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MEMORANDUM

TO: Fort Myers Beach Local Planning Agency
FROM: Bill Spikowski
DATE: January 17, 2005
SUBJECT: LAND DEVELOPMENT CODE AMENDMENTS, CHAPTER 14

On January 12, the Marine Resources Task Force reviewed the January 6th draft of proposed amendments to Chapter 14 of the Land Development Code, particularly a new Alternative #3 to § 14-5(a) regarding beach furniture and equipment. MRTF had reviewed previous drafts of these amendments during their November and December meetings.

After extensive discussion, MRTF members recommended replacing Alternatives #1-3 with only two alternatives (see attached page for exact language):

- **Alternative A:** This version would keep most of the pre-existing language. The only changes are a clarification to what MRTF had originally intended by the phrase “must be removed from the beach”; a change from 7:00 AM to 8:00 AM to be consistent with the remainder of the code; and a new provision on special events on the beach.
- **Alternative B:** This version is similar to the previous Alternative #3 but now includes several refinements recommended by MRTF. This is the alternative that is recommended by MRTF for adoption by the town. (MRTF members John Naylor, Russel Davison, and Sharon Faircloth were not present for the final discussion and vote.)

In addition, MRTF requested clearer wording for the revisions to the definition of “mechanical beach raking” in § 14-1. The following wording would resolve the problem:

Mechanical beach raking means the cleaning of the sandy beach seaward of the dune and vegetation line of to remove trash and other debris on or near the surface by use of a rake or other similar porous device which penetrates no more than 2 inches below existing ambient grade and results in no removal of in situ sand.

During their December and January meetings, MRTF received extensive testimony from the public and from beach vendors, mainly opposed to making changes to Chapter 14. LPA members may hear similar testimony at the noon public hearing on January 18th.

cc: Marine Resources Task Force

Attachment: New Alternatives A and B for § 14-5(a)

Sec. 14-5. Beach furniture and equipment.

ALTERNATIVE A for § 14-5(a):

(a) From May 1 through October 31, all beach furniture and equipment must be removed from the beach as follows:

- (1) All beach furniture and equipment must be removed from the beach to a location behind the landward line of dune vegetation between the hours of 9:00 P.M. until 7:00 8:00 A.M.
- (2) The beach furniture and equipment must be moved daily either behind the permanent dune line; or where no dune line is present; and the beach is wide, then 200 feet from the mean high water line; or where the beach is narrow to the adjacent permanent structure and landward of any seawall. Where compliance with the foregoing provisions would cause an undue hardship, the town manager may, after determining the minimum variance from the requirements of this ordinance, designate the storage location.
- (3) Beach furniture and equipment that is removed from the beach as specified in § 14-5(a)(2) shall then be safely stacked in areas no larger than 10 feet by 10 feet and each stack must be at least 50 feet removed or apart from the next stack.
- (4) For special events where beach furniture and equipment must be on the beach earlier than 8:00 A.M., the town's special events permit may authorize a different schedule provided arrangements have been made with the FWC-authorized marine turtle permit holder to monitor the area prior to setup.

**ALTERNATIVE B for § 14-5(a):
(MRTF RECOMMENDATION)**

~~(a)~~ *[existing subsection (a) deleted]*

(a) This code regulates the placement and storage of beach furniture and beach equipment.

(1) Beach furniture.

- a. During the sea turtle nesting season (from May 1 through October 31), all beach furniture must be removed from the beach to a location behind the landward line of dune vegetation between the hours of 9:00 P.M. and 8:00 A.M. The only exception is that until May 1, 2006, cabanas may remain on the beach at night provided they are at least 500 feet from the mean high water line.
- b. During the non-nesting season, beach furniture may remain on the beach at night (see § 14-5(a)(4) regarding removal of beach equipment).

(2) Vehicles. Vehicle traffic on the beach is regulated by §§ 14-5(e), 14-6, and 14-7. Vehicles that are not in use may not be stored on the beach at any time.

(3) Concessionaires. A business that rents beach furniture may place one free-standing structure on the beach during its regular business hours only. This structure may be a table, podium, booth, or storage box and it must meet the same requirements as set forth in § 27-51(c), including removal from the beach after business hours to a location behind the landward line of dune vegetation.

(4) Beach equipment. Unless allowed by a specific provision of this code, beach equipment must be removed from the beach between the hours of 9:00 P.M. and 8:00 A.M. year around and placed behind the landward line of dune vegetation.

(5) Administrative variances. Where compliance with the foregoing provisions would cause an undue hardship, the town manager may, after determining the minimum variance from the requirements of this ordinance, designate an alternative storage location.

(6) Special events. Special events on the beach are regulated by § 14-11. For special events where beach furniture and equipment must be on the beach earlier than 8:00 A.M., the town's special events permit may authorize a different schedule provided arrangements have been made with the FWC-authorized marine turtle permit holder to monitor the area prior to setup.