

**FORT MYERS BEACH
TOWN COUNCIL MEETING
JULY 7, 1997**
Nations Bank, Council Chambers
2523 Estero Boulevard
FORT MYERS BEACH, FLORIDA

I CALL TO ORDER

Mayor Anita T. Cereceda opened the meeting on Monday, July 7, 1996, at 3:00 P.M.
Present at the meeting were: Mayor Cereceda; Vice-Mayor Ted FitzSimons; Council Members Rusty Isler, Ray Murphy, and Garr Reynolds; Town Manager Marsha Segal-George; Deputy Town Manager John Gucciardo; and Attorney Richard Roosa.

II PLEDGE OF ALLEGIANCE

All assembled recited the Pledge of Allegiance to the flag.

III INVOCATION

The Council was led in prayer by Father Raymond Kress of St. Raphael's Episcopal Church.

IV PUBLIC COMMENT ON AGENDA ITEMS

There was no public comment.

V APPROVAL OF MINUTES OF JUNE 16, JUNE 17 AND JUNE 26, 1997

Corrections for June 16:

page 1, the third speaker's name is Bob Bockman.

Page 3, next to last paragraph, Mr. Murphy said that he was not attacked on the beach, but that his car was broken into

Page 7 item XIII – it was clarified that the motion was made before the discussion. Mr. Murphy seconded the motion for the purpose of discussion and then voted against the motion.

Page 8, item XIV – it was clarified that the Chamber Foundation hired Shawn Holliday as Main Street manager, and that he is hired only until December.

Corrections for June 26:

Page 4, middle of the page, John Gucciardo clarified that he is not in favor of limiting the number of terms a person can serve

Motion: Mr. Murphy moved and Mr. FitzSimons seconded that the minutes be approved with the above changes. The motion passed unanimously.

VI PUBLIC HEARINGS

A DONALD OAKES 97-04-094.05V

Mr. Roosa swore in Mr. Oakes. Mr. Oakes said that he is asking for two variances so he can build a deck on the canal side of his home, and also a variance on the north side because his house is already infringing on the setback. The house is built on an irregularly shaped lot and he cannot build the deck square with the house without asking for the variances. Mr. FitzSimons asked if it would be an uncovered deck. He replied that he intends to screen in a portion so he can use the deck year round. The cover was not included in the request because he thought it would be covered in the building permit. He said he intends to put a metal roof over it, which Mr. FitzSimons said would tend to make the deck an enclosure, not a screened deck. Mr. Reynolds said he wishes that Mr. Oakes had wanted an angled deck. These variances will legitimize his non-conforming residence. If Mr. Oakes could get the deck without encroaching on the setbacks, it would have been better. Mr. Oakes said that to get the same square footage, he would encroach on the canal setback. He said that this plan is what he would like to build, but it is up to the council if they want to make changes. Mr. Reynolds said that if Mr. Oakes' request was the only one, he would not object, but the council has already handled several and it seems to be a trend in the town.

Mr. Roosa swore in Nettie Gustison of Lee County Development Services. Ms. Gustison said that the house was built before zoning so this request will legitimize the 1.5 foot setback that already exists on the side of the house, and allow the deck to begin at the back of the house where there is only a 3.2' setback. There is a typo in the staff report: it should say that the deck addition will be 18' from the canal. The steps will add another 2'. Mr. Oakes' house is the only one in the immediate area without a deck, and building the deck will not harm anyone's view. Staff believes there are extraordinary conditions that create a hardship, that the problems are not of the applicant's making, and that the proposed deck will not be injurious to the neighborhood. The staff recommends approval with the conditions that the side setback variance is limited to the existing house and the proposed deck as shown on exhibit C, that that the waterbody variance is limited to deck addition as on attachment C. The LPA recommended approval with the same two conditions. In response to questions, Ms. Gustison said that she reviewed this request as an open deck, not as a screened enclosure. It will require a building permit to build the roof and the screened enclosure. She does not think it would have made a difference if he had told her it would be enclosed because she was looking at the site plan. Mr. FitzSimons asked if an enclosed deck with a roof has more visual impact to the neighbors. She said a solid enclosure would and she probably would not have approved that request at the same square footage, but a screened enclosure has less impact. She does not think a screened enclosure will negatively impact the neighborhood. She said that a "porch" has permanent enclosed sides as opposed to a "deck." She said that there have been no letters in the file objecting to his plan.

