FORT MYERS BEACH TOWN COUNCIL AND
LOCAL PLANNING AGENCY WORKSHOP
OCTOBER 22, 2002
Town Hall - Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I. CALL TO ORDER

The Workshop of October 22, 2002 was opened by Mayor Daniel Hughes on Tuesday, October 22, 2002, at 6:00 p.m..

Council members present at the meeting: Mayor Daniel Hughes, Vice Mayor Terry Cain, Howard Rynearson - Council member and Bill Van Duzer - Council member

Absent(Council) - Council member Bill Thomas

LPA Members Present at meeting: Roxie Smith, Betty Simpson, Anita Cereceda, Harold Huber, Nancy Mulholland, Jane Plummer, Jessica Titus and Jodi Hester.

Absent (LPA) - Hank Zuba

Staff present at meeting: Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Damon Grant, Dan Folke and Bill Spikowski.

II. PLEDGE OF ALLEGIANCE

All assembled and recited the Pledge of Allegiance.

** Mayor Hughes began by commenting that a lot of issues needed to be covered in the workshop. No final action will be taken this evening. Public comment will be received. Three public hearings will follow, so ample time will be available for all who wish to comment. A three minute limitation exists for the public comment.

III. PUBLIC COMMENT - CHAPTER 34, excluding Short Term Rentals Ordinance and Zoning

John Richard came forward and asked the Council to direct staff or have a discussion on how to handle the outdoor display of merchandise. He does not feel there is anyone who would like the outdoor display of merchandise on public property for Old San Carlos. He feels this topic has been left open from the staff.

IV. REVIEW CHAPTER 34 OF LAND DEVELOPMENT CODE (excluding Short Term Rentals)

Bill Spikowski, Planning Consultant for the Town came forward. He expressed that tonight's workshop is a milestone in the process since the Town was first incorporated. When the Town incorporated they did inherit both the Comprehensive Plan and Land Development Code from The County. Tonight deals with the ninth chapter and the most important. The changes in the zoning chapter will be relatively minor. In other cases, these changes are significant. By the end of the evening the decision will need to be made whether this is ready for public hearing. Chapter 34 contains new zoning districts along with a new zoning map.

Bill Spikowski began to review the five chapters. Article one is almost entirely definitions used throughout the code.

Anita Cereceda questioned where elderly people co-habituating falls into the definition of "Family." She gave an example of a group home. Bill Spikowski replied that group quarters are there own definition.

Bill Spikowski moved onto Article II, which contains all procedures including duties to the

Town Council. When the Town incorporated the Local Planning Agency was adopted by a general ordinance and he is suggesting all of this language be moved into this code. No major changes are within this article except for the application procedures for planned development zoning which are somewhat simplified.

Bill Spikowski discussed Article III - Division one. The County has 70 or 80 zoning districts with many of the zones being unnecessary. He indicated that the unnecessary districts are being eliminated and some are being combined to simplify matters. He is proposing a map called the interim zoning map, which shows only zoning districts. Within a year after the adoption of Chapter 34 a conversion of the previous maps would take place along with a re-adoption of the official zoning map in the same format that the County had it originally. Division two goes into the allowable land uses. A learning curve will exist. Following the section for allowable uses are the sections on the districts. Three types of zoning districts exist in this code. A conventional zoning district is the old fashioned (R-1 or RS-1), which are presently being used for the stable areas on the island. The planned development districts are just the opposite of conventional districts, which are site specific separate for individual properties. He is proposing a third category called redevelopment zoning districts that would apply in the areas where suggested redevelopment is appropriate and would be positive. This article also contains the commercial design standards adopted in June.

Mayor Hughes asked for clarification on the CB (Commercial Blvd.) and CPD (Commercial Planned Development)? Bill Spikowski replied the CB is applied by the zoning map to existing stores, restaurants and bars along Estero Blvd. that are not in one of the redevelopment areas. This applies to stable properties that may undergo change at some time. If a change is being made to a very similar use or lesser intensity, the intent is to not make these individuals come in through the CPD process. The CB district is designed to allow all similar or lesser uses, but if you want to increase to a more intense use you must come apply for a CPD, which involves a case by case review.

