8 per thousand. Mr. Weimer asked for clarification as the whole presentation from Mr. Mulhere was a bit confusing and difficult to follow. He said that, in the applicant's calculation for total commercial uses is 20,247 sq. ft. was the correct number so, after the 10% allowance, the remaining sq. ft. over that 10% is 479 sq. ft., making it 4 additional spaces. Ms. Shamp stated that she did a site visit and saw only gravel parking area where the tennis court is shown in the plan and asked if there is a tennis court there. The applicant said "there is a tennis court that's used by approval for temporary parking during the season, and that's been approved." Mr. Wauchulis, General Manager of the Pink Shell answered for the applicant, saying that they "applied for a permit a year and a half ago to remove the tennis courts; we removed them and filed for a temporary seasonal parking permit, which we have up to date for parking."

### **Open Public Comment**

Mr. Weimer asked for public comment and notified the LPA that he received a request that one individual would represent a whole body. Carl Bradley addressed the LPA and said he is a resident of Pink Shell and asked if those in opposition can attend the discussions between staff and the applicant. Ms. Dalton responded to Mr. Bradley's concerns and it was satisfied.

Mr. Bradley advised that thirty-seven property owners sent letters, and fourteen were present to address the LPA today. He said that they would limit their presentation to about 6 speakers and limited their speaking time to testify. He read the letter signed by the property owners to the LPA (in packets), which does not support the request to amend the zoning at Pink Shell Resort. Basically, the residents/owners are opposed to the commercializing of the facilities by the new owners to allow use by the public and not just by the guests staying at the resort. He read another letter from Carleton Ryffel, an owner and association board member who could not attend because he was accepting an award in Alabama for his expertise in planning for the City of Auburn, AL. The letter briefly described his background and service in city planning and zoning, and stated how all of the residents historically supported zoning changes, etc. at the Pink Shell for the good of the Town and its citizens, especially for the Pink Shell owners. He stated his opposition, as a professional and a resident/owner, to changing the zoning and uses of the property from the limited use by guest to commercial uses by the general public. He cited the parking issues and the misuse of former "open space" (which Ms. Shamp referred to earlier as the location of the tennis courts) now being used as a "temporary" parking area, saying it should be

returned to open space. Mr. Bradley then discussed some of his views regarding parking on the property and cited Sec. 34-2020 of the LDC, which he says requires 1.5 spaces for every hotel room and 1 space for every 2 boat slips; this yields a total of 218 spaces required right now. He said that JABO is 9 spaces short of their requirement, without inviting the public in. He added that JABO even tore down a fence at one point so they could use a water retention area for parking. Mr. Bradley pointed out the tennis courts which are not there any more and that the space is getting bigger for parking rather than going back to what it was meant to be: a green area. Now the proposed additional spaces are at 265 and he referred to pages 4 and 5 of the staff report, which says that 316 spaces will be required if that commercial space, which is now incidental to the resort and not open to the public, is opened to the public, Section 34-2020 clearly requires that number of spaces. Mr. Bradley continued to discuss JABO and its website boasting of amenity size and space, and referred to page 19 of the staff report and the additional parking spaces required for facilities of that size including banquet halls and ballrooms.

Mr. Charles Ramsey then addressed the LPA as a resident and neighbor of the Pink Shell resort. He strongly objected to the commercialization of the property, too, and complained that the Pink Shell is usually loud and noisy as it is, even without inviting more of the public in.

Ms. Susan Lisich, who has property on Estero Blvd., between the gravel parking lot and the green space area of the resort, addressed the meeting. She also asked that the LPA deny any intensification of commercial use to the Pink Shell owners, by allowing public use.

Dr. Robert Fitz addressed the meeting. He also said that the parking lot, which used to be a tennis court, was supposed to be a temporary thing, to be utilized by construction workers building the buildings. He said that the "temporary" parking lot is still there and is now used by the Pink Shell employees. He complained that the workers arrive early in the morning with blasting radios and loud noises disturbing to the residents. He added that disturbances occur in that lot whenever there is a party at the property and the employees are leaving very late and loudly.

Ms. Jean Bradley is also a resident near Pink Shell (though no relation to Carl Bradley). She also asked the LPA not to allow the changes to the peaceful nature of the Pink Shell by granting the commercial use requests of the applicant.

Mr. Simon Colgate, owner of a sailing school at the Pink Shell resort, addressed the LPA. He discussed waterfront access and his support of Pink Shell owners installing a marina there due to diminishing waterfront access by the public.

Mr. Robert Haller addressed the meeting and talked about his background in Southwest Florida. He also presented a diagram of a platted parking area, which the staff has been given. He said that the JABO Co., owners of Pink Shell, intends to move the parking areas, in conflict with original plan for their easement. He referred

to a document which was given to staff earlier. Mr. Haller stated the JABO does not have legal right to disregard the easement and arbitrarily move parking areas. He asked that the LPA review all of the laws and the record and not allow the changes.