Mayor Cereceda opened the meeting for public comment. There being no public comment, the public hearing was closed.

Motion: Mr. FitzSimons moved that the requests be approved as conditioned with the added condition that the deck be uncovered and unsided. There was no second. The motion failed.

Motion: Mr. Murphy moved and Mr. Isler seconded that the requests be approved as conditioned by the staff and LPA. Mr. Murphy, Mr. Isler, Mr. Reynolds and Mayor Cereceda voted for the motion. Mr. FitzSimons voted against the motion. The motion carried.

B FIRST UNION NATIONAL BANK 96-12-206.01.01 (ECKERD DRUGS)

Mr. Charles Basinait, of Henderson Franklin, stated that he has been retained by the applicant in the request to rezone from CT to CPD. Under CT zoning, they could build the building they wanted but a drugstore/pharmacy would not be permitted. The property is located at the NE corner of Lenell and Estero, and there is a vacant bank building on the site. On June 10, they showed the LPA a master concept plan with driveways that were close to the property line and parking on the west and the front, with a service area on the east side next to Cap Plaza. The LPA had concerns that the architectural design was too typical, and they wanted the building located more toward the corner of the lot. They also wanted it to be more pedestrian friendly. Since then they have met with Bill Spikowski and Chip Block, and have tried to offer a new plan to address some of those concerns. They will be happy to offer the first site plan or the new one, although they would prefer the first. The new plan moves the building closer to Lenell and Estero. Most of the parking has been moved to the north and some to the east. The drive-thru will still be in same location but they will add a planter for a sound buffer. The service area will still be on the back and can be buffered. Eventually the Town contemplates street parking on Estero. Now there is only limited parking on the front. If they move the building, they can no longer build without deviations. (A deviation is like a variance, but a variance has a higher standard of proof.) Their plan meets 15 of the 17 conditions set by the county. One of those conditions regards buffering on the north side. Because the building has been moved, they will no longer need a solid wall, but can use a thick vegetative buffer instead. The other condition regards parking on the west side of the building. If the Town ever decides to put parking along Estero, they will remove that parking and remove the access point. If street parking is created and then removed at a later date, they must have the condition that the parking will be put back in at that location.

Tim Keene was sworn in by Mr. Roosa. Mr. Keene is a civil engineer and president of Keene Engineering. He stated his credentials as a civil engineer, and the council had no objection to accepting Mr. Keene as an expert witness. Mr. Keene stated that his firm was retained to do the master concept plan and the revision. Mr. Keene spoke about the two site plans and their differences. In the original there were two access points; in the new plan there are three: one at Lenell, and two on Estero (in line with the existing drives across the street). The drive-thru is now about 80' from the northern property line on the new plan. There will be on street parking on Lenell under the new plan. The existing bike path on Estero

has stormwater inlets. They will raise the bike path, so they will have to address the drainage of Estero. In the original site plan they were to have 9.5' elevation. The existing building is 10.2'. Flood elevation is 13'. The new plan will be 8.5' and the walls will be waterproofed. (Because the building was moved closer to the property line, they felt that the building had to be lowered.) There will be steps on the front of the building but they will avoid steps as much as possible by sloping the sidewalks. There will be a ramp from the north side parking lot for handicap accessibility. There will be a bike rack. Stormwater management will be on-site. There will be an open dry retention area and an under-the pavement chamber. There is existing retention along the north property line and they will keep that if they can with the buffering. They cannot lower the building much further and still have enough retention. He went through the deviations. #1. A vegetative buffer on the north side instead of a 12-foot wall; #2. Elimination of the landscape strip which is not needed for utility easements; #3. Deviation on setbacks in order to move the building forward; #4. Deviation of the setback on the east side; #5. Deviation to allow only 4 stacking vehicles instead of five; and #6 which is a catchall in case they have missed something. Mr. Isler asked why the spaces are put on the Estero side when that only gains two spaces overall. Mr. Keene said it was to provide nearness to the front door, which is important for marketing. Mr. Reynolds asked about the street parking on Lenell. Mr. Basinait said that was in conformance to the future beach concept plan for the Santini area. They will not be dedicated to Eckerd use. Mr. Basinait showed a rough drawing of the Key West design that they propose to use. The final design would have to be approved by the Town Manager. Mr. FitzSimons asked about the windows. Mr. Basinait said they are display windows that would start about 4' above the ground and would be about 18" deep. If they lower the windows too far, they lose too much marketing space inside the building. Merchandise would be in the windows, but you wouldn't see into the store. Mr. Isler expressed concern about so many parking spaces requiring pedestrians to cross the drive-thru lane. He is also worried about accidents with people parking on the street so close to the access point on Lenell. He was also concerned about the extra access point on Estero. He was concerned about the liability. Mr. Basinait said that they would rather build the first plan, but it doesn't match up with the unadopted beach plan. It seemed that that was where the LPA had most of their concerns and they were trying to address those concerns. Mr. FitzSimons asked about the last two items on Mr. Spikowski's memo regarding signs and service area. Mr. Basinait said that they can screen the service area. Regarding signs, they do need to retain corporate identity, but also want it to fit in with the Key West design. He suggested having the Town Manager work with them on signs as part of the design review process.