Bill Spikowski went on to indicate that there have been quite a few properties zoned CPD over the last 15 years. All of these properties are included on the draft (interim zoning map) outlined in light blue. He feels there are many properties that do not need to keep the CPD's and he has outlined these as different zoning. He feels the position of the Town should be if the owner wants to keep the CPD it can be honored at the time this map is adopted. He has spoken to quite a few owners who would rather not keep the CPD and it would be convenient to eliminate a number of these at the same time. Many of the CPD's contain special conditions that were only designed to accomplish the very same goals that the Land Development Code is designed for. Adopting Chapter 34 and the map will be so complex he would like to keep the decisions to a minimum.

Council member Van Duzer discussed the floor-area-ratio - Section 34-633. He mentioned some hand written literature he has passed out to everyone. Presently setback requirements, height requirements and requirements in the code address this issue without going to another completely different way of determining what can be built on a lot. He does not agree with the ground area under the structure. He personally does not feel they need another layer of regulations, if it will not serve as a good and valuable tool. He would prefer this language come out all together.

Bill Spikowski commented on the consequence of the above Section 34-633. In the existing code, in addition to setbacks and height regulations, there is a regulation called "maximum lot coverage." This measures the area of all buildings and structures to include driveways, sidewalks and patios along with the home itself. This concerns itself with the footprint of the home and does not consider if you go up two stories. This regulation has been in the County's rule since 1962 and is not enforced. It is so restrictive that many new homes, especially on Fort Myers Beach would never qualify. This rule has been ignored and he does not want to have any rules in the book that will be ignored. He commented that this subject was discussed at

great length with the Local Planning Agency. An investigation of all the new homes built in the Town since 1990 was completed. By using the property appraiser records he was able to determine the exact square footage that would be called floor-area under this definition. This definition is carefully crafted to not include the driveway, deck, pool or porch. The only exception would be the area below the home. He is suggesting this area is included, because so many people do enclose this space over time and have the option of doing this under the current rules as long as the use of space is limited to storage and vehicle parking. Bill explained his reasoning for wanting to include this language. He feels this is worth doing as a replacement for lot coverage. If someone is wanting a very large home, they will need to put it on a larger lot and not on the smallest lots on the island. The definition could be changed to eliminate the area below a piling house. If this change was made, he suggests a much lower number.

Council member Rynearson agrees with Council member Van Duzer. If the ground floor is removed and the ratio is not reduced too much he would be satisfied. He is not in agreement with the present language as written.

Bill Spikowski added that Sanibel has not imposed this type of rule and many very large homes are being built. The intent is to now try to impose a rule and it is much harder to come back and do this later after homes of this size have been allowed. He indicated that a contract with consultants for $150,000.00 has been started to try and adopt a floor-area-ratio for the city. This is a huge controversial matter. Bill feels this sort of situation will happen on Fort Myers Beach over the next 5 to 10 years should his language not be included.

Vice Mayor Cain commented that floor-area-ratio has increased over the years. She sees this trend happening in the future. This matter must be addressed and many homes are large already. She would like to know the information with regard to the floor-area-ratio's for Bonita Springs. She feels this information is necessary for a decision to be made.

Mayor Hughes shares the concerns of Vice Mayor Cain. In addition he would like to know more about the views and concerns from Sanibel.

Council member Rynearson suggesting rescinding out the section for residential and commercial with regard to the floor-area-ratio. Two standards would need to be adopted.

Council member Van Duzer replied that he does not like floor-area-ratios as a method of computing what someone can build. He is agreement with the old way, which deals with required setbacks, height restrictions and limitations. He feels these items will work well for the Town and he likes what he sees here presently. A little bit of everything exists on the island.

Jane Plummer agrees that the setbacks give a floor plan and the height restrictions already give the dimensions. The home can then be designed the way they want without having various design creations. This is working and has worked with the new construction.

Council member Van Duzer moved onto Section 34-635 on residential design standards. He has lived on this island a long time and feels the island is unique. He feels the setting up of residential design standards are contrary to what this beach has had and to what has worked well. He feels they should allow people to design their homes as they wish. He does not feel they should be restricting or controlling the design of residential structures on Fort Myers Beach. He agreed there needed to be control over the structures for the downtown area.

Mayor Hughes asked for Council member Van Duzer's opinion on the driveways? He feels this is an important provision with regard to driveways and access.

