

**FORT MYERS BEACH  
TOWN COUNCIL  
MARCH 14, 2005  
Town Hall-Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA**

- I CALL TO ORDER:** A Land Use Meeting was called to order at 10:00 a.m. by Mayor Bill Van Duzer.

**Members present at the meeting:** Mayor Bill Van Duzer, Vice Mayor Howard Rynearson, Councilman Don Massucco, Councilman Garr Reynolds, Councilman Bill Thomas

**Staff present at the meeting:** Community Development Director Jerry Murphy

- II. PLEDGE OF ALLEGIANCE:** All those present assembled and recited the Pledge of Allegiance.

- III. INVOCATION:** Mayor Van Duzer gave the invocation.

- IV. PUBLIC COMMENT:** None

- V. SPECIAL EXCEPTION REQUEST – SOB, Inc. in reference to Smokin’ Oyster Brewery**

Mayor Van Duzer asked the Council members if they had any ex parte comments. None did.

Beverly Grady of Roetzel & Andress came forward to represent the applicant, Bill Freeman of SOB, Inc., who was requesting a Special Exception for Consumption on the Premises at 340 Old San Carlos Boulevard. Ms. Grady stated that SOB is already an existing restaurant with a 2COP license, but the owner is requesting a 4COP so that he can have full liquor service in his restaurant. Ms. Grady pointed out that the property is located in the downtown area, which is zoned Pedestrian/Commercial, in the heart of the downtown Times Square area, and has been in business there for several years. She indicated that the Town Staff has recommended approval of this request, as has the LPA, with conditions, two of which she wished to discuss with the Town Council.

Indicating the packets before the Council, Ms. Grady cited Conditions 3 and 4 of the resolution being recommended for SOB and those included in the resolution for Snug Harbor, a restaurant located in the same geographic and zonal area as SOB, which had already been granted a COP from the Town Council. After pointing out the differences in operating hours and entertainment times allowed between Snug Harbor and the proposed recommendations for SOB, Ms. Grady explained that the owner of SOB’s simply wanted the same guidelines for his business as those granted to Snug Harbor, in terms of opening and closing times, and times when entertainment is allowed. Ms. Grady also made a point that while

Snug Harbor has been allowed later times with an outdoor venue, SOB is considered an indoor venue.

Bill Freeman from Smokin' Oyster Brewery (SOB) came forward and said that they had been through the LPA with these requests and they had been approved there, and the Town staff had also given approval, and felt that they were not asking the Town Council to do anything out of the ordinary. He said that SOB is already a restaurant and already licensed to serve alcohol, and he is now just seeking permission to serve mixed drinks and to be able to remain open until 1:00 A.M. instead of midnight on Fridays, Saturdays and national holidays. Mr. Freeman then said he'd be happy to answer any questions.

Mayor Van Duzer asked the council members if they had any questions, and as none did, he asked Town staff if they had comments.

Josh Philpot came forward to speak on behalf of Staff. He stated they were there to discuss a Special Exception for Consumption on Premises for a 4 COP Beverage License in conjunction with the Smokin' Oyster Brewery. He indicated that the subject property is located on the Southeast corner of Old San Carlos Boulevard and Third Street, where to the north of the subject property is a commercial parking facility, to the east and south are commercial parking facilities, and to the west is Old San Carlos Boulevard and another commercial parking facility. He said the subject property is in the Pedestrian/Commercial Feature Land Use category and is currently zoned "Downtown", and is a 2600 square foot restaurant with 89 seats. He said the applicant is requesting to change his beverage license from a 2COP, which limits to beer and wine only, to a 4COP, which is an unrestricted beverage license. He went on to explain that there are two types of 4COP licenses. One is 4COP SRX - a restaurant license that requires 150 seats, and the license holder cannot exceed 50% in alcohol sales. The 4COP can be obtained with less than 150 seats, and is unrestricted in percentage of total sales versus alcohol sales. He pointed out that the applicant is willing to operate as a restaurant, as stipulated in the Staff report conditions, and will adhere to the 50% or less in alcohol sales, although he cannot get the 4COP SRX license because he doesn't have the 150 seats. Mr. Philpot said that Staff has recommended approval with conditions. He cited Ms. Grady's mention of the two conditions about hours of operation and entertainment hours. He said that Staff recommends that consumption on premises be limited from 11:00 A.M. to Midnight, Monday through Sunday, and entertainment be limited to 11:00 A.M. to 11:00 P.M.