Mr. Roosa swore in Ken Griffith. Mr. Griffith stated that he is with Keene Engineering and he stated his credentials as a planner. The council had no objection to recognizing Mr. Griffith as an expert in land use planning. Mr. Griffith spoke about comprehensive planning consistency. The original plan that went before the LPA is consistent with the current adopted plan. It was difficult to evaluate the second plan because the vision for the area has not been adopted yet. He talked about the goals and objectives of the design element and he feels that they have complied by moving the building forward, making it more pedestrian-friendly, attempting to use dry floodproofing, and changing the exterior design of the building. Mr. Reynolds asked if the new plan could be built at 9.5'. Mr. Basinait said that it could but they lowered it to make it closer to the streetscape elevation in response to the LPA. Mr. Reynolds also asked if the building could be reduced in size so there would be more buffer between the site and Cap Plaza and provide more space for a swale on the north side for drainage. Mr. Basinait replied that it could not be reduced and still be a viable marketing size for that area. The extra space is not needed for water retention, and the owner of Cap Plaza does not have a problem with the site plan. Mr. Basinait said that Dave Moore of Wilson and Moore Architects was available to talk about dry floodproofing, but it was decided that it was not necessary to have him testify at this hearing.

Mr. Roosa swore in Chip Block of Lee County Development Services. Mr. Block stated that they have looked at both plans, although they have not had as much time to look at the second plan. They recommended denying the original request, stating 17 conditions. By the time of the LPA meeting the applicant had agreed to comply with 15 of the 17. The county was concerned about the drive-thru location and its proximity to the condominiums. Staff believes the second plan has addressed the building design and the movement of the building in accordance with the vision plan. The drive-thru is still on the north side but is better than the first plan. The last condition relates to the buffer on the north side. The new plan allows for more buffering and also for a planter that would further buffer the drive-thru area. Staff has gone through the deviations. He feels deviation #1 is proper to eliminate a wall with no purpose but to protect the condominiums. Deviation #2, 3 and 4 have to do with setbacks that are necessary by moving the building forward. In deviation #5 regarding stacking, they have asked them to try to move the drive-

thru window to allow the extra car, but Mr. Basinait says the applicant does not want to move it because it would change the inside plan. He still thinks it can be done. Deviation #6 is necessary because of the short amount of time to study the plan, and he recommended that any deviation under that area must be approved by the Town Manager. If you are going to follow the draft plan, you must go with the second plan. If you go with the first plan, he feels you need to protect the condominium owners. Mr. Reynolds said he thinks you have added to the condo problems by putting all the parking on that side. Before you only had the drive-thru traffic. Mr. Block said there would have been truck traffic and some customers exiting along the north side under the earlier plan also, but now it will be further away from the condos. Mr. Block also spoke about the second access on Estero. Their traffic engineer did not recommend the second access. But if they eliminate the access, the front spaces cannot be used and they will be two spaces short. Perhaps the council could say the new access is "right-in" only. Mr. Roosa asked about deviation #5 – he thinks it should be land development code 3.ii. Mr. Block confirmed that 3.ii is correct.

Mayor Cereeda opened the public hearing.