Council member Van Duzer replied that he is also opposed to this language. He commented that language reads a driveway can be a maximum of 10 feet wide. He feels there are a lot of 16 foot wide driveways on Fort Myers Beach. He feels they are trying to design and control a matter which should be left to the discretion of the private property owners.

Council member Rynearson agrees with Council member Van Duzer. He feels they should stay out of residential.

Betty Simpson commented that this was discussed at the LPA. The LPA discussed the Streetscape and referred to some of the nice areas where you would turn down the street. It

would be nice to see a porch, balcony or stoop. The intent was not to tell people what to do, but to create a more homey atmosphere.

Vice Mayor Cain does not feel they should discuss what is presently in place now. This plan is for the future. She would like to see more of an inviting and homey neighborhood.

Jane Plummer commented on the maximum size for the driveway being 10 feet. She feels cars, boats, etc. will be parked on the lawn. Most people have two cars. She feels they are designing porches and garages.

Bill Spikowski replied that you can have a driveway more than 10 feet wide. If you go more than 10 feet wide you must use a different surface material. He commented if a wider driveway is desired the intent is to build with a material that will allow the water to sink through rather than runoff of. He also commented on the porches and the concern this will take away from the internal area. He added that this will not be the result. Porches do not count against the floor-area-ratio. He is presenting in the single family zones the front setbacks are 20 feet instead of 25 feet to allow the garage door to be recessed, if necessary. He is not recommending vast residential architectural controls. He agrees that this is not Fort Myers Beach. Some basic issues will help keep the characteristic of the street and allow this area to remain very special.

Mayor Hughes commented there are some differences in opinion on these matters and cannot be resolved this evening. He does not want to eliminate this provision. He shares some of the concerns.

Anita Cereceda commented that there seems to be a willingness to control anything commercial, but no willingness to control anything residential. A person with commercial interest in the community is entitled to the same property rights as a person with residential interest. If there is a willingness to regulate commercial activity for the future of the community she feels the residential aspect should also be considered.

Mayor Hughes indicated varying opinions are evident. When this matter goes before the LPA for public hearing, it should be considered very carefully.

Jessica Titus referred to page 86 - 4(b) with regard to accessory structures. She asked for an example? Bill Spikowski replied that this section is troublesome. Prior to the public hearing he would like to make this section a little clearer due to having so many questions brought forward.

Anita Cereceda mentioned the issue of drive thru lanes. She feels they should be allowed or not be allowed. Bill Spikowski replied that the Town has banned drive thru's for fast food across the island. In the downtown zoning district are two sets of restrictions. These restrictions are in the main pedestrian area that includes Seafarer's and Old San Carlos. From Palermo down to Diamondhead the rules are not as restrictive.

Anita Cereceda discussed the outdoor display of merchandise. This issue was highly debated with the Times Square Advisory Committee as well as the merchants in the Times Square area. The group is very divided in this area. She feels this is a critical issue for discussion.

Mayor Hughes indicated that this matter was discussed at the Council level.

Bill Spikowski added that this language has remained unchanged from several months back. Victor Dover suggested being more lenient. What is being proposed is more lenient than today's rules, but more restrictive than what was described last month. He has received a tremendous amount of input. He is hoping for input this evening from the Town Council.

Council member Rynearson suggested pulling this out of Chapter 34 and once Old San Carlos is up and running it can be discussed at that time.

Vice Mayor Cain brought up the issue of private vs. public. Council member Rynearson feels private should be considered and public should stay on hold at this time.

Bill Spikowski reviewed if the language for public property was eliminated now or at the public hearing it would leave the merchants with the rules presently in place.

Dan Folke expressed that presently you can get an extension of premises for tables. He indicated that the Town has been fairly liberal with the allowance of outdoor display on private

property. He would like to see the section on private property kept in and he feels some good value will come from this section.

Mayor Hughes asked if anyone had an objection to eliminating the outdoor sales on public property at this time? No objections were heard.

Some discussion took place with regard to outdoor dining on Old San Carlos. Bill Spikowski added that he could eliminate the outdoor display of merchandise on public property, but not eliminate outdoor dining.

Mayor Hughes asked if anyone has an objection to eliminating the display of outdoor merchandise on public property, but allowing the tables for restaurants similar to Times Square on Old San Carlos? No objections were heard.