Mr. Peter Lisich addressed the LPA, giving his background, including years of experience as a land use planner and a degree in Public Service Administration. He pointed out his property on the map displayed. He pointed out that the master plan indicates “eliminate tennis courts” but that this had been done quite awhile ago. He referred to comments by the applicant: #1-converting the tennis courts and he said these do not exist; he said the area is a parking lot and has been so for at least 2 years. In item #2 (referring to the applicant’s chart displayed in the room), there is confusion about the existing boat ramp. He said that the deeded public walkway was prepared and recorded, but the plan approved in a previous zoning request by Ms. Grady’s firm has the walkway going through where the existing boat ramp is with the boat ramp removed. Now, this is being represented as an obstruction. Mr. Lisich referred to other items on the chart, including a contradiction of earlier testimony of the expert, Mr. Mulhere, regarding page 4 of the staff report and the calculation of principal uses in square feet. He stated that this would simply be applying current code to previous zonings. He pointed out that the current square footage of Captiva Villas Restaurant is 3750 sq. ft., and the existing principal use is 28,000 sq. ft.; making it 13.29% of the principal use. This exceeds what the LDC allows for restaurants and approval of this subordinate use based on the current code, will outlaw the existing restaurant in that building. Mr. Lisich asked for denial of any of these requests.

Mr. Ed Schmidt addressed the LPA and is a resident adjacent to the Pink Shell. He said that the Pink Shell has always been a “good neighbor” and he supports their requests, asking the LPA to approve.

Ms. Janet Middleton addressed the LPA as a representative of a management company of 10 associations on the beach. She stated her many years of experience in managing these associations and that the Pink Shell has been a good neighbor for many years. However, she added, recently this attitude has changed with the current owners and she said that the other associations, and the management company, feel as though they are being bullied by the JABO Co. She described more and more abuses of the area by the Pink Shell management and she requested that the LPA deny all requests for commercialization of the property.

NOTE: Mr. Mandel stated, for the record, that Ms. Middleton’s company manages his condo association but he did not feel it would influence his decision.

Ms. Sharon Faircloth addressed the meeting and is the owner of Holiday Water Sports and Holiday Tours/Boat Rentals, operating at the Pink Shell. She was in favor of the proposed requests and feels that giving off-property guests the opportunity to use the facilities would improve business and revenue on the beach. She added other points about how these proposed changes will help her businesses and the beach.

Ms. Peggy Scarpetti addressed the meeting and is an employee of the Pink Shell. She supported the requested proposals and stated how these would help the whole area.

Ms. Robin Jordan, also employed at the Pink Shell, addressed the LPA and also supported the changes, stating that they will help the beach.

Ms. Jacqueline Rowllins, also an employee of Pink Shell, addressed the LPA and supported their requests.

**Public Comment Closed.**

Mr. Weimer asked for a motion to recess for 45 minutes to give Community Development and the applicant an opportunity to discuss the issues.

**Motion by Mr. Yerkes;**

**Seconded by Mr. Mandel.** Ms. Dalton asked to make a comment before the vote. She stated that if there is to be a continuance, the public can submit documents to Dr. Shockey and they would be furnished to the LPA after the hearing.

**Vote: 6-0.**

**LUNCH BREAK**

**1:55 PM RECONVENE**

Mr. Weimer reconvened the public hearing.

Mr. Weimer asked the staff to present its case and asked if there were any requests as a result of the recess. Ms. Dalton stated that there was a mutual consent between the applicant and staff to ask for a continuance; the applicant requested a continuance to April 28<sup>th</sup>. Mr. Weimer asked for a motion to continue the hearing until April 28<sup>th</sup> at 10:30 AM.

**Motion by Mr. Van Duzer to continue the public hearing on the White Sands, Captiva Villas and Bayside CPD until April 28<sup>th</sup> ;**

**Second by Mr. Mandel.**

**Vote: 6-0, with Ms. Barnes absent.**

Discussion took place regarding the requirements of the LDC about notification of the continuance. Dr. Shockey will investigate and ensure that notices comply with the requirements.