Councilman Reynolds asked Mr. Philpot to explain the general procedure for getting a 4COP from the state. He said that his understanding was that it was a lottery situation and they were not just handed out.

Josh Philpot said he was not overly familiar with the system, but he believed that it is a lottery system, and that's all he knew.

Jerry Murphy, the Community Development Director, was asked by Mayor Van Duzer if he knew more about the procedure and Mr. Murphy said one could purchase a 4COP license and that is what the applicant was planning to do in this case.

Councilman Reynolds then stated that it sounded as if the applicant didn't qualify for the license, but that the Town Council could qualify him. Mr. Murphy responded that the applicant doesn't qualify by right, but that the applicant has purchased the license to sell liquor, and what was happening at this point was that the owner was seeking zoning approval.

Councilman Reynolds then asked if what was being asked was for the Council to qualify the applicant even though he's not qualified. Mr. Murphy replied that the applicant is asking the Council to approve the restaurant for additional sales beyond what they've already been approved for. He said SOB was now in the process of purchasing a license to sell liquor as well as their already approved beer and wine sales.

Councilman Reynolds said that if they can't do it without Council approval, that it must mean they don't need to meet the state's specifications. Mr. Murphy said they are allowed to do it, and the regulations allow them to do it, but they still need Special Exception from Town Council.

Councilman Massucco asked if his understanding was correct that the owner of SOB doesn't have to abide by the 50% sales cap if he gets the 4COP approval but is willing to do so. Mr. Philpot replied that it was a condition recommended by Staff and that the owner had stated his willingness to abide by it.

Mayor Van Duzer stated that, for clarification, his understanding was that any COP license must also be approved by the local government. Mr. Murphy said that any applicant still has to get zoning approval, but the state actually issues the license. Mayor Van Duzer asked again for clarification as to whether any COP license has to get local approval, and it was reaffirmed that it isn't that the COP is not allowed by local code, but just that every COP has to get local approval. It was affirmed by Mr. Murphy that they have to be approved either administratively or through public hearings, and this request was going through the public hearing process.

Vice Mayor Rynearson asked about the time changes being requested. Mr. Philpot answered that he believed that SOB was asking for Consumption on Premises until 1:00 A.M. on Fridays and Saturdays, not entertainment.

Councilman Reynolds said, in reference to applying for 4 COP, his point was that the business in question does not meet the state requirements for the issuance of a 4 COP. He felt that in order for them to meet the requirements, the Council has to approve it, and it will still not meet the requirements of the state. He said his concern was that, about a year ago, in April of 2004, something was brought before Council regarding a request for a beer license down in Times Square. He said at that time, before voting on it, he had asked the Town Manager and Mr. Gucciardo if they could have a list of the number of 4COP and 2COP licenses already on the beach, and he never got the list, and that someone had told him it was too much work. He said it was not acceptable and that the Council needs to have that information, and that it should be public knowledge. He then went on to ask if anyone knew how many of those licenses have been issued. Mr. Murphy and Mr. Philpot did not have that information to hand. Mr. Reynolds responded that this put the Council in awkward circumstances by asking them to approve something when they don't know what they already have. He felt that it was a pertinent fact that the Council should know, so as to have some basis for knowing where they were going with it. He said if it was approved already through the state as is, he'd still want to know how many 4COP and 2COP licenses were already issued in the town

before deciding on this one. He said he had trouble approving something that the state doesn't automatically recognize, and then, even if they did, the Council has the option of zoning it properly or not allowing it. In this case, Mr. Reynolds felt they could vote against it saying it's not appropriate, or they could approve it, in which case SOB would get it through special procedures even though it's not recognized by the state. He went on to say that he felt SOB was operating efficiently, but that he had trouble adding another 4COP, and felt the Council really needed to look at it with open minds to see where it was going.