Nancy Mulholland discussed the topic of sandwich signs and pointed out the information seemed different from what was just discussed at the LPA. Bill Spikowski replied the language is the existing language in the overlay zone and he has just moved it into the downtown district unchanged. He expressed to the Town Council that the LPA discussed adding additional language for the sandwich signs to include they are professionally manufactured. He indicated that this language would be added into Chapter 30 - Sign Code, but this would be another section this information could be added.

Dan Folke explained at the last LPA meeting he drafted some recommended changes to Chapter 30. These changes will be drafted, which are amendments to Chapter 30-Sign Ordinance. These will go back to the LPA and then public hearings will be held. He explained the issues raised by Nancy is in the downtown zoning district, but a cross reference can be made to the rules in Chapter 30. Bill Spikowski added that he will check the sequence and make necessary changes.

Bill Spikowski discussed Article IV which is the miscellaneous information that applies to across zoning districts. He then moved into Article V, which is very technical and includes the rules for non-conforming buildings and uses. It also incorporates all the new rules for implementing the Comprehensive Plan requirements on build back after a nature disaster and build back prior to a natural disaster of buildings which are over density. This section does not include a lot of new policy, but does try to clarify the rules and apply appropriate cross references to other places in the code.

Mayor Hughes expressed that Bill Spikowski has done an outstanding job with the staff and LPA. He congratulated Bill on the job he has done.

Mayor Hughes went on to discuss the Sander's case, which was recently before the Town Council and LPA. He had some concerns with the side yard setbacks. Some questions existed with regard to the law. Does this properly belong in Chapter 34 to codify this decision? Bill Spikowski replied that there are criteria for variances and he will get with Attorney Dick Roosa to review the language.

V. PUBLIC COMMENT - SHORT TERM RENTALS, ORDINANCE AND ZONING

Keith Szyperski, 219 Carolina, Fort Myers Beach, came forward. He commented that the condominiums are exempt from the licensing. He feels discriminated against being a single family homeowner. He does not oppose registration. He does oppose different treatment between condominiums and single family dwellings. Sanibel does have the 28-day rule and it is impossible to enforce. He has spoken to the former attorney for the city of Sanibel and when they tried to enforce this they were sued and lost. Fort Myers Beach is a family oriented island and the best way to attract family vacationers is to allow them to rent a home for a week.

Leslie Corcelli, 290 Ibis, Fort Myers Beach came forward. She is present as a representative of the Rental Mangers Association of Fort Myers Beach. They are in support and are in basic agreement with the newly yet to be adopted rental ordinance and regulation of rental properties on the island. The ordinance will be helpful in protecting the public and maintaining the integrity of the neighborhoods. However, they are very much against a ban on Short Term Rentals. The ban on Short Term Rentals would be detrimental to the island. Advocates of the

ban are trying to solve a behavior problem with zoning restrictions. Code enforcement and many other remedies are in place to take care of behavior problems. If there is a ban on Short Term Rentals, where will the displaced tourist go? She provided a suggestion that any particular neighborhoods who feel rentals need to be limited can form a Homeowners Association to develop, regulate and enforce their own rules and regulations. The Rental Managers Association does not support the stripping of private property rights from the owners of single family residences across the island.

Pat Smith, 50 Fairview Blvd., Fort Myers Beach, came forward. She mentioned the "family" issue of the island. Families want to come to the island with small children. These renters are not a problem for most other residents in the area. These also include visitors from overseas. This will become a large factor with property values.

Karl Bergstrom, 51 Fairview Blvd., Fort Myers Beach, came forward. He read the legislative policies for the Greater Fort Myers Beach Chamber of Commerce. This organization supports the rental of private homes. Any recommended increase in the minimum time will adversely affect private property rights and the economy of Fort Myers Beach. 143 million dollars worth of revenue will be lost, if Short Term Rentals are eliminated. The residents will need to make up this difference. He sees no need for an ordinance. If an ordinance is put into place, the weekly rentals should still be made available for the visitors of this island.

Anita Cereceda reviewed that there has never been a discussion on the LPA or Council to ban Short Term Rentals within the Town of Fort Myers Beach. This is not the discussion. The discussion has been a zoning issue with regard to single family residential neighborhoods.