A LARRY PIERCE

Mr. Pierce is a resident of Lenell Road, and spoke on behalf of the Lenell Road Association, which represents about 170 property owners. He has already delivered a letter and photographs. They are already neighbors of Eckerds, and are in favor of the Town helping Eckerds upgrade their store and stay in this general location for the convenience of residents and keeping traffic in the area. However much of the conversation was to help the condo owners to the north, but nothing has been said about the Lenell Road traffic problems. It is almost impossible to pass through many times of day. Often large trucks park in the right-of-way blocking one lane of traffic, and sometimes the trucks use their hydraulic loading into the lane that is open. Also there are pedestrians and bicycles on the road because there is no sidewalk. In addition, the access going into Santini is too close to Estero. Lenell is not just the access to their condos. It is also their front door and they don't like the look of trash on the right-of-way. They are against the building being put so close to the corner because they do not think it will enhance the entrance to their homes. It is being done to comply with an unadopted plan. He assured them that the people of Lenell Road will be there to speak out against the adoption when it comes up. The first plan would allow more landscaping and buffering and preserve pedestrian traffic along Lenell. He urged the council to reject this new plan and try to make the first plan proceed.

B JOHN MULHOLLAND

Mr. Mulholland, chairman of the LPA, said that the new plan has accurately conveyed the concerns of the LPA. He encouraged Mr. Pierce to take part in the design planning process. They are trying to make everything pedestrian friendly by moving buildings forward and parking to the rear. They are going to try the same in Times Square. The LPA works for the Council and it is up to the council to make the final decision but he doesn't think the first plan reflects the direction the LPA is going.

C ROD VAYO

Mr. Vayo is a tenant of Villa Santini and a resident of the south end. He thinks that the Eckerd's move will have a negative impact on Santini Plaza, but he is still for the plan. He is afraid that if Eckerd's does not get something reasonable, not only will Santini be left without an Eckerds, but the whole Town will be left without one. There will be many people who will be upset if Eckerds leaves the south end. He thinks the first plan is head and shoulders over the new plan. The new plan makes no sense because parking is now toward the condo. The drive-thru will be sound proofed either way. Eckerds is a good neighbor, and they are bending over backwards to do what the Town wants.

D BILL VAN DUZER

Mr. Van Duzer is a member of the LPA and complimented Eckerds for responding to the LPA's concerns. The LPA has been working with the planner, and they have decided they want to make the Town pedestrian friendly and put parking lots behind buildings. He has a problem with the 13 parking places on Lenell. He thinks it would be disastrous, and they should leave a sidewalk on Lenell. Everything else is a positive change. He suggested allowing them to build with only 50 parking places and getting rid of the places in front and the extra access point. It was clarified that the whole LPA wanted the building moved forward, and that the two negative votes were relative to the drive-thru.

The public hearing was closed. The council took a break at 5:50 PM and reconvened at 6:02 PM.

Mr. Basinait said that the second access is only meant to be a right-in entrance and is only temporary until they put parking on Estero per the design concept drawn by Mr. Dover. They feel like they

responded to the LPA, but it will pull the rug out if the council approves the second plan but pulls out the four spaces in front and the spaces along Lenell. If the council goes to the first plan, they can still use the Key West design. They can add more pedestrian features on the front, but they may need a deviation to remove some parking spaces. They can put a sidewalk on Lenell to connect with the one of Estero. They can do the display windows if they want. The drive-thrus can be buffered, but they still would like heavy vegetation without the wall. He mentioned letters that have been received in support of the plan. One is from Estero Cove, one of the condos on the north side. They prefer the first plan. He asked the council to please not take parts of one plan and parts of the other plan, and take out the things in the second plan that make it workable for Eckerds. Mr. FitzSimons said he felt that the reason Estero Cove wanted the first plan was so that the parking wouldn't be near them. He asked about hours of operation and lighting. Mr. Basinati said they are talking about 8 AM to 9 PM, and they will have standard lighting fixtures. There is some concern that with parking in the back there is a greater possibility of crime because no one can see what is going on. The drive-thru will be open the same hours as the store, but he does not believe there is always someone sitting at the drive-thru at all hours of operation. They are looking at a speaker system such as is used at banks, so he does not think sound will be a problem. They could close down the drive-thru at 9:00 and allow the store to stay open later. Mr. Reynolds feels like they have gone from one good plan to another good plan. But he still does not see why there has to be parking on the street at Lenell. He thinks that would be disastrous, especially with the big trucks parking there unloading. Mr. Basinati said that the parking was added because of the beach plan and also for convenience parking closer to the front door.