Vice Mayor Rynearson and Mayor Van Duzer said they did receive the list of 2COP and 4COP license holders on the beach. Councilman Reynolds responded that he asked about it and didn't get one but would appreciate a copy if the Mayor or the Town had one.

Councilman Massucco commented that this type of request has to be considered on a one-to-one basis, rather than basing their decision on how many licenses already exist. He felt in this case that the Council needed to consider the type of establishment and the location, and all those things had to blend into the final decision that is made.

Mayor Van Duzer asked for clarification as to whether this was a special license. He felt it was under the normal guidelines but wanted clarification based on questions Councilman Reynolds had raised in his comments.

Jerry Murphy said it was a normal license. He went on to say that the state regulates liquor licenses. If an establishment is large enough, the owner is entitled to get a license as a matter of right, referring to the 151 seats. But, SOB is not that large, and so cannot get an SRX, or restaurant, license. It has to purchase a license if it wishes to sell anything besides beer and wine, and that was what Mr. Freeman was doing, in that he was in the process of purchasing the license. He went on to say that whether one is entitled to the restaurant license or needs to purchase it, one is still required to get Town approval. In certain cases they are approved administratively, and in other cases it requires a Special Exception. In the SOB case, they determined that they wanted it to go forward to Town Council through the Special Exception Public Hearing process, rather than approve it administratively.

Beverly Grady, representing Mr. Freeman, the owner of SOB, asked Mr. Philpot if he had been found to be an expert in land use as a professional planner. Mr. Philpot said he had. Ms. Grady asked where he was found to be an expert, and he indicated the City of Bonita Springs, and unincorporated Lee County. She asked if the Town of Ft. Myers Beach had found him to be an expert in this area. Mr. Murphy said that the Town stipulates that Mr. Philpot is an expert. Ms. Grady asked Mr. Philpot if he had reviewed the application in question, and he answered in the affirmative. She asked if, in his opinion, this request for special exception was consistent with the goals and objective policies of the Ft. Myers Beach Comprehensive Plan. Mr. Philpot answered in the affirmative, but as conditioned Staff. Ms. Grady then asked if the application was in compliance with the Performance and Locational Standards set forth in Chapter 34 of the Town of Ft. Myers Beach Land Development Code. Mr. Philpot answered in the affirmative, but as conditioned by the Staff. Ms. Grady then stated it was her understanding that, as conditioned, approval is being recommended because the application is in compliance with the Comp Plan and the Land Development Code. Mr.

Philpot affirmed that. She asked what Land Use category the property fell under, and Mr. Philpot stated in the Pedestrian/Commercial Feature Land Use. Ms. Grady asked if his position was that the request from SOB, which already has a 2COP license, is compatible with the surrounding neighborhood in that category, and Mr. Philpot affirmed that, but as conditioned by Staff.

Beverly Grady pointed out that the conditions that had been recommended by the LPA and that SOB had already agreed to, are in the Land Development Code in the section that deals with percentages of food and beverage versus the alcohol sales to insure an establishment operates as a restaurant. She specifically cited Section 34-1264K of the Land Development Code. She said that code provision is there and enables the Town to limit certain food establishments to operate as a restaurant. She said Mr. Freeman agreed to that from day one, already operates as a restaurant now and will continue to do so, that he feels obligated by that condition to do so, and that they were just following the procedure of the Town of Ft. Myers Beach. She stated the number of establishments with COP licenses on the Beach is not a relevant issue under the current code, and therefore Mr. Freeman filed the application, received a recommendation for approval from the Staff, and a recommendation for approval from the Local Planning Agency, and is now asking for the Town Council's approval. She said the only thing they asked was to be treated the same as Snug Harbor as regards Conditions 3 and 4 in the Snug Harbor approved COP from the Town. She said that SOB is a restaurant in the downtown area where the Town is encouraging people to come to stay in hotels and to come to the different restaurants, and that SOB has received many compliments during the hearing process with the LPA. She said SOB would like the opportunity to serve mixed drinks like the other restaurants in the area, and that they are requesting that the Town Council approve the 4COP for this restaurant.