Tom Cameron, 200 Curlew St., Fort Myers Beach, came forward. He is an advocate of eliminating weekly rentals in single family residential areas. These short term rentals have been proliferating and thus commercializing single family residential neighborhoods. The Short Term Rental Task Force ordinance will be an administrative nightmare for the Town Government and is spending taxpayer money to police private businesses. An ordinance will not work and will not stop proliferation. A zoning change needs to be completed to eliminate Short Term Rentals in single family neighborhoods. Hal Humphrey, 5 Glenview Manor Drive, Fort Myers Beach, came forward. He asked Bill Spikowski if the lodging requirements under the restrictive zone and transient lodging in the ordinance can be intertwined? Bill Spikowski replied that he felt they could. The zoning code and the Short Term Rental ordinance would have to be carefully designed to work together. Hal feels the ordinance and the restrictions in the residential area can work together. People in residential areas should be entitled to privacy and not have to deal with Short Term Rentals.

Laura Dion-Jones Casey, 5245 Williams Dr., came forward. She had decided to conduct a personal and unofficial study of her own to see what the economic effects would be on businesses, if there was a ban of weekly rentals for single family homes. Every business person she spoke with on Sanibel was surprised that this Town Council would even entertain "such a ridiculously detrimental act." She was told further that "Sanibel is very different from Fort Myers Beach. Fort Myers Beach thrives on weekly family home rental dollars." Business owners on Fort Myers Beach stated "they are afraid they will not be able to survive without business from the weekly single family home rentals. These businesses depend heavily on the weekly tourist dollars and especially during the low season when the snowbirds are at their homes." She urges the Council to conduct a study of their own. Banning weekly rentals of Short Term Rentals, even in the quiet zones, will be an economic kiss of death to this island. She and her husband feel punished.

Tom Babcock, 5130 Williams Drive, Fort Myers Beach, came forward. He read a memo. The complaints of undesirable noise and illegal behavior are symptoms of a problem. The real problem is the accelerating proliferation of weekly rentals into single family homes in quiet low density neighborhoods. This represents an undesirable intrusion of commercial activity and is in conflict with the vision of the Comprehensive Plan. There are benefits to the ordinance proposed

by the Task Force. This would be a huge administrative burden and expense to the Town of Fort Myers Beach. A better solution would be a zoning approach.

Robert Brand, 7854 Buccaneer Drive, Laguna Shores, Fort Myers Beach, came forward. He is a homeowner and business owner. The weekly renters should not be called transients. These people support the businesses and taxes. He is in support of leaving things the way they presently are. This topic can be revisited when the economic downturn has turned their way.

Carmen Boroff, 4254 and 4266 Estero Blvd., came forward. She and her husband own the Sands. She felt it would be very defined discrimination to pass something against single family or duplex owners and not the condominiums. Condominiums have big problems. She has owned property on the beach since 1989. Enforcement of the laws presently in place should be considered.

Luanna Wood from Island Paradise Realty came forward. She has been a Realtor on the beach for 14 years. She questioned if the Council would accept the rental ordinance and go back and change zoning? Mayor Hughes replied there can be no change in the zoning without a full hearing process before the LPA and Town Council. Luanna agrees there is a consensus current aspects are in place to regulate issues being proposed in the Short Term Rental ordinance. She is in favor of the ordinance in order to get a handle on this situation.

Mr. Casey is an owner on Williams Drive right in the center of the proposed quiet zone. He has been renting out his home weekly for five years. He has had well over 100 families stay there and had not one compliant from a neighbor or any police reports. Any problems he has experienced are the permanent residents. These renters are a stabilizing force on the island.

Warren Babcock, 474 Washington Ct.. came forward. He commented that he lives next door to a rental unit that is rented for long term. No problems exist. He has the owners telephone number. He originally rented from Ann Alsop when he first came to the island. He is in a quiet zone. He is unsure of the solution to the problem. He feels the Short Term Rentals do cause the problems in his area.

Chris Bielski, 27566 Hickory Blvd., Bonita Springs, came forward. She owns the properties at 7964 Estero Blvd., 5870 Estero Blvd. and 5664 Estero Blvd.. She is very familiar with the real estate market on Fort Myers Beach for sales and rentals. If Short Term Rentals are eliminated, a lot of income will be lost. Summer rentals are for one week only. This will also reduce exposure to this area for future buyers. She addressed items in the proposed ordinance. She feels the ordinance is vague and meaningless at worst and redundant at best. Rather than spending additional money implementing and administering a new program, attention should be focused on enforcing existing laws.