Mayor Cereceda asked the council to focus the discussion on the first or second option. She felt that the move should be toward the second option because that is the way the unadopted plan is going. Mr. FitzSimons said the council has underwritten this visioning as part of the comp plan and it has been endorsed by the LPA and a good number of people in the community, and Eckerds has been accommodating. We have the possibility of doing something that will be better for the community and he thinks they should take advantage of it and endorse the second plan, recognizing that some things such as architecture still need to be ironed out. Mr. Isler said he sees this as a preview of the comp plan. Many of the ideas are still in the planning stage and it is yet to be seen if some parts of the plan will be adopted. He said we approved a hotel recently under the code we currently have, not some unadopted code. He thinks the facts support the original plan and he does not see it as a conflict with what the LPA wanted. Add the architectural look, put in large trees for buffering, and add bike rack, benches, and walking paths and it will meet the pedestrian friendly aspect. This can really benefit the community and the tourists, and will stop a lot of trips by people on the south end, so he sees it as a positive thing. Mr. Murphy said he would suggest dressing up the sides of the buildings so it doesn't look like a big box. He feels that the revised version is better than the first because it is in keeping with the goals the town is trying to accomplish. He understands the concerns of the people of Lenell, but if he lived on Lenell, he would still want this version. Mr. Reynolds questioned the vision of the plan which is not yet adopted. He mentioned a town in Ohio that has won awards, and they have done the opposite by moving their buildings back from the street, rather than forward. He thinks we are going backwards in time. In Times Square he thinks it is a good idea because you are cramped with space but he doesn't think it is right for this area. He thinks it will present a problem for the condo owners to have the parking in the rear. If you can make the building look nice, he doesn't think there is anything wrong with the first plan, because he doesn't think sound will be a problem with the drive-thru. If the council can't go with the first plan, he would like to see it go back to the LPA so Mr. Block can have more time to study the new plan. He does not think there is enough room in the service area for a semi to unload without blocking the drive-thru.

Mayor Cereceda said there have been town meetings and workshops where this design idea has been discussed. The Town does not want to go to a concrete jungle look. But she has a big problem with two accesses on Estero where none exists now. Tim Keene said it cannot be turned into dead end parking, but it could be reversed to be an exit only. He said the exiting movement is much safer than an entrance. It could be signed, and that cars will not pull in because they will see the spaces are angled the other way. Mr. Isler said the second plan is a bad idea: shoppers in 2/3 of the spaces will have to walk across the drive-thru exit; there is more noise from parking than from a drive-thru; street parking on Lenell will be a safety problem; even one access on Estero is not good, much less two; the building is going lower and it should go higher; the fake windows are ludicrous; you can't see 3/4 of the parking from the store; the neighbors are opposed to the new plan; the builder opposes it; and putting a building on the property line on Lenell and adding parking makes a narrow corridor with no windows. It is not reasonable to base the plan

on something that hasn't been passed yet, and he doesn't think it was that clear-cut at the design workshops that everyone wants this. He thinks it is a ludicrous concept to have parking along Estero Blvd at Santini. Mayor Cereceda said the Town is trying to go back to the community approach where there are buildings on the corners. Mr. Isler feels that with the exception of Topps and Villa Santini, the town already has buildings close to the road. Mr. FitzSimons said it is reasonable to assume that this new building will be there at least 20 years and we need to build something that will fit in the town's 20-year plan. He thinks that if they sent it back to the LPA, they would approve the new plan, and if you believe in what the LPA is doing, you have to go in this direction.