**Public Hearing on DCI2006-001 and DCI2006-002 closed.**

**C. Ordinance 09-01 Vacation of Town interest in Property  
Continued from March 10, 2009**

Ms. Dalton read the ordinance for the record, #09-01: *“an ordinance amending the Town of Fort Myers Beach LDC, providing authority, finding of necessity, purpose*

*and intent, adopting amendments to Chapter 10 of the LDC which is titled "Development Orders and Engineering Standards;" establishing application requirements and legal procedures for vacating Town-owned public interests in real property severability;" amending division 5, "Plats and Vacations;" amending subdivision II "Vacation of Town interest in real property;" amending section 10-218 "Purpose and Intent;" Amending section 10-219 "applications;" amending section 10-220 "Procedures;" Providing severability; effect of ordinance; and effective date."*

Mr. Weimer refreshed the LPA about what needed to be changed from the last hearing to the current draft of the Ordinance. He said that the items have been updated, referring to the draft in the packets.

Mr. Weimer opened the meeting up for discussion. Mr. Yerkes asked if he can now vote to break the 3-3 tie from the last hearing. He stated his opinion as to the two appraisal requirement and thinks two are needed. Some discussion ensued regarding the appraisals; Ms. Shamp and Mr. Weimer discussed remuneration and Mr. Yerkes believed that the value of the property helps determine the process and number of appraisals needed. Mr. Weimer stated that the basic decision from this meeting should be whether one or two appraisals shall be required. Members were polled as to who was in favor of two appraisals; four members were in favor and two were not; Ms. Barnes was absent. Mr. Van Duzer, who is not in favor of two appraisals, wished to be on record and referred to the ordinance, Sec. 219 b 12 "increase in market value of the applicant's real property if the Town approves the vacation; the increase will be determined by an independent appraisal commissioned by the director with full cost paid by the applicant..." His feeling is that if the Town is commissioning the appraisal, the Town should pay for it and he does not see the sense in two appraisals.

Mr. Yerkes asked Dr. Shockey how many vacations are done in the Town, on average. With an answer that it may come to 1 in 4-5 years, the cost maybe being \$500.00 dollars per appraisal, Mr. Yerkes said they were arguing "about nothing." He feels strongly that two appraisals are necessary. With no further argument, Mr. Weimer asked for a motion on the resolution.

Mr. Yerkes suggested a motion to take the wording of the existing motion and say that the motion failed and the enclosed draft ordinance contains the requirement for two appraisals. Dr. Shockey added that they should adopt a resolution that recommends that Council pass or not pass an ordinance, not fail to pass a resolution that would have recommended the opposite of what they want. Mr. Weimer said the ordinance would be modified and it would be the basis of the resolution recommending the Town Council pass it. He clarified that a motion regarding this resolution and the ordinance before them.

**Motion: Mr. Mandel moved that the Resolution 209-01 that therefore be it resolved that the LPA recommends that the Town Council approves the adoption of Town Ordinance 09-01, with the change on page 2 of 5, changing the word**

**“and” to “two,” and deleting the paragraph that begins with “In addition.”**  
**Second by Ms. Shamp.**  
**Vote: 6-0, with Ms. Barnes absent.**

**Hearing on 09-01 was closed at 2:30 PM.**

**Motion: Ms. Shamp moved to adjourn as the LPA and reconvene as the HPB;**  
**Second by Ms. Kay;**  
**Vote: 6-0**

**IX. ADJOURN AS LPA; RECONVENE AS HPB**

**A. Update on Historic Vistas Project**

Ms. Shamp began the meeting at 2:32 PM and turned the meeting over to Ms. Kay. Ms. Kay reported on the last meeting and gave suggestions which were made to the brochures. The group discussed vistas and signs vs. markers, as well as the need for photographic vistas and said this is still a work in progress. She said that the HAC also urges the Council not to destroy the Cottage and feels it is important to the history of the beach. Mr. Weimer asked Dr. Shockey for a status on the plaques and he reported that he is in the process of getting additional mailings together for that purpose.

Ms. Kay explained the position of the HAC concerning the vistas and discussion ensued regarding that and the use of public or private property for these vistas. Mr. Yerkes had concerns and questions about this and Ms. Kay asked if he could attend the next meeting to bring up his issues. Dr. Shockey will notify Mr. Yerkes of the next meeting date.

Mr. Mandel asked if Theresa Schober has researched any possible funding for kiosks. Ms. Kay said it was discussed but that the HAC wants to see this go forward as an historical item, not archeological one. Mr. Mandel thought she could find grant funds to make attractive kiosks, etc. to place around the beach. No further discussion.

Ms. Shamp asked for a motion to adjourn.

**Motion to adjourn by Mr. Weimer;**  
**Second by Mr. Mandel.**  
**Vote: 6-0**

**X. ADJOURN AS HPB; RECONVENE AS LPA**

Mr. Weimer reconvened the LPA at 2:44 PM and moved to the Administrative Agenda

**XI. ADMINISTRATIVE AGENDA**

## **A. Update on Storm Water Management**

Mr. Van Duzer reported to the LPA and advised that he and Ms. Kay met with Jack Green and Cathie Lewis; they addressed the issue of creating a maximum allowable impervious area for residential properties in the Town. In addition, this included water retention issues on those properties. He stated that he is still receiving information from inquiries in other areas regarding what they do to address these issues; he hopes to have information for a full report in thirty days. He is also waiting for the consulting engineer's report on stormwater, hopefully in May, and a presentation of that to the LPA.  
Nothing further.