Ron Jones, 5760 Estero Blvd., came forward. He has been coming to the island since 1956. In 1997 his family put together enough money to purchase a beachfront house, which has been a dream forever. His renters are solid and mostly from the Midwest. These are the type of people you want on the island. He could never own this house without the Short Term Rentals. Rather than prohibiting residents from renting their properties just impose regulations.

Bob Simon from Fairview Isles came forward. His neighborhood contains approximately 135 single family homes. He lives in a low density area. Who protects the rights of the residents who live in low density single family neighborhoods? Who will enforce and keep track of the regulations? He feels those who live in these residential neighborhoods should not be subjected to those property owners who own for the sole purpose of profits.

Jason Lucas owns property on Miramar. He lives on Cape Coral and just bought this property in May. His home is a 1932 home. He is in the process of putting $40,000.00 to $50,000.00 of his money into the home along with labor. He purchased this home with the intent to rent on a weekly basis. Without the weekly rentals he would not put the amount of money into the home that he presently plans to. He is trying to secure a better class renter with a more desirable home. Property values are increasing and investors such as himself are buying homes and putting additional dollars into them to secure a better class renter for the beach.

Peter Reed from Fairview Isles came forward. Across from his home is a Short Term Rental home. He indicated occasionally there is some noise. He has noticed the property is rented only 50% of the time. He will now begin to have rentals on both sides of his property. He believes there may be enough rentals on the island. He does not want to limit or take away, but possibly have a moratorium.

Jack Slotte, Director of Governmental Affairs for the Real Estate Association of Fort Myers Beach, came forward. He is speaking for the Realtors. Many of these Realtors live on the beach. He stated that the Realtor Association of 2,600 members is against limiting Short Term Rentals. The ordinance is a step in the right direction, if this is the route to go. They would support this matter and work with the Town Council.

Michael Mckinley who owns property on Jefferson Street came forward. He believes that he has a properly licensed single family residence. With this license he does not need to go through courts and can call the police department to have someone evicted. He feels his license does exactly what the proposed ordinance is looking to implement. He does not support short term grandfathering. He does not want to be eliminated from his rights of his intent from purchase.

VI. DISCUSS DRAFT SHORT TERM RENTAL ORDINANCE AND ZONING

Dan Folke, Community Development Coordinator, came forward and prepared a memo on October 7, 2002 that went to the LPA and was included in tonight's materials. He also completed another memo on October 17, 2002, which included some of the changes which came out of the LPA discussion and had a consensus on the changes to the ordinance. The most recent copy of the ordinance should be dated October 17, 2002. Back in January, one version of Chapter 34 had the proposal to limit Short Term Rentals in the single family zoning district. The LPA decided at this meeting a Task Force should be created to look at drafting an ordinance. The purpose of the ordinance was not to ban Short Term Rentals, but to consider rules which would address some of the concerns brought forward. The Task Force was created and Jodi Hester was the Chairman. This ordinance was the result of the work produced by the Task Force, which was presented at the LPA. He reviewed the options which would include proceeding with the change as proposed in the Land Development Code, proceed with the ordinance and not change the rule in the Land Development Code, a combination of both and finally nothing at all could be done. The ordinance would create a registry for everyone who would like to make their home available for Short Term Rental. A license would need to be obtained from the Town. Certain requirements would be needed from the owners and the Town would be allowed to do some code enforcement, if a property was a consistent problem. If a property was a consistent problem, the hearing examiner could consider revoking the license.

Jodi Hester added at the January 15, 2002 meeting of the LPA it was decided a Task Force would be created to write a draft of regulations for residences rented out on a short term basis. The assignment of the Task Force was not to decide to allow or not to allow Short Term Rentals, but to identify problems and safety issues and draft regulations to help solve these problems. She mentioned the members of the Task Force. The first meeting the Task Force met with Bill Spikowski to cover the Comprehensive Plan and zoning issues. The Task Force also met with the Fire Chief to discuss the safety concerns and state statutes regarding the requirements for smoke detectors, means of egress, fire extinguisher, occupancy load, etc.. The Task Force examined ordinances from various locations within the United States, along with condo rules on Fort Myers Beach and the Chapter 509 of the Florida Statue regarding Short Term Rentals.