Motion: Mr. FitzSimons moved that the new plan with the conditions and deviations, and with the suggestions outlined in Mr. Spikowski's memo be adopted. Mayor Cereceda seconded the motion for discussion. **Discussion:** Mr. Isler asked since the LPA turned this down why it doesn't go back to the LPA. Mr. Roosa said he thinks it is OK because the LPA has already considered it and expressed their concerns and they have been addressed. Mr. Basinait said his only concern in having the Spikowski memo part of the record is #2 about signage. He asked the council not to hamstring them, but to leave the final decision up to the Town Manager for final approval. They need signage and they need it in strategic places. Mayor Cereceda pointed out that signage is also going to a big part of the unadopted plan. Mr. Basinait said that regarding the deviations, he understands the only change is to correct the typo in #5. In the conditions, there should be two changes: the minimum setback changed to 4.5' along Lenell and 20.2' along Estero; and in #8 he will include the portion along Estero to have the display windows. Mayor Cereceda said she is still bothered about the parking on Lenell. She thinks that was discussed in regards to redoing Santini. Mr. Murphy asked about adding architectural designs to the south and north walls. Mr. Basinait said he would work with the Town Manager on design, there are not that many walls that do not have activity on them already. Mrs. Segal-George said the redesign of Santini will go a long way in helping fix the problems on Lenell. Mayor Cereceda questioned whether we are creating a worse problem until Santini is fixed. Can there be a provision that the parking will be added on Lenell after Santini is fixed? Mr. Basinait said perhaps the parking could be changed to 5 or 6 parallel spaces. Or perhaps you could take out the first 4 or 5 spaces nearest Estero, or some near Estero and some near the access and leave the eight spaces in the middle. He said they are most concerned that both areas of street parking will be removed. He said his client feels they need the four spaces on the front and at least 10 on the side. Mr. Isler said he has a hard time believing that Lee County is ever going to approve parking on Estero. He feels that this plan is based on something that may never come to pass. Mr. Block said that you do not need a deviation for the access points on Estero as long as they are across from established accesses. Mayor Cereceda said she cannot approve something that will create a problem on Lenell until it becomes part of a plan. Mr. Basinait suggested that the problems on Lenell are a code enforcement problem – get the sheriff to stop people from unloading on the street. He said perhaps they could angle the parking and get about 9 spaces and add some striping on Lenell. The Council discussed the possibility of paving the right of way along Lenell to gain some room. Mr. Keene said if you add a center stripe and angle parking it will improve the traffic problems. Mrs. Segal-George said every indication is that Santini is very interested in redoing the center and hiring Mr. Dover, but she cannot promise that it will happen or that it will happen sooner because of this. Mr. Basinait said that Eckerd semis will not park on the street and cause traffic problems because they will park at the service entrance. **Amended motion:** Mr. FitzSimons added a condition of approval on signage by the Town Manager, pedestrian walkways on the north side for the convenience of the condo residents, and striping and angle parking along Lenell. **Action:** Mr. FitzSimons, Mayor Cereceda, and Mr. Murphy voted for the motion and amendment. Mr. Reynolds and Mr. Isler were opposed.

VII COUNCIL MEMBERS' ITEMS AND REPORTS

A RUSTY ISLER

Mr. Isler asked about the time frame for the comprehensive plan. Mrs. Segal-George said it should come out of the LPA by late fall. Because it is such a big document, each element will be voted on separately. Then it is sent to the state. If they make changes, it may come back for more work. Once the comp plan is approved, all the land use regulations will have to be rewritten to conform to the comp plan, which is the vision only. Mr. Isler said originally the LPA was going to do the comp plan in about 18 months. Since then we added the role of land use hearings. He thinks the major effort of the LPA is the

comp plan and that they should have a separate attorney for hearings. He thinks that having the Mrs. Segal-George acting as LPA attorney at a hearing and then being the Town Manager when the same case comes to the council, might be a conflict of interest. Having a separate attorney would also allow Mrs. Segal-George to devote more time to the Town. He does not think it is in her best interests to work such long hours for such a long time. Mr. Roosa said he didn't think it would automatically create a problem because they are such different roles. He does not see it as a problem from the applicant's viewpoint either. Mrs. Segal-George said Eckerds raised that issue for the first time, but she does not believe she is in a conflict issue. She feels she is being put in an awkward position, not as the lawyer for the LPA, but as the Town Manager. She believes she is telling people the position of the Town Council. These are not personally her opinions. She has been imparting what she thinks the council wants. Mr. Isler said his personal vision does not include moving buildings to corners, having a high rise district, etc. He is trying to figure out whose vision it is. Mrs. Segal-George said it came from the community meetings and the draft that Spikowski brought back from those meetings. Then it went to the LPA, then it was presented at the joint meeting. She did not write it or have any personal input. Mr. Isler said he has been to all the meetings and he missed the clamor for high rises. Mr. Murphy said that it was just identifying that that area is where the high rises already are. It does not mean to tear down cottages and build more high rises. Mr. Roosa thinks we should adopt the design element by itself because it would be the basis for everything else and it could stand alone. It would cost more to do it that way, but the design element affects parking, setbacks, etc and is the vision of the town and should be the structure for building the rest of the comp plan. He said that Mr. Spikowski and Mrs. Segal-George are not excited about that idea because of the extra money and work. But if there ever were an adverse ruling and the applicant decided to file suit, Mr. Roosa would have a hard time explaining to the judge that the council was applying something that has not been adopted and has not gone to public hearing.