Councilman Reynolds wished to put forth for people who don't know that Pedestrian/Commercial zoning is the busiest zoning on the island. He said there would be no problem in that respect, but he felt the objections he had mentioned previously would be a problem. He felt it was important to mention that he had never seen Mr. Freeman before, never met him, and that Councilman Reynolds' objections were certainly not against an individual, but rather purely his concerns about the direction in which the Town is going.

Mayor Van Duzer, after asking if there were any more comments and hearing none, declared the public hearing closed.

**MOTION:** Vice Mayor Rynearson made a motion for discussion to approve the request as Staff stated with the five conditions, changing Number 3 to read as: "The business operation shall be from 11:00 A.M. to midnight Sunday through Thursday, and from 11:00 A.M. to 1:00 A.M. on Friday and Saturday." The motion was seconded by Councilman Massucco, and then Mayor Van Duzer asked for discussion.

Jerry Murphy said he wanted to point out that if the Council was seeking to give SOB the same approval as Snug Harbor, that Snug Harbor is limited on Sundays to closing at 10:00 P.M.

Vice Mayor Rynearson remarked that they would then have to change Condition 3 to read 11:00 A.M to 10:00 P.M. on Sundays and to change the motion as such. He added that they should keep it uniform because the intention is to develop that street in a

uniform way, and said he would change the motion to say Monday through Thursday, 11:00 A.M. to Midnight, Friday and Saturday from 11:00 A.M. to 1:00 A.M. and Sundays, 11:00 A.M. to 10:00 P.M. Councilman Massucco seconded the revised motion.

Mayor Van Duzer asked if something had to be done with Condition 4 to bring it into compliance with what is being requested. Mr. Murphy said that Condition 4 would have to meet the time elements and Condition 3 would also have to be modified to address the approval that was given to Snug Harbor. Vice Mayor Rynearson agreed that Condition 4 would also have to be referenced in the motion. Mr. Murphy commented that the applicant has wanted to have a Sunday Brunch, and that is why they requested the 8:00 A.M. condition that the LPA had recommended, so it would read 8:00 A.M to 10:00 PM on Sundays, but that would be different from Snug Harbor. Mr. Rynearson pointed out that doing that would take it out of uniformity with Snug Harbor, and suggested discussion.

Mayor Van Duzer said he had no problem with the earlier start time on Sundays. Vice Mayor Rynearson said he didn't have a problem with it, but wanted to hear the will of the Council. Mayor Van Duzer said that if it was the will of the council, then he would direct Mr. Murphy to come up with the final wording for the resolution.

Mayor Van Duzer stated that they had a motion and a second, and asked Mr. Murphy to write up a clarification of the resolution. Vice Mayor Rynearson suggested the Council members discuss the 8:00 A.M. start time on Sundays. Mayor Van Duzer asked if anyone had a problem with it. There were no objections, so Mayor Van Duzer called for a vote on the motion.

**MOTION:** After the discussion, and after Mr. Murphy was directed by the Mayor to reword the resolution to agree with the will of the council and the changes they discussed, a motion was made to grant the Special Exception Request to SOB, Inc by Councilman Rynearson and seconded by Councilman Massucco.

**VOTE:** The motion passed 4 to 1 with Councilman Reynolds opposed.

## **VI. APPEAL OF AN ADMINISTRATIVE INTERPRETATION – Royal Pelican Association, Inc.**

Mayor Van Duzer stated that the Council had received a request that this be continued to another meeting, and that it would be in everyone's best interest to continue it to a date certain. He acknowledged that many people had come to the meeting to speak during Public Comment, and that some of the people interested in this issue may not be in town when the issue comes back up. For this reason, Mayor Van Duzer opened the floor to Public Comment, so that those concerned would be on record at the time it is taken up again.

Jerry Murphy stated that, for the benefit of the audience, the continued date was April 4<sup>th</sup>.