Bill Spikowski indicated that there are two proposals on the table this evening. The proposed ordinance does not attempt to differentiate between neighborhoods. This ordinance will not be part of the Land Development Code, but could override the Code depending on how it is written. The Land Development Code does not include any behavioral standards or licensing. He suggested that the Town should make a distinction among different parts of the island and

implement a concept that was worked on in the Comprehensive Plan, but was never concluded. The proposal in the Land Development Code was preliminary and no further work has been completed. The Town could modify the Land Development Code proposal in many different ways. It is possible some restrictions could exist in the Land Development Code based on area and also have the behavioral ordinance. He commented that a lot of the Short Term Rentals are illegal and they have not been strictly enforced due to the difficulty.

(The discussion moved to public comment - Agenda Item V)

Mayor Hughes commented after public comment. He felt this issue was ready to go to public hearing.

Jodi Hester addressed the issue of the 509 license taking care of everything in the Short Term ordinance. The issue with the 509 license is that a list cannot be obtained due to the privacy act. She felt the creation of a separate zone for RS-1 along Estero Blvd. was a good suggestion. She feels the signing of the renters agreement will help make the renters aware of the quiet hours and mandatory evacuation rules, etc.. By signing this agreement it will make them aware of these policies.

Mayor Hughes questioned if there has been a definite increase in the number of Short Term Rentals? Jodi Hester replied that the Short Term Rentals Task Force did not look into the proliferation of Short Term Rentals on the island.

Jane Plummer responded by stating that she looked into the Short Term Rentals in the quiet area. This process was completed twice, once at the time the Task Force was formed (January) and two weeks before the last meeting. She found 50 houses out of 60 streets, which had 17 for rent buy owner signs. 18 houses are on Estero Blvd. with a total of 68 in the quiet zone. 56 homes have been lost since January.

Bill Spikowski commented he did examine the state registry. They will not provide a list, but welcome you to come and look at their files. He could find no way to determine a trend from this list.

Anita Cereceda added that information has been communicated improperly. The LPA and Council have never discussed banning weekly rentals. Zoning issues are being discussed and the very nature of zoning draws limitations.

Mayor Hughes asked the Town Council and LPA if there were any members who felt the ordinance as prepared should not be referred back to the LPA for public hearing? Jodi Hester feels the Short Term Rental ordinance should be part of Chapter 34.

Bill Spikowski replied that he likes hearing both items on the same night because they are interrelated. He is not averse to having them combined.

Attorney Dick Roosa feels this has a close enough nexus to land use regulations that in order to adopt this ordinance you would have to comply with the land use regulations. Including this in Chapter 34 is appropriate.

Mayor Hughes questioned the issue of eviction? Attorney Dick Roosa replied he made a note to check on this issue. He is not familiar with this matter as mentioned by a resident during public comment.

Attorney Dick Roosa would like to modify and revise the ordinance before it goes forward to the LPA.

Nancy Mulholland commented on the number of penalties before removal and also feels the penalty is not severe enough to pay attention too. Mayor Hughes agreed and felt this could be established through the public hearing.

Bill Spikowski reviewed the consensus is to incorporate the Short Term Rental ordinance with appropriate changes after legal review into Chapter 34, so this will be at a single hearing.

Jodi Hester discussed that the Internal Revenue Service has regulations if you rent a home for 7 days or less it is automatically a self-employment issue and not a rental issue. If you rent from 30 days to 7 or 8 days and give significant services at the same time this would also be a self-employment issue. She is unsure if the 7 day rentals in the areas such as the quiet zone

would be commercial activity in residential areas that need to be protected. The vision in the Comprehensive Plan states they will protect residential areas. Unless the Comprehensive Plan is amended, she feels some action should be taken to protect the residential areas.

Jane Plummer replied if Short Term Rentals are to be considered commercial activities then home based businesses should be considered in the quiet areas also. She called Lee County to ask if weekly renters are commercial in any zoning and the answer was "no."

Attorney Roosa commented that what has been identified is that the fundamental use of a residential zoning is for long term residents. A revenue producing home business or rental is subject for regulation.

Anita Cereceda expressed the difference between a home based business with year round residents vs. the home which changes residents weekly. This change creates instability.

Bill Spikowski suggested at the public hearing or beforehand he can develop several other alternatives to be considered within the land use version.