B TED FITZSIMONS

Mr. FitzSimons had no items to bring before the council.

C GARR REYNOLDS

Mr. Reynolds asked about Mr. Roosa's conversation with Mr. Spikowski. Mr. Rossa clarified that Mr. Spikowski was not in favor of passing the design element separately, but that he was in favor of the second plan over the first plan in the Eckerd hearing.

He asked about the letter from Mrs. Segal-George to Don Stilwell regarding sidewalks. He asked if council had approved spending \$75,000 to build the sidewalks now and he was told that they had. He asked why we should pay half of the cost now, when if we wait a year, they will pay the whole cost. Mr. Murphy said that if he thought it would save one life on Estero Blvd., he would vote to do it again. Mr. Reynolds asked if sidewalks at Santini were included, and it was clarified that the area for the sidewalks was the 8/10 of a mile from the end of the sidewalk to Estrelita Street, which is the end of the island.

He agreed with Mr. Isler that he sees a conflict of interest that Mrs. Segal-George wears two hats.

D RAY MURPHY

Mr. Murphy had no items to bring before the Council.

E MAYOR CERECEDA

She would like to direct the Town Manager to see what it would take to get the sky bridge painted and cleaned up on a regular basis. She doesn't believe it has been cleaned since Bob Gaydos took it upon himself to do it. She asked if the rest of the council agreed and they did.

VIII FIRST READING ON ORDINANCE TO AMEND THE VESSEL CONTROL AND WATER SAFETY ORDINANCE (96-26)

Mayor Cereceda read the titles. She explained that this was to close the loophole about parasailing and water taxis, and to clarify the speed limit in the channels. Public hearing was set for July 21.

IX NEW BUSINESS

A APPOINTMENT OF DELEGATE TO FLORIDA LEAGUE OF CITIES CONVENTION

Mr. Murphy was selected as the voting delegate for the Town.

B REQUEST FOR FORMATION OF A CITIZENS ADVISORY COMMITTEE ON BACK BAY

Mr. Mulholland, a member of the LPA, would like to set up a citizens advisory committee. Each member of the LPA has an area of responsibility and he chose the back bay because he had been on Mr. Judah's committee on the bay. Not much happened on that committee or on the other committees on the back bay. The bay is a major tourist draw, and he has seen it degrade in the eight years he has lived here. He has found seven other people with interest and qualifications: Arden Arrington, Ilene Barnett, Jack Bright, Eve Haverfield, Tom Lee, Heather Stafford, and Joe White. They met to see if it was prudent to set up an advisory committee. They intend to do fact-finding and bring recommendations to the LPA and the council. They will need funds for agendas and minutes. He handed out a list of the proposed members and the mission statement. It will meet in the sunshine. Mrs. Segal-George said that the new budget has some expense money for formation of committees already built into it. Mr. Roosa clarified that they would be independent of the LPA. It will be similar to the transportation committee.

Motion: Mayor Cereceda moved and Mr. FitzSimons seconded that the Town Attorney be instructed to draft an ordinance to establish a citizen's advisory committee on the back bay. Mr. FitzSimons suggested that the committee have no more than 9 members. The motion passed unanimously.

X TOWN MANAGER'S ITEMS AND REPORTS

A HEIGHT ORDINANCE

Mrs. Segal-George stated that the LPA had their hearing on the height issue on July 1. It was too late to put it on tonight's agenda. She passed out a copy of the LPA resolution for draft discussion. It was set for first reading on July 21. Mr. Reynolds asked about the slope of the roof. Mrs. Segal-George said that height is calculated to the highest point on the exterior wall, and that the pitch of the roof is not regulated, but that the area created will not become habitable space.