Mayor Van Duzer then pointed out that the Council will have to move to have the item continued, but before doing so he requested the representative of the Applicant to come forward and make a brief presentation to Council. It was pointed out to the mayor that the person who asked for the continuance was not present and would not be able to

hear the presentation, therefore it was suggested that only public comment be taken at that time and wait to give the presentation when the item is back on the agenda on April 4<sup>th</sup>.

Beverly Grady, representing Royal Pelican Association, came forward and said that she would make no arguments on the merits of the case at that time, but would just name the four points of the appeal, a hearing for which was scheduled for the current meeting. Due to the lateness of the information about the continuance, not all members of the association could be reached and so Ms. Grady requested that anyone who came to this meeting be allowed to make public comment in case they would be unable to come on the date of the continuance.

Jerry Murphy asked if she would then present the merits of the case at the continuance hearing, which Ms. Murphy said she would do. She then went on to delineate the four points, which are the position of the appeal that Royal Pelican had filed, as such:

- 1) Disagreement with the Staff that the Bay Beach zoning district does not permit docks that are not under the control of the adjacent and abutting principal land use owner.
- 2) Their position is that the docks as being used and approved by the Staff are principal use and are therefore prohibited by the Town code.
- 3) Royal Pelican feels where docks are principal use that one must provide parking associated with said docks. It is not being done, and that's part of their appeal.
- 4) In looking at the Land Use table, Royal Pelican feels that the docks should not be able to be leased to a non-occupant of a principal use.

Ms. Grady went on to say that the Royal Pelican Condo Association feels that the permits being approved are not consistent with the Town's zoning regulations. She then said that those people who were there, who may not be able to come to the continuance hearing, should take this opportunity to address the Council on those points.

Mayor Van Duzer then opened Public Comment, and said that Ms. Grady's comments would be included in those. He then asked if everyone present was going to speak for five minutes, which drew chuckles from everyone in the room. The people present were then invited by the Mayor to come forward with their comments. All present who wanted to make comments were then asked to stand and were sworn in.

Ed Woike, president of the Royal Pelican Association, came forward and stated that the situation revolves around the rights of 144 residents and owners versus thirty-three prospective boat slip owners who reside in locations other than Royal Pelican. OBD, the developer, has no upland property where the docks are to be constructed, yet they plan to construct the docks adjacent to private property. He said it is a matter of public record that the developer applied for and received all permits in the name of Royal Pelican, without the Royal Pelican's knowledge, and has used the name of Royal Pelican Boating Association, stating the docks were an extension of the existing docks. Mr. Woike firmly stated that at no time did Royal Pelican request additional docks, nor do they have a need for them. He further stated that the closest owner of one of the proposed docks resides at least ¼ or ½ a mile away from the property. All traffic and access to the property in question must cross the private property of Royal Pelican

Condominium Association, and with that additional congestion and confusion within those property lines would come the increased probability of damage to private property and residents. He went on to say their right to privacy would be compromised by strangers who would not have the same respect for the property as the residents do. He asked the Council to keep in mind during their deliberations that the only reason the docks are being requested is for profit, the intrusion into other people's lives for personal gain, and not so as to help the property owners or to be a good neighbor, but for profit.

Ian Dow, the secretary-treasurer of the Royal Pelican Condo Association, came forward. He stated he has been a property owner at the Royal Pelican for fifteen years. He said the owners of the Royal Pelican were present because they are angry and frustrated. He said they are angry because their private property rights are being taken away from them, and frustrated because no one seems to care. He pointed out that a private developer is scheduled to build thirty-three boat docks at the extreme north end of the Royal Pelican property, and the only land access to the proposed boat docks is through and across Royal Pelican property. To sell the boat docks to non-residents of Royal Pelican is contradictory to their by-laws that state you must be an Royal Pelican property owner to own a boat dock. He said there is no consideration for parking or for the abuse or misuse of their property. He asked if they would have to provide special policing to ensure the non-resident boat dock owners would not be using or misusing the Royal Pelican property and facilities, as they would be crossing and trespassing on private property to get to the docks. The water property where the proposed docks would be constructed should have been turned over to the Royal Pelican Boating Association fifteen years ago. He said that due to a variety of circumstances the transfer did not take place. Mr. Dow went on to say that two wrongs don't make a right. He said it was wrong for the property not to be turned over to the Royal Pelican Boating Association, and it was wrong for a private developer to be permitted to build and sell docks whose only access is to cross private property of the residents of the Royal Pelican. He asked the Council to please consider the private property rights of the 144 landowners at the Royal Pelican, and invited them to take a drive around to see why those residents are spending tens of thousands of dollars to protect their property rights. He said the residents do not want this. He asked the Council to support their position that requires the buyers of the boat docks be owners at the Royal Pelican.