Council member Van Duzer feels there is a simple and easy solution. He believes there are private property rights on both sides that must be defended. He has not heard anyone say they do not want Short Term Rentals on the island. The problem points to a particular area. He feels they should stop more Short Term Rentals in this designated area. The ordinance can be adopted and a registration would be completed. Those who have Short Term Rentals in the quiet area would be allowed to keep these rentals for as long as they desired to keep them. The designation could go with the property. If you are not registered and do not have a Short Term Rental in this property you cannot have one in the future. No additional proliferation would take place. He feels everyone has private property rights. In the future he sees a Short Term Rental island. Additional expansion is not necessary.

Mayor Hughes feels there is a lot of merit in Council members Van Duzer's input. The LPA will hold public hearings and make a recommendation back to the Town Council. This issue is not being finalized this evening.

Harold Huber would like to see a series of options coming into the pubic hearing.

Roxie Smith likes the suggestion of Council member Van Duzer. She also feels a series of options should exist. Possibly another option will work in with his suggestion.

Additional discussion took place with regard to the date a home must be registered by in order for a home to qualify for a Short Term Rental in the designated areas.

Roxie Smith commented that those who presently have Short Term Rentals pay tourist tax. This could be part of the criteria. This process will eliminate those who try to run out and register their homes.

Jessica Titus does not feel this addresses the issue of those who have purchased property with the intent to have a Short Term Rental.

Bill Spikowski added that he feels they will be able to develop Council member Van Duzer's idea with today's date. A special provision could be made to allow an individual to prove they have spent large amounts of money to improve their home for rental.

Anita Cereceda added a clear definition of the area must be provided. Bill Spikowski replied he will provide exact language to clarify these areas.

VII. COUNCIL AND COMMITTEE MEMBER ITEMS

None.

VIII. PUBLIC COMMENT

Mr. Jones came forward and pointed out an occupancy period has not been clearly defined. He pointed out several other areas for consideration that he felt are not clearly stated. He feels the Town should go to the garbage collector and request Monday as a pickup day. He feels the idea of the quiet zone and families in the quiet zone is being confused with Short Term Rental and the way the property is used. He feels it is inappropriate to define who will be in the

home.

Pat Simon from Fairview Isles came forward. She commented that they no longer have an Association. She came here as a tourist and bought a home to retire in. She needs protection. The Short Term Rentals have increased by 50% on her street.

Carmen Boroff commented that the language is not specific to which properties will be impacted. The Federal Government allows a homeowner to rent their property for up to 14 days without paying any tax.

(? No name provided) came forward and indicated she would appreciate which areas and addresses will be effected. She lives on Bonita Beach where a lot of Short Term rentals exist. Her children have met the same children year after year and she does not feel this is a bad thing.

Tom Babcock came forward. He volunteered his services to share whatever information he has. The rental numbers, which have been found, were provided by the rental agencies. This information will not be received by driving around the block. He has hard copies for January and April. Numbers can be misleading. He also has a map.

Karl Bergstrom, President of Fairview Isles Association, came forward. He indicated that the majority of those in the Association oppose restricting rentals.

Tom Merrill came forward and expressed that this workshop has been a terrific display of coming together and working out the situation of a very difficult problem. He feels this group is making great strides and felt everyone did a good job. He mentioned a few streets in RS-2 that may be considered for quiet neighborhoods.

Cathy Rodger who owns on Madison Ct. came forward. She indicated at the closing table she was not told her street would be a quiet street. She is in the process of evicting an annual rental. She will need to turn this home over into a seasonal rental. She is now being told she may be unable to do this. She feels this is unfair. She feels this is a great place for families and these are the type of rentals she will try to secure.

(?) indicated he has an offer pending on this home with an investor who would like to use the home as a rental property and close in February. He is unsure what he should tell his buyer?

Attorney Dick Roosa replied he is obligated to tell the buyer the information he is aware of.

Mayor Hughes suggested he come and express his concerns at the LPA public hearing.

Annie Babcock from Williams Drive came forward. She liked Vice Mayor Cain's comment of "neighborhood atmosphere - what will it be like in 15 or 20 years?". Also, she is concerned about those who are 30 or 40 years old renting properties for the next 20 to 30 years. She is presently living with 6 to 10 rentals by her home.

IX. ADJOURNMENT

The meeting was adjourned at 10:27 p.m..

If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based.

Respectfully Submitted,

Shannon Miller
Transcribing Secretary