B BUDGET

Mrs. Segal-George asked whether the Council wants to revisit the design element. She does not feel they are ready for a hearing unless they want it to be adopted separately. It was suggested that the council hold a workshop on the design element after they finish the budget. Mayor Cereceda suggested that the budget be included on each agenda until final passage. Mrs. Segal-George said that budgets are available for anyone to pick up. The two public hearings will be Sept. 2 and Sept. 15 because they must not conflict with the school board and commissioner budget hearings. Also regarding the budget, they will hold with this document and do dated errata sheets in different colors until the final budget is adopted.

It was agreed that the council needs a budget workshop before September 2. Since it was determined that there was no time in August when all council members could be present, it was decided to begin the regular July 21 meeting at 1:00 PM with a budget workshop.

XI TOWN ATTORNEY'S ITEMS

A BALLOT QUESTIONS ON PROPOSED CHARTER AMENDMENTS

Mr. Roosa said the council needs to hold two public hearings on the ballot. Mr. Isler said it looks like #1 and #3 conflict. But Mr. Roosa said #3 could apply even if you have districts. If there were four candidates running in a certain district, the top vote-getter would win and it would eliminate runoffs. Public hearings were set for August 4 and August 18.

B SHERIFF'S AGREEMENT

Mr. Roosa reported that the county attorney cannot meet with us until after the 29th to discuss the agreement with the sheriff. It will be put on the agenda for August 4.

XII PUBLIC COMMENT

A JOHN MULHOLLAND

Mr. Mulholland said the Council created the LPA by ordinance and named the members. The Council set the date for completion of the comp plan at 18 months. He is surprised to hear that they are causing confusion. Perhaps they are not communicating well enough. They are working for the Council. Mrs. Segal-George agreed to do the job as the LPA attorney and at a bargain price, and he feels she is doing a terrific job.

B BOB GAYDOS

Mr. Gaydos thanked the mayor for the recognition for cleaning the bridge. But he said the Town has a big contract to clean up Times Square, but the curbs are still dirty and there is a big hole in the sidewalk at the Lani Kai. If the Town can pick up garbage on Times Square, maybe they can sign

another contract to pick up garbage on his street. There is garbage out constantly. He contacted solid waste and no one cares.

C JOE WORKMAN

Mr. Workman is a resident on the back bay and would like to be a member of the new citizen's advisory committee. He thinks they should answer directly to the council, not the LPA.

D BOB YOUNG

Mr. Young thanked the Council for serving as Council members and for the staff and for the LPA. He wanted to make sure they know they are appreciated. He has put together a directory on behalf of the Condominium Associations of Fort Myers Beach. It contains the names and addresses of the condos they are associated with, in case the Town needs to contact them in an emergency. It also includes the number of units, the number of year round residents, and the number of residents who need special care. It also lists each of the management teams. Their association has 15 members, representing 1100 units, and they are still growing. Only about 10% of the occupants are year round residents.

E CEIL SPUHLER

Mrs. Spuhler still is concerned about water enforcement by the sheriff's department. She is on the beach all the time and she has not seen him at all. The jet skiers are running between the buoys and the beach. They are also using the buoys as pylons to race around, and they are scaring the swimmers. She has a whistle she blows to make them move out. The Town is paying \$6000 for enforcement and we don't see them. She asked if the Town has a schedule of when they are supposed to patrol and a list of citations they are writing. Mrs. Segal-George answered that the Town does get reports, but for the last two weeks the sheriff has said his boats are broken. We are not paying him in the meantime. She also understands that there are hand-launchings of jet skis at private beaches all up and down the beach. The Town will need to do something about it. The jet skis are still available for patrol if the sheriff will use them. We also might contact Sanibel to see if they will patrol under a contract.

Mr. Reynolds mentioned the parasailers that got hit by lightening in Naples. He has seen the parasailers on Fort Myers Beach taking up people with a storm coming in. Mrs. Segal-George said their captain's license is at stake if anyone reports them, because captains are held to stricter standard.

XIII ADJOURNMENT

Mr. Reynolds moved adjournment. The meeting adjourned at 8:50 PM.

Respectfully submitted,

Peggy Salfen
Recording Secretary