Gerhard Pheit, president of Royal Pelican Boating Cooperative, came forward and stated that it is stipulated in their by-laws that only owners of a Royal Pelican condo unit can own a boat dock, which also conforms to a city ordinance which states that one must own part of the adjacent land. He said there are no additional parking spaces available, and they are not in a position to police the parking area 24/7. He said they also have strict rules they enforce. As an example, he said fifty per cent of boat owners purchase their gas at a gas station instead of the marina, but Royal Pelican does not permit storing gas on the docks. He pointed out that people would be carrying gas to their boats over private property, which in itself is a safety hazard, and the Royal Pelican property owners would be liable for any accident that could happen. He urged the Council to reject the application to build boat docks adjacent to their property.

Jean Anne Walker, vice president of the Royal Pelican Condo Association, came forward to state that they know the developer already has a number of permits and is all ready to go. She wondered if the Council and the other permitting agencies thought it

was the Royal Pelican Condo Association that wanted the docks. She said it was difficult to believe they would give permission to strangers that would allow them to come in and cross their property. She wanted to be sure that the Council knew that the Royal Pelican property owners never wanted the docks, and that they had specifically put in their association documents that one must be a Royal Pelican condo unit owner to get a dock there. She referred to another issue that had come before the Council, when someone had proposed buying the golf course, and noted that the Council had stated they would consider the opinions of the residents of that area in considering that issue. Ms. Walker then asked that they do the same for the residents of Royal Pelican. She offered the analogy of a stranger being given legal sanction to build a dock behind their own property with that stranger being allowed to use their driveway to park their car and boat trailer and having permission to cross their private property to get to the dock. She asked if any of the Council members would want that to happen, and to please not allow this to jeopardize the quality of life at Royal Pelican.

Mike Flannigan, a condo owner at the Royal Pelican for six years, came forward and thanked the Council for listening to the comments of the people from Royal Pelican. He said he has been a licensed contractor and real estate broker for twenty-five years in the state of Florida, and is not opposed to development at all. He said as a contractor he is supposed to know and uphold the laws, and from what he understood about the situation, the developers proposing the docks have misrepresented who they were, and then clarified that Mr. Clausen's representatives misrepresented who they were. Mr. Flannigan opined that after five hours on a boat, most people will head straight to the bathroom which will create a maintenance problem for the Royal Pelican. He added that while there is eminent domain where a government entity can take property rights, it would only happen if it is for the benefit or health of the general public, but not for thirty or forty boat owners. As far as hardship goes, he said he knew Mr. Clausen spent hundreds of thousands of dollars buying the property in question but that Mr. Clausen knew he was taking his chances. He hoped that if Mr. Clausen was allowed to build the docks, that he had to construct a hurricane fence along the top of the seawall so that his boat slip owners could not get off their boats and cross the private property of the residents at Royal Pelican.

George Vukovich, a Royal Pelican condo owner for over fifteen years, came forward and said he agreed with everything the previous speakers stated. He felt sure that the Council members, after listening to the way they handled the previous agenda item, would have a deep desire to do what's right. He asked how this even became an issue before Council when the application itself had not been thoroughly investigated. He went on to ask if the applicant even had a right to file for the permits, or even if the application was fraudulent, and asked if anyone even have the right to give the developer permission to build those docks. He said his understanding was that if you don't own the dry land, and you don't have access to use of that dry land, you should not be able to get a dock permit, even if you do own the submerged land. He suggested the Council ask the State Attorney and the FBI to review the entire situation so as to determine how this had ended up as the Town Council's problem. He said the Council needs to investigate to determine why the permits were issued and if they were issued in fairness.