## **XII. LPA MEMBER ITEMS**

Mr. Yerkes reported on Animal Control reporting that he met with Dr. Shockey and the attorney and he is submitting an executive summary of the proposed changes to be distributed in a few days.

Ms. Kay and Mr. Van Duzer had nothing to report.

Ms. Shamp jokingly referred to an article she brought from Cape Cod regarding an issue similar to one the Town is addressing dealing with topless females on the public beach. The members agreed that this is a serious issue which will eventually need to be addressed by the LPA and Council, even though they joked that it may not be popular with some of the members (and their families) to act restricting this practice.

Mr. Weimer jokingly expressed his interest in the participating in the Code Enforcement part of any action addressing this.

Mr. Mandel reported that he attended an M&P meeting with the Town manager and Council, working on this year's budget, to deal with a \$650,000 shortfall, trying to balance it. He anticipates bigger budget problems next year.

Mr. Weimer asked if the intent is to re-issue the whole package regarding the continued hearing on Ordinance 09-XX, LDC Lodging, because of the wording. Dr. Shockey said there would be new copies of the materials distributed of the revised proposal. Mr. Weimer also reported that he notified staff, with a copy to the mayor, that the LPA declined participation in the last Town meeting, due to possible conflict.

No further items.

## **XIII. LPA ATTORNEY ITEMS**

Ms. Dalton only reported that the Shrimp Festival was wonderful, as was the parade.

Mr. Van Duzer reported that there were 1350 dinners served on Saturday and over 850 more on Sunday.

## **XIV. COMMUNITY DEVELOPMENT DIRECTOR ITEMS**

Nothing to report.

## **XV. LPA ACTION ITEMS**

- Resolution 2008-42-Snug Harbor-TBD
- Gulfview-TBD (Vacating ordinance needs to go to Council first).
- LDC Hearing process-Dr. Shockey reported that Council had no questions with the first hearing and it is progressing to the second hearing, on April 6
- Historic Plaques-TBD
- The Cottage-Deferral of action on the relocation issue is scheduled for 4/14/09.
- Commercial Rights-of-Way-5/16/09
- Pink Shell continued hearing-4/28/09 NOTE: Mr. Yerkes asked staff to check into the “temporary parking area” at the property because he is concerned that they do not have any type of permit to operate that way; he wants to address this at the hearing.
- Resolution 2009-01 (Vacating Property)-Ms. Kay will handle for the Council meeting-TBD
- Resolution regarding allocation of resources for Town historic properties to be added to the National Registry-next meeting-Ms. Dalton.
- Storm Water Management-Mr. Van Duzer-5/16/09
- Seasonal Parking-Dr. Shockey advised he and Ms. Dalton are still working on this but have to prioritize either this or animal control-5/16/09
- Animal Control-4/14/09
- Alcoholic Beverages, Noise ordinance, etc (involving Mr. Murphy)-4/28/09
- Parcelization ordinance-5/16/09
- HPB Vistas-Discussion ensued, started by Ms. Kay, about the kiosks vs signs, etc. for the vistas; it was decided that the LPA would direct the group to make a decision to get this moving since Ms. Kay’s group cannot seem to decide; update 4/28/09.

## **XVI. PUBLIC COMMENT**

Mr. Melsek of FMB wanted to comment on the vacation ordinance and expressed his disappointment that there was no opportunity for comment before the new vote. He believes that the LPA missed the chance to protect the public access to beaches by not revising the ordinance to guarantee no future sales of the accesses by the public. He also stated that the Civic Association supports the LPA’s intent to look at the current noise ordinance but opposes the attempt to save the Newton Cottage as a historic building. He said that the erroneous information supplied originally is still carrying this as an historic structure and it is not because it does not belong to the beach. He stated that this structure is wasting the Town’s money meant to preserve actual beach historic sites.

No further comments.

Mr. Weimer asked for a motion to adjourn.

**Motion to adjourn by Mr. Van Duzer;**

**Second by Ms. Shamp.**

**Vote: 6-0**

**XVII. ADJOURNMENT**

Adjourned at 3:20 PM.

**Next meeting April 14, 2009 10:30 AM.**

Adopted \_\_\_\_\_ with/without changes. Motion by \_\_\_\_\_  
(DATE)

Vote: \_\_\_\_\_  
Dennis Weimer, LPA Chair

- End of document