Patty Keegan, owner of a unit at Royal Pelican, came forward and stated that she and her husband were brand new owners there and that the whole situation has been quite

an experience for them. She said that they are not boaters, but she has many friends in Ocean City, New Jersey who are, so she understood needing access to a boat. She couldn't understand how the developer planned to have people embark and disembark. She felt concerned about strangers needing to use restroom facilities after a day on the boat, and what an uncomfortable position it would put the property owners in if, for instance, they were faced with a mother and small child who needed to use the bathroom. She concluded by saying that she did not understand how the applicant ever got the permits in the first place.

Earl Kennedy, a resident of Royal Pelican, came forward and stated that he was also a new owner and that he has gotten a very good education at the Council meeting. He thanked his fellow Royal Pelican owners for their understanding and concern regarding the dock issue. He said he wants to buy a boat dock, but he wants to buy a legal boat dock at Royal Pelican from Royal Pelican people.

**MOTION:** A motion was made to continue public comment until April 4<sup>th</sup> at the continuance hearing. It was seconded by Councilman Massucco, who expressed his concern for the people who came to the hearing in good faith, only to have it continued until another time.

Councilman Reynolds added that he got his information for this hearing a little over a week before this meeting, and assumed that the interested parties had their information for longer than that. He said he got prepared for the hearing in a little over a week, and all the residents came fully prepared, and he didn't feel good about the continuance because of one person deciding they were not ready. This drew applause.

Mayor Van Duzer said he wanted to note the courtesy and kindness of all those who spoke on the issue, but it is the policy in the Town Council chamber that there won't be any demonstrations, so while he understood their feelings, he was also reprimanding them for the demonstration of applause. He also added that legal counsel approved the continuance, and they needed to be sure that everyone involved had their legal rights observed.

Vice Mayor Rynearson commented to the public that they had been heard and thanked them for coming, but noted that if they don't do it legally, it opens the door to suits from anyone who might feel their rights had been violated. He asked the public to bear with them, because this is the way the law works and they had to go along with it.

**VOTE:** Passed unanimously.

## **VI. COUNCIL MEMBER ITEMS AND REPORTS:**

Councilman Massucco congratulated the Lions Club on what he thought was a very successful Shrimp Festival, commenting on the beautiful weather, the great parade and the happiness of the people.

At this point, most of the people who had come to speak were filing fairly noisily out of the Council Chamber, so Mayor Van Duzer proposed they wait until everyone left. As the people left, both the Mayor and the Vice Mayor thanked everyone for being so professional and courteous.

When the meeting resumed, Mr. Massucco resumed his comments about the Shrimp Festival, and how much he was looking forward to next year's Festival.

Councilman Rynearson echoed Councilman Massucco's positive comments about the Shrimp Festival, and hoped a lot of money was raised for the Lions Club.

Councilman Reynolds remarked at how wonderful the parade was and how nice it was for everyone to come out and enjoy it together. He also complimented Mayor Van Duzer on his contribution as a Lion's Club member to the success of the Festival.

Councilman Thomas also congratulated Mayor Van Duzer on a great Festival.

Mayor Van Duzer commented that it was very successful, and like the other Councilmen, noted how beautiful the weather was on the day of the parade. He said at first he was concerned about the density of people along Estero Boulevard, and there had been some problems reported at the conclusion of the Festival, and that Joellyn Reckwerdt had received many calls about overfull trolleys at the end of the day on Saturday. Overall, though, he thought it was a very successful event.

**VIII. TOWN MANAGER'S ITEMS:**

None.

**IX. TOWN ATTORNEY'S ITEMS:**

None.

**X. PUBLIC COMMENT:**

None

**XI. ADJOURNMENT:**

**MOTION:** A motion was made and seconded to adjourn the meeting.

**VOTE:** No vote was taken but no objections were made. The meeting was adjourned at 11:06 a.m.

Respectfully submitted,

Jo List  
Transcribing Secretary